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Migrant Work & Employment in the Construction Sector

Michelle BUCKLEY, Adam ZENDEL, Jeff BIGGAR
Lia FREDERIKSEN and Jill WELLS



Labour
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by

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Foreword

Particular branches of the economy provide a significant source for work for internal and international migrants seeking temporary or permanent employment opportunities away from their home communities. In turn, migrants are a vital source of skills and labour for several economic sectors. However, the important links between migration and labour markets, including the quantity and quality of jobs, are often ignored or not well understood, nor do we know much about the diversity of situations in different sectors as concerns migrant employment. In the recent past, ILO constituents have voiced keen interest in learning more about migrant workers in particular economic sectors, and this for various reasons ranging from concern over the working conditions of migrant workers to the desire of increased cross-border labour flows with a view to improving labour allocation and gaining efficiency.

This study is part of a larger ILO effort to close knowledge gaps regarding labour issues in economic sectors where migrant workers can be found in considerable numbers, such as agriculture, construction and mining.

This report by Michelle Buckley, Adam Zendel, Jeff Biggar, Lia Frederiksen and Jill Wells focuses specifically on international temporary migrants to explore how this group of workers is currently being incorporated into local labour markets. It examines some of the intersecting factors – political, institutional, economic and geographical – that can make migrants employed in the sector vulnerable to exploitation or substandard working conditions. Well aware that the structure of construction labour markets and construction activities in different places can vary immensely, this report both explores the variation of working conditions and employment relations for migrants employed in construction, and identifies some common conditions and shared challenges for fair, safe and decent work that international migrants often face.

The report provides a review of the literature documenting migrants' contribution to construction globally, as well as case studies of migrants' roles in the construction labour markets of five specific countries: the United Kingdom (UK), the United Arab Emirates (UAE), Thailand, Canada and South Africa. Its conclusions and recommendations are also based on interviews with selected employers, union officials and government staff.

This is a joint publication by the Labour Migration Branch of the Conditions of Work and Equality Department of the ILO and by the ILO's Sectoral Policies Department. We wish to express our thanks to Christiane Kuptsch, Senior Specialist in Migration Policy, and Edmundo de Werna Magalhaes, Head of Unit Forestry, Agriculture, Construction and Tourism, for their conception of and guidance on this project.

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Executive summary

This report broadly addresses the role that migrant workers play in the construction industry internationally, and explores some of the barriers they can face in accessing fair, safe and decent work in this sector. Migrants, both internal and international, have long been a key source of labour for construction markets across both industrialized and industrializing nations. This report focuses specifically on international temporary migrants – individuals who live and work across national borders and whose residency and citizenship status where they work is in some way temporary – to explore how this group of workers is currently being incorporated into local labour markets, and to examine some of the intersecting factors – political, institutional, economic and geographical – that can make migrants employed in the sector vulnerable to exploitation or substandard working conditions. While recognizing that the structure of construction labour markets and construction activities in different places can vary immensely, this report both explores the variation of working conditions and employment relations for migrants employed in construction, and identifies some common conditions and shared challenges for fair, safe and decent work that international migrants often face – some of which extend beyond any single labour market.

The construction industry, by its very nature, is rooted in place. The product differs from site to site, which frequently requires flexible teams of workers with a variety of skills, and the industry is highly sensitive to changes in the broader economy. Construction is thus often deeply dependent upon migrant workers because they are a mobile labour force that is also flexible and expendable in times of economic decline. Through a review of the literature documenting the incorporation of international migrants into construction labour markets, and case studies of migrants' roles in the construction labour markets of five specific countries – the United Kingdom (UK), the United Arab Emirates (UAE), Thailand, Canada and South Africa – this report reaches the following conclusions:

- Construction markets are expected to grow rapidly across both industrialized and industrializing countries, with forecasted growth particularly concentrated in India, China and the USA;
- Driven in part by factors such as skills shortages, rapid urbanization, state infrastructure spending, and ageing construction workforces, the demand for migrant labour is expected to grow in coming decades;
- While international migrants have long been a crucial source of labour for construction labour markets globally, migration through *temporary* forms of residency (for e.g. international student visas, circular migration, working holiday visas, temporary work visas, and asylum claims) is becoming more commonplace in some countries;
- In both high- and lower-waged segments of the industry, migrants bring crucial skills and tacit knowledge to the construction markets of the countries in which they work;
- Informal recruitment channels on which many construction migrants and labour markets rely heavily are a key barrier to fair, decent and safe work for migrants;
- The factors that make migrants economically vulnerable extend beyond worker-employer relations, and into migration debt and the insecure nature of employment in the industry generally;
- The propensity for employers to often provide makeshift or substandard housing for construction migrants, coupled with immigration laws that tie workers to a single employer for extended periods of time can make some migrants extremely reliant on their employer, and thus vulnerable to employer abuses.

- Migrants at the lower end of the construction wage ladder tend to be at a disproportionately higher risk of workplace injuries and fatalities;
- Migrants also tend to be disproportionately represented in lay-offs and retrenchments during times of industry bust;
- Wage theft and wage-withholding by employers is a systemic characteristic of many local construction markets; it is especially experienced by migrants with precarious legal status, migrants at the bottom of subcontracting chains, and migrants with no formal access to workplace representation or recourse;
- Trafficking and unfree labour is a significant problem in construction, particularly in some North American and Western European nations as well as parts of the Middle East, Asia and Africa;
- Most of the case studies in this report reveal a deepening polarization of the labour market in construction, with a small and diminishing number of 'core' workers employed on a permanent basis and a much larger number of temporary workers who are employed on short term contracts, are self-employed or work for labour-only subcontractors. Migrants tend to be disproportionately represented in the latter groups;
- Construction offers a crucial form of 'survival' work, especially for male migrants who cannot find work in their fields. Many migrants with experience in construction, meanwhile, experience de-skilling, including those who have trades and architectural certifications but cannot use them in their destination country.
- By contrast, growing skills shortages and competition for migrants with hard-to-find qualifications (especially highly experienced professionals with project management skills and training, highly specialized technical skills or others with niche skills in civil and industrial construction) may result in upward mobility for some migrants and work opportunities that they were not able to access in their home countries.

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1. Introduction

This report offers a broad overview of the role that international migrant workers play in the construction sector. Migrants – men and women whose citizenship differs from that of the country in which they work, and whose legal status in their country of employment is in some way temporary, provisional, or unauthorized¹ – have always played a crucial role in the construction industry. Today, migrant workers are to be found in construction sectors across industrialized and industrializing nations, often in demand due to diverse processes such as urbanization, booming housing markets, government infrastructure spending or resource extraction activities. The migration networks connected to construction markets are also highly diverse, spanning not only industrializing/industrialized migration trajectories for construction migrants (for example El Salvador → USA), but also significant networks between industrializing nations (such as India → Qatar, or Bangladesh → Singapore). Additionally, recent years have been marked by the growth of migration by highly-skilled construction professionals to rapidly growing construction markets across the Middle East, Asia and Africa (e.g. Australia → United Arab Emirates), as well as the recent resurgence of historical migration trajectories (Ireland → Canada, for example).

With such a vast and geographically-varied sector encompassing many different kinds of migration networks, broad generalizations are very difficult – indeed nearly impossible – to make. In very broad terms, however, this report does draw attention to a number of changing conditions in the structure of the construction sector, highlighting the increasingly global labour market in which many construction markets now operate as the demand for skilled and semi-skilled labour grows, and maps the growing use of migrants in some of these labour markets. This report is not exhaustive, but provides five country case studies – the United Kingdom (UK), the United Arab Emirates (UAE), Thailand, Canada and South Africa – that together reflect the diversity as well as some of the common features of migrant construction work and employment. Together, these case studies illuminate the diversity of construction labour markets, the varied local forces driving the demand for transnational labour, and the very different regulatory and recruitment mechanisms by which international migrants are being incorporated into the industry. At the same time, this report draws some very general contours around some of the common barriers to fair, safe and decent work in construction that migrants – largely, though not exclusively, those at the lower end of the occupational and wage ladders in the industry – tend to face.

Alongside these case studies, this report offers a partial review of some of the scholarly literature on migrant work in construction, of which there is now a large, high-quality and growing body of work by researchers emanating from disciplines as diverse as geography, sociology, law, labour studies, anthropology, political science and other fields. This work illuminates the very diverse experiences of migrants in the trades, though it concentrates heavily on low-waged workers. In addition to this secondary literature, this report also includes data from interviews conducted with trade union officials, contractors and construction migrants in Canada, the United Arab Emirates, India and the United Kingdom between 2008-2015.

This report also aims to provide a sense of how diverse the socio-legal category of ‘migrant’ is in different national and even local contexts. Migrant labour generally refers to labour occurring away from one’s usual place of residence, often requiring residence in another locale where the worker may not intend to, or be permitted to, settle permanently. As a result, migrant workers often have a connection to employment or work in one place, an ongoing set of connections to an economy, household, family or community located in

¹ In this report, the term ‘unauthorized’ is used to refer to workers who do not possess the legal entitlement to work and/or reside in a destination country.

one or more locales elsewhere. However, the category ‘migrant worker’ itself is troublesome, as it is often a catch-all term to describe workers whose legal status, working and employment conditions, skills, education and wages can be vastly different. This migration can be either inter- or intra-national, but implicit within the term is the notion that individuals are leaving ‘home’ and crossing political, administrative or institutional borders of some kind in order to engage in work. In legal terms, migrant status can be produced through diverse forms of territorial regulation – at times a patchwork of immigration, residency and employment laws. Even this, however, belies the diversity and complexity that characterizes contemporary migrant construction work and employment. This diversity is in part captured by the global union, Building and Wood Workers’ International (BWI) (2013: 3), who suggest that

[t]here are many different types of migrant workers. They can be internal or international, temporary, ‘circular’ or permanent. They can be posted workers sent abroad for a temporary periods by their home employer. They can be workers with valid work permits or workers without the required permits, known as undocumented or irregular migrants. Most are economic migrants. Some migrant workers and their families have fled persecution and war, although they may not have official status as political refugees. There are also environmental migrants, who have left areas because of drought and famine.

This report focuses specifically on the incorporation of *international* migrants – individuals crossing national boundaries to work in construction. However, it should be noted that there are tens of millions of *internal* migrants – those who move away from home but remain within their country of origin – to work in construction (see for example important recent research by Kumar & Fernández 2015). Internal migrants comprise a major facet of two of the industry’s fastest growing markets, India and China. In the following sections, this report briefly reviews key trends and regional forecasts in the construction industry and provides a broad (yet, it should be noted, non-comprehensive) overview of the characteristics of migrant work and employment in the sector.

2. The International Construction Industry

Like the term 'migrant', the 'construction industry' refers to an extremely diverse sector which consists mainly of craft, professional and industrial services concerning the building, demolition, renovation and maintenance of built environments. In many locales, construction markets tend to be divided into three broad sub-sectors: civil construction (e.g., roads and highways, water treatment plants, bridges etc.), industrial construction (e.g., oil and gas platforms, mining infrastructure) and residential and commercial construction (e.g., single-family dwellings, office buildings, condominium developments). Occupationally, meanwhile, the sector includes a dizzying array of skill sets and job categories, including professional, managerial, technical and manual jobs ranging from architects, engineers and project managers, to carpenters, electricians, steel fixers and general labourers. Construction firm size, structure and market reach, moreover, can also be extremely variable. The largest firms, such as Bouygues Construction, a French multinational which employs 130,000 people in over 80 different countries, can have an annual turnover in the billions of dollars. The smallest contractor firms, meanwhile, can have a distinctively local reach and employ "as many men as will fit in a van", as one contractor in Toronto explained. Indeed, in many cases, construction markets often tend to be 'bottom heavy', characterized by a small number of very large firms, and very large number of mid-size (>100 employees) and smaller firms (>20 employees). The subsection below highlights just four characteristics of the global construction industry: agglomeration at the top, subcontracting of 'bottom end' services, its inseparability from informal economies, and the tendency for market volatility.

Employing on average between 5-10% of the formal sector workforce in most countries, construction is not only a significant component of the global economy, but it is also one of the largest employers worldwide (Bosch and Philips 2003; Martin 2009). This is in part because productivity gains through mechanization, automation or pre-fabrication have remained limited compared to other labour intensive industries like auto-manufacturing. As a result, construction sectors tend to rank among some of the largest employers of many national economies in both industrialized and industrializing nations.

2.1 Characteristics, trends and projected growth in construction

Globally, construction accounts for roughly 11-13% of global GDP; that figure is forecast to grow to as much as 15% by 2020 (Schilling, 2015). In terms of value, the construction market is expected by some to grow rapidly over the next five years to USD\$12 trillion, with most of the growth coming from the United States, India and China (PwC 2015). While construction output has in recent decades been concentrated in Europe and North America, it is important to note that so-called 'emerging markets' in the global South – such as the UAE, India and China – now account for 52% of construction. Indeed, China overtook the United States in 2010 to become the largest construction market in the world (ibid.). The share of industrializing countries' share of the construction market is also expected to grow to 63% by 2025 (ibid.), while the industry as a whole is forecast to grow by a staggering 70% by 2025 (BuildForce Canada, 2014). It should be recognized, however, that these industry trends and forecasts are largely projections whose outcomes are by no means guaranteed. Indeed, significant signs of slowing growth in China's economy, low oil prices cutting into the economies of the Persian Gulf states and concomitant contractions in resource extractive industries in smaller construction markets such as Canada, are already raising important questions about how robust construction markets will actually be in the next decade.

Within these construction markets, government infrastructure spending plans (particularly on energy and water projects), general economic growth and urbanization are considered to be three of the principal

driving forces for this market (KPMG 2013). Moreover, medium to large multinational firms in the industry (those with approximately USD\$1 billion in annual turnover) are moving into new parts of the world; in a recent industry survey, 47% of respondents indicated they were planning to move into new markets both in the global North and South, with the USA, Canada, Africa and the Middle East as key destinations of choice (ibid.).

Alongside large multinational construction conglomerates like Samsung, Hyundai, or Bovis Lend Lease, there has also been a recent emergence of new construction multinationals such as the quasi-state Gulf multinational Emaar, which has been capitalizing on rapidly growing construction markets in the Gulf region, North Africa and South Asia. Meanwhile, other construction firms in Southeast Asia have become more active in expanding to markets outside the region (Santoso 2009). These shifts are part of a broader trend within construction to the agglomeration and oligopolistic dominance of a number of very large, multinational firms in construction. Since the mid-20th century, modernist-inspired 'systems building' approaches to construction have tried to rationalize and streamline the on-site production process. This effort has brought about new connections with materials manufacturers and investors, and as a result has shifted the relations of power among construction actors to shape the production process; for example, in some instances large scale developments allowed for bulk purchase agreements for construction materials, which gave local authorities, building consortia, and large contractors much more power over the supply of parts. Similarly, small and medium sized contractors are often not big enough to influence production methods, are not bidding for the same sized contracts and thus unable to cut into the market in the same way (Gann 1996). Indeed, many commentators on the global construction industry have predicted the emergence of an oligopolistic structure, consisting of 'world wide systems organizers' (Ofori et al. 2002).

It is worth noting that, in an industry where labour costs are a major part of overall costs, the contemporary process of multinational expansion and migrant labour are closely linked. As Wells (1996) notes, some new players on the multinational construction scene were able to break in to the global market largely by bringing their own domestic labour as a part of the contracting deal (ibid.). Their access and control over 'posted' migrant workers enabled them to massively undercut European and American firms. Wells (1996: 298) argues that "[m]ost other countries which became significant exporters of construction labour tried to emulate Korea and Turkey and provide labour as part of a full contracting service, hence adding value to their exports". As a result of this labour advantage, in the past some major actors from other countries without similar labour cost advantages moved away from contract construction into design and construct management contracts, and project initiation and funding (Drewer, 1990).

2.2 Subcontracting

A second key trend echoes that of many other industries, which is that construction markets in many locales have moved towards increasing levels of subcontracting in recent decades. Being a highly volatile, seasonal industry in which a high degree of labour flexibility is imperative, subcontracting has always been important to the construction industry. However, there is evidence to suggest that across the globe, there has been an increase in construction subcontracting over the last two to three decades (ILO, 2001). Evidence from many countries shows, for example, that the practice of maintaining a group of 'core', permanent workers is disappearing in favour of wholesale labour outsourcing. Increased subcontracting extends also to other components of the production process. Building materials, plants and equipment are generally purchased or hired from other enterprises. Specialized services are supplied by subcontractors, and labour by 'labour agents'. Design and engineering services are also provided by quite separate professional entities. Conceptually, then, as Drewer (1990) notes, the construction "product" can be considered as the product of the work of a number of industries, rather than of a single 'industry'.

Fevre (1987), in his discussion of the tendency in both the construction and steel industries to subcontract, presents a situation in which relatively small, stable construction companies have been forced into increasingly unsuccessful competition with a small number of large, 'foreign' (or non-local) companies

subcontracting to roving ‘cowboy’ firms whose main advantage is cheap, non-unionized, flexible labour. In the European context in which Fevre writes, these firms exist outside of established regulatory agreements with union labour. They have been able to take on increased risk from large contractors through their flexibility and control of insecure labour, taking on late penalty conditions, rapid timelines, draconian labour management, and other risk management tasks from which some clients and large contractors were happy to distance themselves.

Construction’s disaggregated structure typically involves a large number of intermediaries, subsidiaries and subcontractors, making it difficult in many cases to track activity or accountability. In this way, subcontracting creates ambiguity as to who bears responsibility as the ‘employer’, and whereby the risks of business are downloaded onto workers. Subcontracting has historically been used to circumvent unionization and collective agreement obligations. Broadly speaking, this has created a regulatory milieu where it is unclear who is responsible for workplace provisions, safety and benefits. While subcontracting provides greater flexibility, it creates a fragmented workforce, where even people working side-by-side can have profoundly different wages, protections, benefits, and conditions of employment.

This can make it especially difficult to address employer abuses or enforce employer responsibilities, or institute restitutions for workers when so many workers in construction are in ‘triangular’ employment relationships in which there is legal ambiguity about who constitutes the ‘real’ employer. This is especially the case where workers are employed on projects that have very long subcontracting chains and are thus a great distance from the main sources of finance that ultimately ‘trickle down’ into wages for workers. Similarly, as Gordon (2015) notes, subcontracting is a structural feature that is intimately tied to the proliferation of formal and informal recruitment industries that can create additional (and often illegal) cost burdens on migrants and migrants’ families, as well as expose them to deceptive or unscrupulous recruitment practices.

2.3 Boom, bust & build: a volatile sector

Unlike other sectors that employ significant numbers of migrant workers, such as health care, construction markets – which are closely connected to real estate markets, demographic change, economic growth forecasts and interest rates – tend to be acutely sensitive to even small changes in global and commodities markets. As construction projects are often large, long-term developments that may require sizable, periodic infusions of capital and which often take months or even years to complete, forecasts of interest rate growth, economic recession or declining consumer demand can have profound effects, resulting in the shelving of projects in the pipeline and the periodic shedding of large amounts of labour.

While construction is vulnerable to swings in the economy, it is also a sector that thrives on acute economic peaks and troughs brought about by the short term infusion of state capital investments, global sporting events or human and environmental crises. For example, sudden spikes in construction-related activity – and attendant demands for migrant labour – has accompanied the preparations for the Summer Olympic Games in Beijing, Athens and London, and the Winter Games in Sochi, Russia. Migrant construction labour is also a major facet of Qatar’s current preparations for the 2022 FIFA World Cup, Japan’s construction program for the 2020 Summer Olympics, the 2018 FIFA World Cup in Russia and the 2018 Winter Olympics in South Korea. The sheer number of workers needed for these events, which local labour markets cannot accommodate, coupled with the very short timeline in which venues must be repaired, renovated or built, means that the construction workforces for all of these events are significantly composed of migrants. Thus there is a need to consider the responsibility and accountability of third party agents, such as FIFA or the International Olympic Committee, in shaping and driving migrant employment relationships in construction.

Similarly, construction markets also tend to undergo rapid growth in the wake of ‘natural’ disasters as well as periods of acute conflict and displacement. For example, Hurricane Katrina in the USA in 2005 was followed by multi-billion dollar rebuilding program, and resulted in the incorporation of tens of thousands of Latino migrant and immigrant construction workers into New Orleans’ post-disaster labour market (Sisk and

Bankston III 2013). These trends resulted generally in improved labour market outcomes for many US-born workers in New Orleans, while intensifying the disadvantage faced by some migrants and immigrants in the industry (ibid.). Most recently, moreover, anecdotal evidence suggests that the deepening refugee crisis unfolding in countries such as Lebanon and Turkey is currently transforming construction labour markets in these countries. With Syrian refugees in particular dispersed in cities and peri-urban areas instead of in refugee camps, there is some indication that the acute crisis in the region is resulting in the rapid incorporation of refugees into lower-waged sectors of the industry as booming construction markets capitalize on cheaper sources of labour in these destination countries.

2.4 Informality and migrant work in construction

While the figures above reflect the key significance of construction as both an employer and a facet of the global economy, they present only the formal sector statistics on the construction sector. The construction sector as a whole, however, is arguably much larger, because construction tends to be a highly significant facet of the informal economies of nation states. Indeed, research throughout the 1990s suggested that informal work, particularly in construction in industrializing countries, has been rapidly expanding (Wells, 2007).

Wells (2007) conceptualizes several facets of informality, including informal construction firms, informal labour, the informal construction system and informal buildings or settlements. Informality, thus, can involve for example building practices which are not legally permitted by municipalities and thus are not included in data gathering on the market; illegal renovations and demolitions or financing that occurs through non-standard means. Construction can have a legal permit but involve bribes or illegal employment activities on site². It can employ a formal sector workforce and have a legal building permit, but contravene zoning bylaws, occupational health and safety laws or local building codes. A formal sector contractor on site can hire an array of subcontractors, some of whom are not registered companies, and/or may hire unauthorized migrants, or fail to follow local employment laws in their management, hiring or firing practices.

Migrant construction workers' lives and livelihoods, similarly, can be transected in complex ways by political and economic formality and informality. An international student studying abroad legally, for example, might work part-time in construction but exceed the allotted work hours permitted under their student visa. Other migrant employment conditions can rest on the very margins of both the law and the formal labour market, yet produce similar vulnerabilities to workers who are employed informally. For example, a migrant working legally for a contractor who is registered as a 'self-employed' subcontractor, despite working for years for this employer, allows the contractor to save large amounts of money on payroll taxes and/or other requisite benefits they might be required to provide for migrant employees. Migrants with legal authority to work and reside in a destination country, meanwhile, might be housed by their employer on makeshift illegal living accommodations on the construction site. Prevalent in a sector that often needs large numbers of mobile, temporary workers, and especially in locales where housing is expensive or scarce – and as we explore in further detail later in the report – these conditions of residential informality can become an added layer of vulnerability or exploitation for migrant construction workforces that extends outside of either informal sector employment or illegal migrant status.

In her extensive review of the literature on informal construction, Wells (2007) highlights four aspects of regulation, which include: the regulation of enterprises; the terms and conditions of employment; the process of construction and of the product. When considering the role of migrants in construction labour markets, we can add other legal frameworks and practices to this list, which include immigration law and the regulation of legal status. The conditions of informality for migrant workers thus may not simply be shaped by the fact that

² Indeed, construction, and particularly international construction, has historically been ranked as one of the most corrupt industries by independent organizations such as Transparency International, an organization which dedicated their 2005 report on corruption to the construction sector. Construction also ranks as a corruption leader in a survey of executives by Control Risks Group, a London-based business security consultant (Reina, 2003). In 2002, a study conducted by Transparency International identified construction as the most likely of 17 industries to bribe, as well as the industry dealing in the largest bribes (ibid).

they are working outside of regulatory schemes governing the building process, the employment relation, or the firm that hired them, but that their very status as legal persons within a sovereign territory is also subject to being constructed as either inside, outside or at the limits of the law.

These questions are even more pressing as the growth of urban economies and urban settlements in coming decades will in many cases occur through informal relationships. As Buckley (2014) notes,

With global estimates forecasting that by 2020, over a billion urban and suburban residents in the world will be living in 'informal', 'unauthorised' and/or 'sub-standard' dwellings, self-built or informally-waged construction activities both by and for new arrivals to the city are some of the most important ways that the cities of the tomorrow are taking shape. Within these acts of construction, productive and socially reproductive activities are often closely interlinked; not only does subsistence construction address urban migrants' needs for shelter, but they also form an integral part of informal construction economies, tying migrants' building activities to flows of steel, cement and other aggregates, corrugated tin, plywood and other materials in the city.

Following Wells (2007) then, rather than adopting simple binaries that assume that construction activity is either 'legal' or 'illegal', or that workers are either employed formally or informally, it is more accurate and more analytically useful to recognize how migrant employment and construction activities can be transected by a patchwork of relationships, actions and contracts that tread inside and outside of the law, which can make it very difficult for local state authorities, unions and advocacy groups to get a fuller picture of what is happening in the sector. Meanwhile, the significance of the informal sector in construction makes offering a clear and accurate picture on the state of migrant employment in the 'global' construction industry effectively impossible. It also raises an array of challenges about how to ensure decent, fair and safe work for migrants employed in the trades, especially since much construction activity in the next few decades will take place outside of formal sector economies.

3. The role of temporary migrants in construction: an overview

Migrants – both temporary and permanently-settling – have long been a structural facet of construction markets in many countries (Wells 1996). Throughout history, newly-arrived migrants to cities have also tended to play a crucial role in building them, whether as waged workers or informal builders constructing housing. The sector's heavy reliance on migrant labour is often due to a number of factors, including the seasonal and project-based character of construction. It is also in part due to the distinct spatial characteristics of the construction process; similar to industries such as mining, agriculture or consumer services, construction cannot be moved elsewhere in the search for lower labour, input or transport costs. Despite rapid advances in technological and technical building practices in construction, moreover, it remains a highly-labour intensive sector in which labour forms a major part (and in many cases a majority) of project costs, especially in less industrialized countries. Finally, because construction is by its very nature project specific, it has long had the kinds of flexibilized employment structures – such as project-based employment structures or labour-only subcontracting firms – that have increasingly been adopted in other sectors in recent decades. Thus long before the broad-based 'flexibilization' of industrial production systems (such as auto manufacturing), the construction industry was characterized by flexible and contingent forms of employment (Bosch and Philips 2003). Moreover, the lack of standardized production in construction, where the work site and the product are never the same, is another reason that the sector tends to seek out migrant labour in order to lower the costs of a production process that remains highly labour intensive. In addition to bringing crucial skills and expertise to the construction labour markets of many cities, immigrants and temporary migrants employed in the trades have often been important to construction because they have taken jobs that no one else wants to do. A great deal of construction has long been, and continues to be, dirty, dangerous, poorly-paid and – increasingly for many national citizens in rapidly growing economies – low-status work.

According to the global union federation Building and Wood Workers' International (BWI), the use of migrant workers has increased considerably in the last several decades, and that is expected to continue (BWI 2013). Indeed, as other research shows, construction is not just a significant sector for the incorporation of migrant and immigrant workers, but a growing one (Erlich and Grabelsky 2005; Wells 2012). In countries such as Singapore, with an estimated 160 000 migrants from South and East Asia (BWI, 2013), and several million migrants from India, Pakistan, and other South Asian and South East Asian countries, employed in construction across Gulf Cooperation Council states (Bahrain, Qatar, the United Arab Emirates, Oman and Saudi Arabia), these networks of migrant construction labour are very significant, and are a growing facet shaping construction labour markets globally.

In the most general of terms, at least three broad factors appear to be driving construction employers to increasingly look outside national borders for workers in the present moment. The first is that many of the construction workforces of industrialized economies are rapidly ageing, and the demise of training and apprenticeship programs, falling birth rates and lower rates of entry into the skilled trades by national citizens has produced structural shortages of construction labour. Second, many industrializing nations are rapidly growing both demographically and economically; these trends have spurred construction markets throughout many countries such as Brazil, India, China and elsewhere, in which demands for new housing, office space, and industrial and civil infrastructure has vastly outstripped the capacity of local construction labour markets. Finally, a third trend has been that the size and complexity of projects – from residential mega projects to large infrastructure projects – has been growing in recent decades, resulting in the rising demand for highly-skilled professional migrants with experience in designing, managing and supervising large and complex projects on the ground in locales where such expertise might be lacking. These projects,

ranging from mixed residential mega-projects to global sporting venues, also typically require immense amounts of labour that require the importation of foreign workers – at the top and the bottom of occupational scales in construction – for only a fixed period of time. Rapid urbanization, meanwhile, is generating new migrant labour markets particularly in countries where urbanization is coupled with the growing destruction of agrarian lands and livelihoods. Indeed, the very process of urbanization itself often consumes peri-urban farmland, thereby making this land scarcer and more expensive. At times thus, urbanization can create the migrant workforce needed for its own production, even as it might need rural communities to continue to shoulder the cost of maintaining migrant construction workforces (see for example Chuang 2015).

While geographical proximity can deeply shape construction migration networks between countries (as is demonstrated for example by Thailand's reliance on neighbouring Myanmar and Cambodia for migrant construction labour – see Section 4.5), colonially- and historically-forged migration networks also tend to structure the flows of migrant construction labour in many countries. For example, the tendency for immigration policy in Canada to favour white Anglophone and Francophone migrant labour from nations like the UK, the USA, France and Ireland is in part a reflection of its colonial migration networks from the 18th and 19th centuries. This enduring ethno-national bias in construction immigration channels has in part been justified by claims that, for example, Irish workers are 'culturally compatible' with Canadian workers and thus, as individuals legally permitted to migrate for a short time while receiving little-to-no job, language or skills training from the Canadian government, are considered a desirable workforce because they are perceived as 'labour ready'. In the UAE, meanwhile, the centuries-old mercantile networks that have linked Dubai and the South Indian province of Kerala are being re-inscribed through new networks of south Indian construction labour travelling to Dubai. This is in part because Keralite labour contractors source workers from their home villages for small scale labour supply companies that operate in the emirate. Almost half of the manual labour in construction in the UAE is sourced from Kerala and neighbouring states such as Tamil Nadu and Andhra Pradesh, although there is evidence that this is changing as contractors look to northern Indian states such as Bihar.

As we can see then, from demographic changes such as ageing and population growth, to broad economic shifts in the geographies of industrialization and urbanization, a diversity of contemporary and social factors are re-shaping construction migration networks. The global growth of construction as a market in recent decades, combined with the growing size and technological sophistication of some projects has intensified the international competition globally for highly skilled or specialized professional labour – from experienced project managers to industrial specialists with niche capabilities. This trend is leading some countries to expand into new recruitment channels and labour markets farther afield to find qualified labour. In addition to this, of course, national immigration policies also play a crucial role. For example, the creation of new temporary immigration channels in Canada catering to skilled tradespeople, new rules in the United Arab Emirates that place strict limits on the number of migrants that can be recruited from any one country, and varying recalibrations of national immigration policy across Europe in response to the refugee crisis are all fundamentally re-shaping construction migration networks in specific locales.

3.1 Labour market segmentation and polarization

International migration has been a key factor in the segmentation that often exists in local construction labour markets, in which differently-skilled, precariously resident or illegalized workers have enabled the establishment of high levels of labour market segmentation and wage differentials within local labour markets. Within local labour markets where there are few regulations preventing wage differentials (or if they do exist, they are not enforced), wage hierarchies based on gender, religion, race, citizenship and/or ethno-nationality in local construction labour markets can be common (Wells 1996). Racialized and/or nationalized wage hierarchies, coupled with high levels of ethno-national labour market segmentation have been found to exist in local labour markets across the global North and South, including in countries such as Canada (Buckley and Reid Musson, forthcoming), Malaysia (Abdul-Aziz 2001), Portugal (Malheiros 1999) and Singapore (Debrah and Ofori 2001).

Very generally, labour market segmentation and the growing incorporation of migrants into construction sectors have gone hand-in-hand with the deepening insecurity and casualization of construction work internationally over the last three decades. In Europe and North America, segments of the construction labour market such as residential construction have been subject to heavy de-unionization (e.g. Greer et al. 2013). In a number of other locales, meanwhile, including Kuala Lumpur (Abdul-Rahman et al. 2012) and Singapore (Debrah and Ofori 2001), construction sector deregulation has led to increased migration flows into the sector and the subsequent emergence of a highly-flexibilized, insecure and internationalized workforce in the construction trades.

Entrenched forms of labour market segmentation may be subject to change in the coming decades as some migration networks are beginning to transform as geographical patterns of economic growth change, and the demand for construction labour shifts to new locales. Santoso (2009: 530) notes for example that out-flows of migrant labour from Southeast Asian countries has shifted somewhat from migration to the Middle East, and particularly the Gulf countries, towards “an intra-Asian flow” as rapid economic growth has taken place in countries such as Thailand and Malaysia. Other factors, such as employer perceptions that migrants are both easier to manage and willing to work harder than their national peers, were also factors in the turn to migrant labour in countries like Malaysia (Abdul-Aziz 2001, Lee and Sivananthiran 1996).

Growing technological sophistication in some construction markets, meanwhile – particularly in civil and industrial construction – have led to rising salaries and the development of a very highly-skilled global professional class of migrants with highly sought after managerial or technical knowledge. A tightening global labour market as demand grows for the same kinds of skilled trades labour needed for sophisticated resource extraction projects (e.g. the mining and hydrocarbon sectors) and urban infrastructure projects means that highly-skilled and high-waged professional migrants will probably find their economic prospects improving substantially.

Other studies, meanwhile, have highlighted growing wage polarization in the construction trades. For example, in the context of rapid urbanization in Lisbon, Malheiros (1999) identifies the growing casualization of employment in the city’s construction sector, and traces the development of a two-tier labour market for formal sector Portuguese workers and informalized (and frequently foreign) workers. By contrast, an array of policy and trade sector studies including Wells (1996; 2001), Connolly (2001), Yuson (2001) and Wells and Jason (2007) offer an international set of perspectives on the declining employment conditions for migrant, informalized, and low-waged construction workers and organizational restructuring in the industry. The wage landscape in the sector both within and outside Europe and North America has also become heavily polarized, comprising high-skilled professionals such as engineers, cost estimators or construction managers at the top of the wage scale, and workers employed in lower-waged and more insecure manual jobs such as concrete finishers or general labourers. Indeed, in some of the very same locales where the demand for highly skilled labour has seen wages grow rapidly at the higher end of the skill ladders in construction, the labour market has also become characterized by de-unionized and deskilled work at the bottom of the job ladder, a trend that has seen wages for both formal and informal lower-skilled work grow less quickly or stagnate (the Canadian and UAE case studies in this report are illustrative of this trend over the last fifteen years).

3.2 Brain gain, skills circulation and ‘transit state’ strategies

There is no doubt that in many locales, migrant workers are a fundamentally important source of new knowledge, skills and expertise to labour-receiving countries. Meanwhile, other countries are finding short term migrant labour to be an immediate solution to skills shortages owing to decades of declining investment in training programs and an eroding knowledge base as experienced workers retire. This skills transfer and value is not concentrated solely in the higher-waged and ‘higher-skilled’ occupational segments of the industry. In their research in the USA, Iskander, Lowe, and Riordan (2010) have shown the significant innovations made by migrant and immigrant men employed in the residential construction sector. They demonstrate the fundamental ways these workers have reshaped the construction process. They also argue that the transfer of workers’ knowledge into these labour markets has been both under-researched and under-theorized in

part because most workers are informally employed and lack access to associational ties like unions that would be more likely to make these kinds of contributions more visible.

The choice to migrate is also a key method of skills acquisition for migrants who either can't get access to the same caliber of jobs in their home countries, or wish to obtain labour market-specific skills to then bring back home or use elsewhere. In the latter instance, short term migration can occur to particular countries known for having high quality construction sectors and training, which then gives migrants greater currency in other labour markets to which they may travel (this can especially be the case in cosmopolitan labour markets with wage rates that tend to discriminate based on workers' nationality). Such strategies have been known to be used, for example, by some South Asian migrants who have sought work in Canada in order to have 'Canadian experience' on their resumes when they then migrate in the longer term to the UAE. The opposite trajectory (South Asia → UAE → Canada) can also be common for those seeking access to skilled construction jobs and permanent residency in Canada, in which experience working on complex, large-scale projects in the UAE can be a stepping stone into the Canadian labour market. Such 'transit state' strategies are one way to gain valuable experience in one locale which can then be leveraged to obtain upward mobility in the labour market of other destination countries. How successful these strategies are, however, remains to be studied in more depth.

While migration can be a means of securing better wages, skill acquisition opportunities and valuable hands-on experience, migration into construction markets also often involves shouldering a host of risks and uncertainties that can undermine migrants' access to fair, safe and decent employment as well as their ability to leave or contest exploitative or undesirable employment conditions. Outlined in section 3.3 below are three broad and interlocking forms of risk and insecurity that can shape some migrants' experiences in construction: migration debt, informational deficits, and precarious legal status. These risks are not exhaustive, nor do they characterize the experiences of all migrants in the trades. Rather, they are meant to highlight the complex ways in which access to quality work for construction migrants is shaped in part by the spatial and organizational nature of contemporary construction work, as well as by social relations that extend – geographically and politically – well beyond employment contracts, workplace conditions or even national immigration regimes.

3.3 Trans-border risks: migration debt, informational deficits and precarious legal status

For some migrants seeking employment in construction, access to good income-earning opportunities abroad is undermined even before they leave their country of origin. Among the risks and vulnerabilities associated with the migration process are illegal recruitment fees and formal or informal debts extracted from individual migrants. In addition, poor or misleading information on job markets abroad and the precarious legal status that is created by migrating overseas to work further enhance the risks that migrants bear.

Debts are a defining feature of the international migration process for many workers in the construction sector. These debts can be incurred through formal banks or informal moneylenders to pay the costs of migration, including fees charged by labour agents that may or may not be prohibited by law or under bilateral "manpower" agreements. For example, research in Kerala, India (Buckley 2012) found that poorer migrants tended to incur enormous debts to pay illegal 'recruitment fees' to local labour brokers in order to secure a construction job in the Persian Gulf region (see also Rajan and Prakash 2012). To pay these costs, they often had no choice but to turn to informal moneylenders who charge much higher interest rates than formal banks because poorer migrants tended to lack the collateral (often in the form of the family home) to secure a low interest loan to pay these costs. The interest on informal debt can be extraordinarily high and often requires monthly debt payments. Debt-financed migration – and especially high-interest forms of informal debt – tends to lock migrants and their families into cycles of indebtedness that can also propel more family members to migrate in order to repay older debts, thus perpetuating a cycle of extracting value from migrants that may be more than workers can earn (Stoll 2010).

Though governments have made attempts to regulate migration fees, either by prohibiting them or setting fee schedules, labour agencies who recruit workers based on incorrect or misleading information means that for many migrants, paying these fees and going into debt are presented as the only way to migrate overseas to earn wages in the construction sector. The overall lack of regulatory frameworks for labour migration that are favourable to individual workers has been connected with the proliferation of formal or informal labour agencies that perpetuate these cycles of debt (Raghuram 2005). Incurring debts to pay illegal fees has also been shown to feed exploitative practices and precarious legal situations for migrants, amplifying the risks of unfree, forced, or bonded labour (Strauss 2012), as discussed in Section 3.6. Finally, the damaging effects of migration debt on migrants' economic welfare can also be exacerbated by another trans-border risk: the currency exchange rate. While earning money in a stronger currency is often a driver of migration for some migrants who intend to remit a portion of their wages home, unfavourable changes in currency exchange rates can also occur, and are shaped by geopolitical and geoeconomic forces far beyond migrants' control. Thus, regardless of how favourable a worker's employment conditions might be at the time that they migrate, exchange rates are just one of the unpredictable conditions that can significantly erode international migrants' earning power and undermine their ability both to remit wages and to pay off migration debts.

In discussing migration debt, however, it is worth noting that people migrate for many different reasons; some of these may be economic, to be sure, but others may not. For example, some motivations can relate to the ways that temporary migration can help individuals resist and contest local social hierarchies (Gidwani and Siravamakrishnan 2003), improve one's social mobility and marriage prospects at home by gaining worldly experiences abroad (Osella and Osella 2000) or assist in escaping socially constraining conditions at home (Shah, 2006). Meanwhile, other research has noted that in some instances, migrants themselves can play a role in hiding the real hardships and failures often involved in overseas work (e.g. Gardner 2012). Thus migration into construction labour markets, and the considerable risks that workers might shoulder on the way – should not be understood *a priori* as governed simply or only by factors like international wage differentials or other economic lenses for understanding and explaining the decisions that individuals make. This perspective is important in considering why some migrants or migrant households make the choices they do, to recognize that these choices may be shaped by an array of social, cultural or generational considerations and to understand what factors motivate their decisions to, for example, take on large amounts of migration debt that may not be paid off for years.

A second dynamic shaping both the decision to migrate and the trans-border risks of construction migration is that international construction labour markets are often deeply *asymmetrical*. In other words, while employers and recruiters tend to have more accurate information about the employees they plan to hire (often due to recruiters' first-hand knowledge of the communities in which they recruit), workers and their families can face a significant informational deficit when making choices about whether to migrate. From inaccurate or partial information offered by employers to deliberate deceit by unscrupulous recruiters, it can be nearly impossible for workers themselves to get an accurate sense of the job they will be doing, what their actual wages and working conditions will be, how long it will take to pay off migration debt, what kind of employer they will be working for, and thus what the outcomes will be of their choice to migrate.

Finally, in addition to migration costs and information deficits, a third trans-border risk relates to the proliferation of temporary and probationary forms of residency for migrants in destination countries seeking to attract construction labour. For example, while labour market segmentation in construction across parts of Europe and North America has typically been understood through the sector's portrayal as a 'quintessential immigrant niche' (Rath 2002), this framing has often involved a focus on how *permanently settling* foreigners – immigrating through linear A → B immigration trajectories culminating in permanent residency or citizenship – have migrated to undertake more difficult and lower-status construction jobs for cheaper wages than nationals in the workforce. However, much of the recent literature on construction highlights the increasingly diverse, non-linear, circular and 'probationary' (Goldring and Landolt 2012) conditions of temporariness being produced in rapidly-deregulating sectors – including the growth of casual or no-contract work for migrants, the proliferation of limited term visas and work permits for foreign tradespeople, and intra-firm

worker postings for short term contracts in construction abroad. These shifts in immigration policy require us to pay more attention to the ways that temporary and insecure forms of legal status are being produced in many labour receiving countries, and the effects this has on the relationship between construction migrants and their employers. The production of migrant legal status in which migrants' ability to reside in the country depends on their continued employment with a specific employer, for example, can profoundly shape workers' ability to contest poor workplace conditions and their labour market mobility in the destination country. Migrant status can also impose exceptional restrictions on construction migrants' entitlements to state supports like skills training or unemployment insurance, their entitlement to unionize or their protection under local labour laws and minimum wage laws.

The growing importance of focusing on temporary and insecure international migration is due to a variety of trends. First, the demand for migrant construction labour is growing in countries with rigid laws that largely prohibit permanent residency or citizenship rights for migrants (such as the UAE, Qatar, Saudi Arabia and Singapore). Secondly, growing demand for migrant workers is occurring in countries who are actively re-engineering national immigration law to be more temporary and encourage circular migration among tradespeople (such as Canada and Australia). Thirdly, multinational subcontractors and contractors are increasingly using posted intra-firm labour on a project by project basis, thus shaping a highly dynamic labour market for globally-mobile, experienced professionals and highly skilled tradespeople as demand for their skills grows internationally, and for firms to bring their own low-cost manual workers who may be exempt from certain local labour and wage laws.

3.4 Destination country risks: local barriers to fair, safe and decent work in construction

In addition to migrants' economic security being undermined by the chains of control, fee extraction and debt that can arise from workers traversing international borders for employment, there can also exist a layered set of vulnerabilities produced within the destination country, which can include illegal or exploitative treatment by employers, substandard housing accommodations, exclusionary national and local legal frameworks that structure construction migrants' rights and entitlements. This can also involve exploitative or extortionate local practices (e.g. by the police or local authorities) towards migrant construction workers; in Singapore, for example, Yea (2015) has documented how false police reports filed by construction subcontractors against migrants threatening to file a Ministry of Labour complaint is a common tactic employers use to preemptively discredit migrants and their concerns. Obviously the type and nature of these risks can vary enormously both nationally and sub-nationally, and very much depends on national and local regulatory regimes that shape employment and immigration law, local labour market practices, housing markets, policing practices and even where migrants fall on occupational, sub-sectoral and subcontracting ladders in the industry. However, some relatively common sources of insecurity in destination country markets can include: the exclusion of temporary migrants from social welfare provisions (e.g. employment insurance, national health insurance or state-funded skills training programs), the potential for wage theft, particularly at the lower ends of subcontracting chains, the potential extraction of illegal ancillary illegal fees by employers or local authorities, and migrants' lack of knowledge about their employment and residency rights (including their entitlements to social services in their destination country). Together, these layered and varied practices, regulations and conditions in migrants' daily lives on and off the construction site can create significant barriers to fair, safe and decent work in the sector, and economic security more broadly.

In particular, the prevalence of long subcontracting chains in destination country markets (as noted in Section 2.2) can disproportionately affect temporary migrants' employment and wage conditions. Because long subcontracting chains tend to be common in construction, particularly on large projects, the main contractor is often several layers removed from migrants employed by subcontractors. This is especially the case with unauthorized migrants who are typically concentrated on the lowest rungs of the subcontracting

ladder. In cases where construction costs are controlled centrally by the main contractor, the siphoning of funds by middle contractors or outright wage theft by migrants' immediate employer can be common. As 'Jason'³, a former industrial welder from St. Vincent working as a drywaller on a large housing subdivision in Canada explained,

The guy who got the contract ... he goes to the office now, and they'll tell you... 'I'll give you \$25 for a labourer'. [The subcontractor] is gonna say, ok, I'll do that. So he is getting \$25 from the company for the labourer. But to the small man on the road who wants to work, and don't know nothing, he'll say, 'I'll give you \$12 per hour'. He'll make sure to ask you: 'Can you come every day?' And once you tell him, yeah, I can come every day, he'll say, ok. At the end of the week you'll get \$500 or \$600. But he's saved more than that from you. Because he's getting that \$25 every hour for you, while he only pays you \$12.

Wage siphoning or theft can especially be a problem if a main contractor goes bankrupt, fails to get paid by their client, or runs into conflict with parties down the subcontracting chain about payment and duties; in this latter case the subcontracting chain can become a financial bottleneck where capital fails in part or in full to make it down the chain to subcontractors. These structural and systemic characteristics within construction – especially as lower-skilled labour has become increasingly outsourced by large contractors – often create the conditions in which subcontractors can exploit workers with impunity. Migrant workers tend to be at the very bottom of the hierarchy of payees the sector, in which contractors can also use their ability to temporarily withhold wages as a source of finance to cover other costs first (materials or core staff) in times of financial shortfalls.

These conditions can be made worse by the fact that, in a project-based industry that requires a large, mobile workforce that is often employed for short periods of time, migrant workers are often housed by their employer in temporary housing on the outskirts of the city or in makeshift accommodations either next to, or right on, the construction site itself (Firman 1991; Olimova and Bosc 2003; Srinivas 2008). Particularly in locales with large-scale construction projects, such forms of dormitory-style housing are often accompanied with close levels of employer surveillance through the security guards, camp managers or closed circuit cameras on site. These quasi-“securitized” arrangements of social reproduction (Cowen and Siciliano 2011) can then create forms of almost carceral living conditions in which migrants' mobility within their country of destination is severely restricted and in which they are segregated from the rest of the population, from unions and from civil society groups. These conditions can also create significant vulnerabilities for workers who are then reliant on their employer not only for employment but also accommodations (and equally sometimes food and transportation on and off site) (see also Buckley 2014; 2015). As Kumar and Fernández (2015) rightly note, these securitized housing arrangements can make it very difficult for protective agencies, unions or civil society groups to access migrants.

3.5 Market risks: sectoral volatility, migration and job insecurity

A final set of risks are tied to the fact that while migrants make long term commitments when they migrate (such as shouldering long-term forms of debt, selling major assets, relocating across borders and so on), as identified earlier, construction markets tend to be highly volatile. Because the sector is prone to frequent market highs and lows, construction has always needed a fairly large 'reserve army of labour' on which to draw in boom times, and shed at the end of a project, or during times of market contraction. As Wells and Jason (2007) note, it has always been common for construction employers to keep some workers in temporary, part time or informal employment to deal with rapid fluctuations in the demand for labour. For example, Meardi et al. (2012: 7) have argued that the growth of migrant employment in the British and Spanish construction sectors has served to create a “hyper-flexible buffer” for an increasingly volatile, globalized industry. In the USA, meanwhile, Martin (2012) suggests that the large number of unauthorized migrants in

³ All interviewees have been given pseudonyms to protect their identity.

the construction sector played a key role in keeping labour costs down, thus helping to sustain the country's residential construction boom of the mid-2000s (see also Buckley 2012; Torres et al. 2013).

In times of economic crisis in the industry, meanwhile, unauthorized and other temporary migrants are a desirable workforce to have on hand because it can be shed with fewer burdens to the state (in terms of employment insurance payments for example) or employers themselves (in regards to severance pay or costly formal contracts). This reality manifested most starkly in the wake of the 2007-2008 financial crisis, when construction markets across the globe not only experienced the most catastrophic job losses of any other sector, but international migrants employed in countries as diverse as the USA, the UK and the UAE were consistently the ones fired first – in part because they tended to be overrepresented in the most expendable jobs as casualized, contingent or no-contract workers (Awad 2009; Chan 2010; Krings et al. 2011; Buckley 2012). In this sense, even highly-skilled and -paid construction migrants working in formal employment conditions can face a form of job insecurity that extends beyond the conditions of their employment contract or their temporary legal status.

Because of the volatility of the construction sector, wages in some countries have tended to be on average higher than in other sectors like manufacturing. One reason for this is the likelihood of long periods of under- or unemployment due to the seasonal character of construction in some locales as well as the tendency for construction to go through periodic peaks and troughs depending on interest rates, government spending on large civil projects or cyclical factors affecting the industry. However, not all migrants have access to these higher wages, especially if they are unauthorized and/or excluded from union membership. The benefits of these higher wages, moreover, can be severely undercut by migration debt and other illegal fees they have taken on to enter the labour market in the first place. They can also be eroded by the sudden loss of legal status and the right to work, in which instances migrants either face working illegally and often for lower wages, living off their savings while they regularize their status, or leaving the country altogether despite their desire to stay. The combination of illegal fees, debt, rampant wage theft, and job insecurity has made “vulnerable migrants even more vulnerable” (Rajan and Prakash, 2009: 3), both in receiving countries and in migrants' home countries, especially if they must return to face those to whom they still owe money.

3.6 Unfreedom and deportability for migrants in construction

The combination of trans-border risks – which often undermine workers' economic security and labour market mobility through factors like migration debt and poor labour market information – and 'destination' risks of wage theft, subcontracted employment relations and illegal fees extracted by employers or police – can together intersect to produce unique and complex forms of economic vulnerability for migrants in the trades⁴. These, coupled with regulatory exclusion from accessing the support of settlement services available only to permanently-settling immigrants, various (including physical, social and linguistic) forms of isolation and segregation from unions and civil society groups, and/or exclusion from other state welfare supports such as employment insurance or subsidized housing, means that cases of de facto debt bondage, forced labour or other forms of severe unfreedom in the labour market have become a significant facet of construction labour markets across the both industrialized and industrializing nations (see, for example, both the case studies on Canada and the UAE below) (Anderson and Rogaly 2005, Lewis et al. 2015; Human Rights Watch 2006).

While extreme forms of unfreedom exist for some migrants in construction labour markets, more subtle relations of unfreedom also operate in these labour markets which can be shaped by the day-to-day ways that migrants with precarious legal status or precarious employment can feel pressured to regulate themselves. Overt and implied discourses and practices – ranging from employers asserting control over migrant

⁴ Indeed, at a 2003 meeting jointly organized between the Trades Union Council and the ILO, construction was one of four sectors – in addition to care, agriculture and contract cleaning – identified as industries of concern in which migrants are facing conditions of forced labour (Anderson and Rogaly, 2005). Recognizing the gendered and occupational diversity of these sectors as sites of unfree labour represents to Anderson and Rogaly “... a shift, as academic and policy reports on 'trafficking' have tended to focus on commercial sex, and, to a lesser extent, domestic work in private households” (*ibid.* 2005: 11).

employees by threatening deportation or otherwise undermining migrants' ability to stay in the country, to highly-publicized immigration raids by border services staff can act to make even legally-resident migrants feel that their job security or legal status is constantly at risk. Together, these day-to-day micro-pressures can amount effectively to what scholars such as De Genova and Puetz (2010) have called 'deportation regimes', in which migrants' own acute sense of their deportability and expendability creates the very conditions that are indispensable to many labour markets, including construction: access to a cheaper, more tractable and hyper-flexibilized secondary labour force comprised of workers who will work for less, who will not refuse unsafe working conditions, who will tolerate chronic wage theft or who will work without overtime pay or work for cash, and so on.

While labour migration into construction markets can be a significant way to obtain opportunities for skills development or increased income, for many in construction's secondary labour markets, construction work can also be a job of last resort, a form of 'survival work' for migrants who were unable to find work in their field, who are fleeing conflict or violence back home, or whose legal status in their destination country has lapsed. Beyond the *de jure* forms of state regulation, migrants' own understandings not only of their rights, but also of *the potential costs of exercising those rights* in their destination country can fundamentally shape their access to safe, fair and decent work; in many cases, assumptions that exercising their rights as workers will undermine either their job security, their legal status or even their personal security⁵ can have a deeply corrosive effect on their ability to contest or seek recourse for unfair practices. Not knowing their rights under local laws, being tied to one employer who has a significant measure of control over their right to live and work in the destination country, a lack of proficiency in the local language used by employers or state authorities, and/or a lack of protection by the very institutions tasked with protection, such as the police or health and safety inspectors, can further exacerbate these conditions and prevent workers from taking action to contest unfair and illegal practices.

In the second half of this report, we explore in more detail the constraints on migrants' choices and the intersecting risks that migrants shoulder through five case studies of destination country construction markets. These case studies are briefly presented to highlight the diversity of conditions for migrant workers, the varied and shifting ways that migrant status is being produced for these workers, the highly variable conditions under which they work, and their prospects for collective representation and access to fair, safe and decent work. It is important to note that these case studies are by no means exhaustive of either the national situation in these countries, nor do they provide a comprehensive picture of the role that migrants play globally in construction. They merely highlight some of the complex and diverse ways that migrant workers are being incorporated into national construction labour markets, and some of the broad, shared trends that track across these diverse national labour markets.

⁵ See for example Anderson and Rogaly (2005: 36).

4. Illustrating geographical, occupational, and sectoral variation in migrant construction work

4.1 The United Arab Emirates (UAE): urbanization and economic diversification in a migrant labour market

Recent and rapid urbanization in the UAE since the late 1990s has dramatically intensified demand for large numbers of non-citizen construction workers. An array of state-led programmes – driven largely by individual emirates such as Dubai and Abu Dhabi – and which have been aimed at developing and diversifying their local economies and attracting affluent residents and visitors, have propelled mega-project construction. The creation of speculative markets for real estate, the re-writing of property laws to allow foreign ownership, and the state-led launch of a range of large-scale development programs have also driven construction markets in the country. By 2008, billions of dollars from speculative and state sources circulated through thousands of active construction sites across the emirate of Dubai alone, and accounted for half of the emirate's gross domestic product (Boald 2010; Wigglesworth and Kerr 2008). Because the UAE as a whole has been structurally reliant on large amounts of low-paid and non-citizen labour since the mid-20th century⁶, and because construction work tends to be considered a low-status, difficult and low-paid occupation by most Emiratis, the UAE's urbanization agenda has required the massive importation of migrant construction workers at the top and the bottom of the occupational ladder.

Most construction migrants tend to be concentrated in the emirates of Dubai, Abu Dhabi, Sharjah, and Ajman. In recent decades, higher paid migrants in construction have tended to be from Australia, Lebanon, Canada, India, the UK, Jordan, Syria and Egypt, while less skilled workers have been primarily from India, Pakistan, Bangladesh, Nepal, Sri Lanka, and the Philippines, though increasingly from Vietnam, China and other parts of South and East Asia.

4.1.1 The structure of the UAE construction sector

Since the late 1990s when oil revenues began to rise precipitously, the UAE's construction market has centered around large-scale, mixed-use development projects propelled by state agendas to develop and diversify secondary and tertiary sectors of the economy such as tourism, finance, IT, insurance, manufacturing, and real estate.

The construction market in the UAE since the early 2000s has been dominated by large, state-backed or –owned conglomerates building very large-scale, multi-use urban development projects. Because of the large scale of these projects, which can in some cases comprise tens of thousands of residential units, the construction market tends to operate through a vast and complex landscape of firms. Often the state-run or –backed development company controls project management and financing. Directly under these development companies are a small number of large multinational corporations who hire professional migrants but generally do not directly employ lower-wage manual labourers. Many of these MNCs are British, Singaporean, Korean, and Australian global economic players (such as Bovis Lend Lease, Samsung and Hyundai). Working at times as equal construction partners, and at others operating independently within the contracting chain, are a small number of large construction contractors whose employees perform the actual manual construction work. Directly below these contractors are a small number of mid-size subcontractors (subs) who either supervise employees of another firm or subcontract work themselves. The subs may take

⁶ Roughly 80% of the UAE's total population is comprised of migrants, both high and low skilled. In Dubai that figure is closer to 90%.

on specific job phases requiring specialized skills and fewer employees such as mechanical, electrical, and plumbing (MEP), glass installation and window glazing, or interior painting. Many of these subcontractors also tend to be foreign companies owned by nationals from diverse countries across Europe, North Africa, Asia and the Middle East. These are generally the firms that have the most direct day-to-day connection with individual precarious and low-paid manual workers.

In a country where there is virtually no citizen population trained or willing to work in construction, the Kafala legal system can be a highly rigid, expensive and ungainly method of sourcing workers from abroad (we explore the Kafala system in more detail in the following section). The construction market, however, has circumvented this problem mainly through two vital subsectors of the migrant workforce. The first is the swath of small to medium sized (i.e. 20-100 employees) labour-only subcontractors that operate in the country. In recent years these companies have grown substantially. They have tended to be owned and operated by migrants, some of whom were former construction workers themselves working for labour only subcontractors, and who now source labour through hometown networks and who farm out their workers to different sites on a per-need basis. These workers frequently have no contract with the contractor using their labour, which creates a 'triangular' form of employment between the labour subcontractor, the on-site contractor and the worker. The second sub-sector is a black market for workers in irregular situations who have left their employer (many because of poor treatment or non-payment of wages) and which in past years has offered a major source of cheap and disposable labour for the industry across the UAE and other Gulf states. In boom times when inter-firm competition for skilled labour has been high, local and federal governments have tended to turn a blind eye to the tens of thousands of irregular workers in the trades who have been in some periods absolutely essential to achieving rapid timelines for the completion of major projects across the country. These periods have often been followed by large scale amnesties, and subsequently by trenchant police sweeps and incarceration.

4.1.2 An industry of migrants, high- and low-skilled

While the UAE's construction industry is almost entirely made up of non-citizens, nearly every foreign worker in the UAE construction sector – from the highest paid architects, engineers, surveyors, and designers to the lowest paid demolition workers, water carriers, and cleaners – is a migrant on a temporary work visa. UAE citizenship is only very rarely granted to foreigners. Despite being on short term visas, many migrants may live and work in the UAE for decades, while professionals in the industry might be permitted to start and raise their families there. By the mid-2000s, an estimated 700,000 construction migrants had entered the UAE, mainly workers classified as low- and semi-skilled from India, Pakistan, Bangladesh, Nepal, Sri Lanka, and the Philippines. The majority were concentrated in Dubai. The number of construction migrants living in Abu Dhabi, the UAE's second largest city where migrants work primarily in construction and hospitality/tourism sectors, is unknown, however, estimates indicate that about 30% of Bangladeshis living in the UAE (about 200,000 people) resided in Abu Dhabi (Human Rights Watch 2009: 23).

These temporary visas are managed in part through the country's federal Kafala immigration system, which requires legal sponsorship by an individual of national origin (the *kafeel*) who is responsible for that worker. Through the Kafala system, employers in the UAE exercise an extraordinary degree of control over migrant construction workers, as this system binds individual migrant workers to a single employer and significantly restricts workers' labour market mobility and bargaining power. A structural feature of the Kafala system is the requirement for an annual fee to be paid to national sponsors; while this is supposed to be covered by employers, it is often illegally extracted from workers, either by employers deducting a 'fee' from workers, by workers paying this fee to labour brokers (often with additional illegal fees collected by the broker in the process) or by paying it directly to the *kafeel*. Unions, collective bargaining, and striking are legally prohibited for migrants in the UAE. There is minimum wage legislation in the UAE that was enacted in the early 1980s, but this has never been enforced, especially within predominately-migrant industries in the private sector.

In tandem with the Kafala regime, many migrants in the construction trades tend to receive some sort of employer-provided accommodations. It is not uncommon for highly-skilled professional migrants, who are

legally permitted to bring their families with them, to receive some kind of package that includes accommodation in a villa-style family home or large apartment. Many lower-waged manual workers, in part due to their sheer numbers, but also as a result of explicit efforts by the state to segregate workers away from tourist areas, are frequently housed in supervised labour camps, which are purpose-built, barrack-style dormitories on the outskirts of the city or in industrial subdivisions. Camps can be large or small and can vary considerably in quality, particularly as the state, partly in response to international campaigns to improve camp living conditions, has made efforts to improve sanitation infrastructure, cooking amenities, leisure facilities and other aspects of camp management and architecture. In other cases smaller contractors have been known to illegally rent family villas to house large numbers of workers who share bedrooms. Additionally, it is not uncommon in many parts of the UAE for workers housed in camps to be heavily if not entirely reliant on their employer for transportation to and from the camp, which in some instances be extremely far from both migrants' worksite and public amenities such as grocery stores, shopping centres or other sites.

4.1.3 Migration fees, asymmetrical information and the debt trap

For a great many migrants in UAE's construction sector, particularly those at the lower end of the occupational ladder, high migration fees charged by informal recruiters in workers' home countries contribute to onerous debt burdens. Workers seeking a job in UAE construction sites typically pay a large sum of money, in many cases equivalent to one year or more of their promised salary, to local labour recruiters in the sending country to secure employment, permits, and transportation. Poorer migrants face a second set of costs because the interest on loans to cover these recruitment fees can add immensely to the overall costs of migrating. Consequently, many migrants to the UAE – particularly but not exclusively lower waged migrants from India, Pakistan, Bangladesh and Nepal – enter construction work by shouldering significant economic risk. Although some manage to pay debts relatively quickly, poorer and less-skilled migrants may be repaying debt for years. It is also still commonplace for workers to have their passports illegally confiscated by labour recruiters, their employer or their *kafeel* upon arrival to the UAE. Not only do recruitment fees reduce savings and remittances, and severely undermine the possible benefits of migration in both sending and receiving countries, but also in many cases, ancillary illegal fees extracted by their employer can together effectively produce conditions of debt bondage for workers who cannot leave their job and return home because they have no passport, cannot change employers and must repay banks or moneylenders back home or face severe consequences. The experiences of 'George', a welder from southern India working in the UAE, are illustrative. After eight years of uninterrupted work and debt repayment in the UAE, and a cascading array of illegal fees to pay, George still carried substantial debt. In his words:

I borrowed money from the bank to get a [work] visa [in the UAE]. I pledged my property to the bank to pay a travel agent [a labour recruiter]. After working for three years, I took back my property from the bank [because I paid off my debt]. After three years I have to pay a renewal [fee] of ... [100 000] rupees [to my employer] for my visa renewal. One more time I had to pledge my house again to renew my loan, and now, my property is still with the bank.

Most of this migration debt is illegal and thus operates mainly in the informal economy. In the south Indian state of Kerala, where much lower-waged construction labour is sourced, for example, recruitment services are coordinated by a constellation of formal and informal sector providers ranging from accredited firms and government-linked services to small informal businesses and individuals freelancing as 'travel agents' in concert with labour recruiters. Small-scale companies, and even local neighbourhood families, can act as intermediaries in the migration and employment process, matching individual workers to a single employer and facilitating visas and plane tickets. Others in these communities with some liquidity may informally lend money at extremely high rates of monthly interest to migrants – to compound matters, these moneylenders often serve poorer migrants who don't have the collateral to secure a low-interest bank loan.

Illegal fee structures are commonplace despite Indian and UAE laws. UAE law, for example, prohibits employers from working with agencies that charge recruitment fees but the practice is still endemic to the

construction sector. Comparatively, Indian law differentiates a fee structure according to skill level but the added costs from loans and illegal fees tend to be paid on top of these legal recruitment fees. While the UAE and India's 2011 revised Memorandum of Understanding (MOU) on Manpower Sourcing commits to "fair and transparent recruitment", such agreements appear to induce little change because they are largely superimposed onto existing migration systems (Wickramasekara 2015: 18). Further, the implementation of bilateral labour migration agreements has been largely "non-existent" worldwide (Center for Migrant Advocacy 2012: 4). Such difficulties are compounded for workers who are paid wages much lower than promised or who experience chronic wage theft once they begin work in the UAE.

4.1.4 Subcontracting, wage theft, and sectoral volatility

As a result of the sheer size of the projects underway across the UAE, large and highly complex subcontracting chains in the UAE construction sector have become common. These chains have created a vast distance between manual construction workers at the bottom of the subcontracting chain and project management firms, state conglomerates and tourism development agencies at the top. Because unions, collective bargaining, and striking are prohibited, moreover, migrant workers have little recourse except through an onerous appeals process to the Ministry of Labour. Though the UAE government introduced new efforts and legislation to improve migrants' housing conditions, access to health care, and institute a mid-afternoon heat break on construction sites, these reforms have been unevenly enforced and other persistent forms of illegal activity – such as passport confiscation – persist.

The rigid contours of the Kafala system, coupled with this organizational distance has tended to shift risk down the chain onto individual migrant workers at the job site. For example, it has been commonplace in the construction trades for employers to withhold migrants' first few months of wages, especially in times of labour scarcity– to ensure they did not abscond illegally to another employer. This and other forms of wage theft persist in the country, and have been acutely exacerbated by recent economic crises, including the country's property crash following the global financial crisis. Indeed, the onset of the global financial crisis, which hit the Gulf region in 2008-2009 was devastating for workers in the UAE, particularly those with high levels of remaining migration debt while working without a contract for labour-only subcontractors. Smaller subcontractors themselves were equally in crisis, as a key strategy leveraged by quasi-state development companies in the face of collapsing property markets in the country was reportedly to unilaterally renegotiate their contracts with sub-contractors. As 'Jacob', an Indian subcontractor who had recently started his own labour-only subcontracting company in the UAE explained how the global crisis affected his ability to pay workers:

... November payment got delayed. Ok, and because of the recession they [the state-backed main developer] were affected very badly. [The sub-contractor] was not getting any payment... Finally [the sub-contractor] was ready to pay, but they didn't pay the full amount. They said that they are not getting paid, so they said, they will pay some, and when they get the rest of their payment from [the main contractor] they will pay me the balance. So I agreed to that, but it was not good. [...] After that things went really bad. December-January payment was completely stopped. They told me that my workers had to stop, to pull my labourers.

He then explained that,

I gave my workers to another labour supply company for the time being; I have to give them a job. Then things really went worse from there. I found out that December-January payment, the [subcontractor] told me ... that I would have to deduct some amount from that ... And I just said, look, you have to give me the total balance, I have to pay my workers. I went every day to the company to ask that they give me payment. Finally in May, they told me they would give me the remaining balance of what they owed me, but that I would have to cut it by 25% than [what was originally offered in our contract].

Anecdotal accounts from labour supply companies such as this one indicate that during the 08-09 financial crisis, some companies were being forced to accept up to 35% less in payment than originally agreed in their contracts. This cut severely affected labour-subcontractors' ability to pay their workers as delays and deductions became widespread, especially in the hardest-hit emirates such as Dubai.

The UAE government however has also taken steps in recent years to address instances of non-payment and combat wage theft. Its Wage Protection System first adopted in 2009 legally requires that employers pay wages directly into workers' bank accounts (Wickramasekara 2015: 27). Under this system, UAE-based employers are required to deposit funds into a bank account that are withdrawn if an employer fails to pay wages⁷. An electronic direct deposit monitoring system is meant to provide proof for unpaid wage claims, and the Ministry of Labour is responsible for inspecting recruitment agencies twice a year (Pittman 2015: 35). The government has also taken steps to improve working and camp conditions for migrants, including passing new labour legislation in 2007; this legislation however fell short of permitting workers to organize and collectively bargain (Human Rights Watch, 2007). Locally, new decrees were recently announced by the federal Minister of Labour which will take effect in January 2016, the objective of which is to combat forced labour conditions and further integrate employment law within the sponsor-migrant relationship under the Kafala system, though the UAE government has been clear that no plans are currently under consideration to substantively overhaul or dismantle the Kafala regime. Other innovative efforts to enforce and enhance federal labour standards on specific construction sites – such as the New York University campus in Abu Dhabi – have included adopting voluntary agreements and third party inspectors for the enforcement and enhancement of labour standards on this specific site. With dozens of subcontractors, and workers coming on and off the project for periods of time, these efforts have only been partly successful. In particular, it was found that because of broad clauses in the agreement relating to some elements of the subcontracting chain, nearly 30% of the 30,000 workers who worked on the site were 'exempt' from coverage under these labour standards because they were not on the site on a regular basis and did not have a steady employment relationship on the site (Nardello & Co., 2015). These findings on the NYU site highlight the profound difficulties of monitoring and enforcing labour standards in an industry that often employs a highly contingent and flexibilized labour force through heavily subcontracted employment relationships.

4.2 Canada: an ageing workforce, a resource boom, and urbanization

For the past decade, construction has been one of the fastest growing industries in Canada. Urbanization and infrastructure spending occurring in big cities and suburbs across central and Western Canada, combined with a resource boom in Western Canada's hydrocarbon sector have been two broad trends driving growth in the construction market (KPMG, 2013). Since 2008, low interest rates in Canada have also spurred growth in residential construction by encouraging home purchases. At the same time, a resource boom in the province of Alberta's oil sector over the last decade has increased the demand for labour in Alberta's oilpatch lands, the world's third largest oil reserve next to Saudi Arabia and Venezuela. Employment opportunities have drawn people from regions across the country, with high unemployment in provinces such as Nova Scotia and New Brunswick. Between 2012-2013, 52,700 workers – welders, pipefitters, and engineers – migrated from other provinces to settle in Alberta (The Toronto Star, 2015a). Despite cross-country recruiting efforts to fill labour shortages, companies are increasingly recruiting skilled labour overseas from across Europe, India, and the Caribbean for resource construction jobs. To accommodate labour demand in Canada, the opening up of temporary migration channels has ushered in a set of challenges for migrant workers in the areas of immigration, regulation, and safety.

4.2.1 Labour market trends

In recent years a disinvestment in training, an aging workforce, lack of new labour market entrants, a concentration on short-term projects, and a building boom have created significant skills and labour shortages.

⁷ This includes a deposit of USD\$270,000 (Dh1 million) to prove the recruitment agency's financial stability and an additional deposit of USD \$540 (Dh2,000) per worker.

While until recently the non-residential construction sector (i.e., resource development) was forecasted to grow nominally over the next 8 years, with the addition of 66,000 extra jobs by 2024 (BuildForce Canada 2015), Western Canada in particular has witnessed a slowing down of large resource projects, leaving a gap in market prices and a contraction of construction labour markets. In light of this trend, a slowing in the market is expected to free up construction labour in the coming decade. In contrast, related infrastructure projects, as well as maintenance and renovation work, will likely add jobs in other parts of Canada. With the exception of a housing boom in cities in rapidly urbanizing areas like Ontario, the residential construction industry in Canada is witnessing a decline in new build residential construction, but an increase in renovation and maintenance work. On the whole, the residential construction sector is due to contract, resulting in 8,000 fewer jobs by 2021 (BuildForce Canada 2015). The challenge for both resource and non-resource construction markets is predicting the needed supply through volatile market cycles hitting both the hydrocarbon sector, and fears of a large correction in overheated housing markets across Canada's major urban centres.

In terms of the employment levels, some estimates predict a shortfall of between 200,000 and 300 000 workers by 2023 (BuildForce Canada, 2014). The majority of these workers will be needed to replace 250,000 workers who will retire in the next 8-10 years, but young recruits are not enough to make up the predicted shortfall. By some estimates approximately 81,000 new jobs are projected across Canada over the next 8 years, creating a challenge to locate specialized workers required to build and renovate homes (Build Force Canada, 2015). On a global scale, however, there are some concerns that Canada will no longer be able to draw on the skilled labour pool of English-speaking countries – US, UK, and Europe – as it once did.⁸ Growth is on the rise in these countries, limiting the source of international workers available (Build Force Canada, 2014, 9). The tightening of global labour markets combined with domestic labour shortage for skilled trades is an emerging reality in Canada – while global expenditures on energy and resource-based projects have fallen throughout the latter half of 2015, if these markets strengthen, labour shortages will intensify.

4.2.2 Recruitment of migrant workers

Canada's construction sector has relied on international workforces for decades, particularly from English speaking countries such as the US, UK, and Ireland. Yet in the last decade, purported skills shortages in the trades, and other occupations, have prompted the government to expand international recruitment programs. Efforts to recruit skilled workers from countries and regions in Europe, as well as India and the Caribbean are on the rise. However, data sources on migrants in the construction workforce in Canada do not provide a complete picture of migrant labour conditions, particularly for those employed casually in construction in Canada but who are not legally authorized to work (Reid-Musson et al., 2015).

The formal recruitment of migrant tradespersons to construction sites in Canada are carried out through four primary channels: the Temporary Foreign Worker Program (TFWP), the International Experience Canada working holiday visa (IEC) and the Federal Skilled Worker Program (FSWP) and Federal Skilled Trades Program (FSTP). The TFWP allows foreigners to come to Canada for four years on the basis of a growing labour shortage whereby employers are unable to fill jobs by Canadian citizens. The FSWP is specifically designed to cater towards occupations listed as high demand, while the FSTP was created only in 2013 to make it easier for skilled tradespeople to qualify for a short term visa; steps were taken to ease the requirements for language proficiency and strong consideration of work experience versus formal qualifications. The IEC, FSWP and FSTP are billed by the federal government as routes to permanent immigration for skilled workers in construction (supervisors, mechanic tradespersons, industrial electricians, industrial instrument technicians and mechanics); skilled business (finance, and administrative workers) and engineering.

⁸ Historically, Canada has recruited from countries and regions with similar construction workforce requirements, occupational trade standards, certification requirements and language.

The FSWP has brought in the most construction workers at a national level.⁹ The TFWP meanwhile has been a more widely used program for industrial construction in Western Canada. Between 2005-2009, 42,500 workers entered Canada under the TFWP to work in the construction industry (Reid-Musson et al., 2015). The International Experience Canada (IEC) program has seen a recent wave of Irish workers gain working holiday visas. In response to high unemployment in Ireland, brought on by the property crisis in Dublin, the number of IEC's issued to Irish migrants is on the rise; approximately half of the IEC's issued in 2012 went to Irish workers. What began as a one year working holiday visa has now been extended to two years, with a targeted strategy in place to recruit Irish workers under the guise of future, permanent settlement opportunities (ibid.).

Alberta and British Columbia utilize the TFWP program the most. In Alberta, temporary foreign workers helped drive the province's booming economy in recent years, starting with construction workers taking up employment in the oilsands. In 2006, the Alberta government leveraged a rarely used section of its labour code to enable skilled foreign workers in the mining construction business to enter Canada. They did so by granting a mining company a bargaining unit for all construction workers building the Horizon mine project. In 2012, there were 338,213 temporary foreign workers in Canada, 68,000 of which resided in Alberta – more per capita than any other province (The Toronto Star, 2015b).

The TFWP has received more criticism than praise. The BC Federation of Labour, for instance, accused HD Mining International of discriminatory treatment of some temporary foreign workers hired through the program. In Alberta, some believe policy changes were implemented in the absence of hard evidence that a labour shortage previously existed, while others have criticized government actions as a union busting tactic (CD Howe Institute, 2014). Provincial policies and regulations have enabled companies to avoid paying union wages by hiring migrant labour through the fast-tracking LMO¹⁰ policy of the TFWP program (The Toronto Star, 2015a). For example, the Christian Labour Association of Canada (CLAC) – a no-strike union – was appointed a bargaining agent by the government, despite not being recognized by the Canadian trade union movement. These changes have made it feasible for contractors to recruit skilled foreign workers such as carpenters, welders, and pipefitters without going through union hiring procedures.

4.2.3 Informal channels

These formal, re-engineered recruitment channels provide pathways for migrant workers trying to work in the Canadian construction industry, but they are only part of a large array of strategies by which migrants end up in Canadian construction labour markets. Research on migrant construction work in large urban centres, particularly large gateway cities for immigrants and migrants, indicates that channels such as the TFWP are much less used because there is already a large surplus population present, and these channels are slow and time consuming in an industry that needs a flexibilized workforce. Research in Toronto, for example, shows that employers increasingly resort to informal networks to find workers, and target workers whose legal status is in flux (i.e., lack residency and/or work status, lapsed visas and refugee claimants) (Reid-Musson et. al, 2015). Growing restrictions on the renewal of student visas and work visas, growing rates of migrant detention, new restrictions on residency terms for migrants under the TFWP, and declining rates of positive decisions on asylum claims in Canada since 2006, have meant that a growing number of non-citizen workers are going underground for fear of being detained and/or deported (Buckley and Reid-Musson, forthcoming). But the perceived rewards outweigh the risks for some. For example, male migrant workers in Toronto's construction sectors turn to informal avenues with the hope of receiving slightly better wages, rather than working in low-wage, service sector jobs. In addition, a booming renovations and demolitions market in urban centres across Canada is seeing some contractors take on unauthorized and informal labour to keep up with demand.

⁹ It has been argued that FSWP is disproportionately used to attract foreign professionals to the construction industry (Reid-Musson et al., 2015). Between 2005-2009, both the FSWP recruited tens of thousands of international professionals – engineers, supervisors, and construction mechanics – to work in construction.

¹⁰ Labour Market Opinions (LMOs) are the official process by which the Canadian government assesses requests to hire foreign workers.

In response to the rapid growth of the informal workforce, and to political pressure by registered members of the Ontario Homebuilders Association, various mechanisms to re-regulate self-employment and the ‘underground economy’ in construction have been underway over the last decade. For example, the ‘Dean Report’ – a 2010 Ontario health and safety regulatory review – advocated for information sharing between municipal building permit issuers and the MOL through the Ministry of Municipal Affairs and Housing to find projects that have not submitted a notice to the MOL (Reid-Musson et al. 2015). Other efforts were undertaken to pass legislation that would regularize instead of criminalize unauthorized workers in the mid-2000s. This was a campaign led in part by migrants in construction as well as unions and some facets of the homebuilding industry in Ontario, however these legislative changes failed to be passed by the federal government.

4.2.4 Informational gaps in an international labour market

The Canadian case contributes to our understanding of informational gaps in the global labour market even for highly-skilled migrants employed and recruited through formal sector channels. A recent interview with ‘Marco’ an individual recruited to work in Canada through the FSWP program on a two year work visa reveals inequities in employment standards even for highly-trained and paid migrants. Having moved to Toronto from Western Europe in 2012 to take up work with a European subcontractor specializing in tunnel digging, this worker was very highly-skilled and –educated, was granted membership into the local union, and his position was extremely well paid. However, Marco had never even signed a written contract, had had no occupational health and safety training, and had received no medical insurance coverage. Moreover, facing contractual difficulties, Marco’s employer deliberately mishandled the paperwork to extend Marco’s work visa and that of many of his co-workers. These problems were exacerbated by the fact that this worker did not speak English well and was not made aware of his rights and protections under the law. In his words,

[a]t the end of August, I finished the work permit. The employer told me that I had three additional months [to work], while the paperwork got figured out. What happened next was that he told about 20 of us here with the work permit by November that our work permits hadn’t yet arrived....But when I spoke with the lawyer, he told me ... that the permit was badly submitted on purpose [...] I think that [the employer] did it on purpose, because he won three months of our work [from the commissioning agent] for free.

At the time of the interview, many other migrants employed by the same contractor had also seen their legal status unexpectedly and suddenly lapse and their contracts end. This instance highlights how the proliferation of temporary immigration channels are in part re-shaping the relationship between construction employers and workers; indeed, Marco and his colleagues were vulnerable because they were not only reliant on their employer for their livelihoods, but also for the maintenance of their legal status. The lack of appropriate mechanisms of government oversight to accompany these new temporary and flexible immigration channels for construction migrants enables abuse of the system by employers and recruiters (Reid-Musson et al., 2015). While Marco and his co-workers want to pursue legal action against their former employer, he has since fled the country.

4.2.5 Trafficking, forced labour and migrant policing

The demand for labour on construction sites combined with poor information for recruits from overseas has facilitated the growth of labour trafficking in parts of the Canadian construction industry. In the last five years several accounts of migrant trafficking and exploited workers have come to light. In the city of Hamilton, Ontario, a Hungarian family was recently charged for running a human-trafficking operation that exploited and abused Hungarian men recruited to work on construction sites – it was the largest known human trafficking ring discovered in Canada to date. Family members and associates based in Hungary helped recruit unemployed men, promising them good paying jobs in Canada (Morrow, 2012). When workers arrived in Canada, their passports were taken from them and they were subjected to deplorable living and working conditions: cramped basements with other men, one meal a day, and 15 hour work days. A similar case in Southwestern Ontario saw Filipino men recruited on the premise of working in the shipbuilding industry

only to be put to work doing menial labour and left to live in a squalid, abandoned farmhouse. These skilled tradesmen – welders and plumbers – responded to advertisements in Manila from a labour supply company based in Ontario, which was administered through the LMO process. In this instance, workers spent thousands of dollars to upgrade their training, learn English, and purchase plane tickets, only to learn they were brought to Canada under false pretenses. The government contracts for the construction of the ships were cancelled, and workers received little-to-no pay (Brazao, 2008).

While traffickers in these two cases were apprehended and charged, various government authorities have also taken steps in recent years to expand the border policing of unauthorized construction migrants. Since 2013, for example, there have been targeted raids on migrants in construction in Toronto and Vancouver. In the summer of 2014, the Canadian Border Services Agency (CBSA), along with provincial police, transportation and environment ministries, undertook a raid that saw 21 unauthorized migrants arrested by undercover officers. In this instance workers (primarily Spanish-speaking from Latin America and Mexico), were accosted during their regular morning meetups at day labour spots in strip mall parking lots. Others were pulled over under the guise of a vehicle safety blitz (Keung, 2014). Similarly, in Vancouver, a number of CBSA raids have been reported on construction sites. A 2013 raid saw 15 unauthorized workers detained from three construction sites by CBSA officials. To complicate matters, these raids were filmed as part of a documentary style TV show that documents day-to-day activities of the CBSA (Mui, 2013).

4.2.6 Workplace conditions and safety

A spike in cross-border migrant mobility and participation of migrants in the labour market bring implications for Occupational Health and Safety (OHS) regulations. Migrant workers, in particular, are more likely to experience an injury in the workplace than citizens, but little is known about occupational injury among migrants working in the construction industry. Anecdotally, OHS conditions in the trades are particularly poor among migrants doing demolition, as well as roofers. Unregulated workplaces thus double the risk for migrants on jobs sites, many of whom don't have personal health insurance – a reality that some employers exploit. Because unauthorized migrants may work on construction sites that are unregistered, they tend to be invisible to state health and safety inspectors (Interview, senior official at the Ontario Ministry of Labour, Toronto, 2015). The pressure some workers with precarious jobs (e.g. no contract jobs and day labourers) in construction may feel to skirt safety laws was encapsulated by an interview with 'Pedro' a former banking professional from Mexico who was in Canada on a two-year work visa, working legally but casually as a residential framer. He expressed that he was lucky to get the job he had, as it paid slightly above minimum wage, and didn't want to lose it. When asked about exercising his legal right to refuse unsafe working conditions, he explained,

I can say no [to unsafe conditions], but if you say no, you don't work... Sometimes when we're on the third floor, making the roof, you just pray and say, "God...". You use your harness, your belt, but you don't secure it, because otherwise you can't move between the wood [quickly enough]... Our boss doesn't say not to use it, but you get slower when you use it. They don't like that. You're finishing the last house, and they need you to finish the house.

While the government has measures in place to encourage OHS training, workers may be reluctant to speak up if they lack knowledge, such as operating certain tools and heavy machinery. This is particularly the case for many temporary migrants who take up construction work because they cannot find work in their own field; in this case, construction work is 'survival work', and tends to involve a great deal of learning on the job with little or no training or supervision. Many keep their heads down out of fear of upsetting their employer and potentially being fired.

Despite a boom in Canada's resource sector and an opening up of construction labour markets to foreign skilled workers, a bifurcation of the migrant labour market is apparent: there has been a rise in precarious temporary migrant labour of highly-skilled migrants working in the trades as well as a growing demand for

migrants working with probationary and temporary status, or who are legally unauthorized to work. Many work in the cash economy as day labour in residential construction or demolition for little pay and no protections. Even workers who are recruited through formal government programs, such as the TFWP, remain precarious as they face no guarantees of their immigration status being regularized when their contracts expire, and face a high degree of employment insecurity in the face of a contracting resource sector and an uncertain future for housing markets across the country.

4.3 South Africa: an invisible migrant workforce

The movement of people within and between countries is a central feature of life in sub-Saharan Africa. Borders are porous and such movements are largely unauthorized but almost certainly increasing, fuelled by unstable politics, ethno-religious conflicts, poverty and rapidly growing populations (Adepoju 2011). Every type of migration is found in sub-Saharan Africa, including temporary cross border movement of workers and traders, contract labour migration, illegal labour migration, forced movements and refugees.

While South Africa has a long history of recruiting contract labour for work in the mines, and to a lesser extent on commercial farms, there are no such schemes for construction workers so it is likely that foreign workers in construction are working illegally. This is a country with very high levels of unemployment and no shortage of nationals seeking work as unskilled manual labourers in the construction industry. In fact, the construction sector has been highlighted in post-Apartheid South Africa as a vehicle to correct past inequities in the labour market by providing a major source of jobs and economic advancement for the majority black population. South Africa is also a country where employment has been heavily regulated with strong union presence in many sectors and a complex network of bargaining councils and collective agreements. This raises a number of questions and considerations regarding how and why contractors employ foreign workers.

4.3.1 Post-Apartheid immigration policy restructuring

The Aliens Control Act of 1991, which was designed to prevent and control immigration under Apartheid, was replaced in 2002 by a new Immigration Act. The ending of Apartheid saw a mass exodus of skilled labour and the new Act was designed to address this situation and actively facilitate temporary in-migration of much needed skills at the upper end of the labour market (Maja and Nakanyane 2007). Quotas were set for specific sectors and professions where skills were considered to be in short supply. Persons to be employed under the quota system were required to be registered with the appropriate professional body and to have at least five years of experience (Crush 2011). The sector initially receiving one of the largest number of permits (5,250) was 'building and engineering technicians'. While this addressed a critical shortage of skills at the high end of the construction industry, there were no quotas for skilled or unskilled manual construction workers. The quota system was replaced in 2011 by a list of 'critical skills', but few construction workers have any kind formal training, hence do not qualify for a 'critical skills permit' (ibid).

However, there is evidence that irregular labour migration to South Africa has existed for many decades and has increased significantly since 2000 (Crush and Williams 2010). The major labour migration channels in the Southern African Development Community (SADC) region are from Lesotho, Swaziland, Malawi, Mozambique and Zimbabwe to South Africa (ibid). Until 1963 there were no restrictions on the movement of workers from Botswana, Lesotho and Swaziland but since then, if unable to obtain a work permit they have been forced into irregular channels along with migrants from other countries. Despite very high rates of unemployment most irregular migrants are able to find jobs in sectors such as construction and services (Crush 2011).

4.3.2 Employment relationships and migrant labour in construction

The construction industry in South Africa has seen significant re-structuring over the past few decades with fundamental changes in the organization of work. Similar trends can be observed in other industries in South

Africa and in construction industries in most other parts of the world (ILO, 2001). Nonetheless, they have interacted with migration in the context of South Africa in specific ways (Araia et.al. 2009).

Employment in South Africa is heavily regulated (CIDB 2015). Following the transition to democracy in 1994 the country introduced a new labour law regime to give better protection to workers and improve labour relations. The Labour Relations Act (LRA), Basic Conditions of Employment Act (BCEA), Employment Equity Act (EEA) and Occupational Health and Safety Act (OHSA) were enacted or revised to protect workers. These laws do not specifically refer to international migrants (who are assumed not to exist) but protect all workers with no references to documentation, nationality or citizenship. This is in accordance with the Bill of Rights in the 1996 Constitution which further stipulates the right to fair labour practices irrespective of nationality or immigration status (Araia et.al. 2009: 10).

Relatively recent research indicates growing levels of casualization and labour subcontracting in the country's construction sector. A 2009 study by Bamu and Godfrey documents how employment relations have been restructured in the construction industry to ensure greater autonomy and flexibility. The study distinguishes between two main forms of flexible arrangements for the supply of labour, casualization and externalization. Casualization involves an increase in the number of temporary or part time employees (in the extreme case recruited from day labour markets) but does not change their status as employees in any other way.

Externalization, meanwhile, has entailed the subcontracting of labour supply or by labour broking. In both cases employment is regulated by a commercial contract, rather than an employment contract, but there are key differences in terms of the control of the work. In some instances this has involved engaging a contractor to complete a defined task within a specified period of time for an agreed price: the workers he employs are subject to his control and not to the control of the contractor who hires the subcontractor. In other cases involving what Bamu and Godfrey call labour brokers, workers are placed by brokers at the disposal of the contractor who controls and supervises their work. Not unlike the labour subcontracting arrangements in the UAE case study above, the use of labour brokers creates a triangular employment relationship involving the worker, the broker who is designated as the employer in law and the client or core enterprise that makes use of the workers' services. This creates a problem when brokers do not consider themselves as employers in accordance with the Labour Relations Act, as has occurred with the growth of unregistered brokers in South Africa.

The flexible employment relationships described above (whether labour broking or labour subcontracting) have given rise in South Africa, as elsewhere in the world, to a two-tier workforce in the construction industry with a small and diminishing number of 'core' workers employed on a permanent basis and a much larger number of temporary workers employed by labour contractors or brokers on short term contracts. These changes have made it harder for both workers and employers to organize themselves. Not only are many of the small companies currently employing workers not registered with the relevant bargaining council, there has also been a quite dramatic decline in membership of trade unions. Less than 2% of the 700 workers surveyed by the Construction Industry Development Board (CIDB) (2015) in their recent study of labour and working conditions reported any union activity on their site.

Flexible employment arrangements have made it easier to absorb foreign workers without the appropriate permits into the construction labour force on a temporary or casual basis. Analysis of available data from the labour force survey in the third quarter of 2012 reveals that foreign born workers are distributed across economic sectors with the largest proportion (30%) working in trade, 12% working in construction and only 3% in mining (Budlender 2014). Analysis of the same data by industry shows that 9% of the formal construction workforce was foreign-born in 2012, compared with 8% in mining and 7% in agriculture (ibid.).

As might be expected, construction workers are clustered in major industrial conurbations. Two detailed studies of foreign workers in construction have been undertaken, both of them in Johannesburg (Rogerson 1999, Araia et.al. 2010). But Maja and Nakanyane (2007) note that male migrants are also highly visible in the construction industry in KwaZulu-Natal and in Cape Town where the workers, primarily Mozambicans, are recruited by 'labour brokers' in Gauteng.

Foreign workers are even less likely to join a trade union than nationals (Rogerson 1999, Araia et.al. 2010). However, despite some common perceptions that foreign workers are undermining collective agreements, it is clear that the collapse in union membership in the construction industry is due to the changes in the structure of employment in the industry – and not to an influx of foreign workers. Workers on short term contracts are not allowed to be members of the union and day labourers are excluded because they are not considered to be employed (Bamu and Godfrey 2009), which leaves the bulk of the workforce in the construction sector outside of the bargaining scope. The authors conclude that changes in employment practices in the construction industry have undermined collective bargaining, made it more difficult for traditional oversight and monitoring by labour inspectors and overall had the effect of taking work relationships outside of the protective scope of the law.

4.3.3 Construction migrants in Johannesburg: general findings from two surveys

In a survey of construction firms and interviews with migrant workers commissioned by the Southern African Migration Project (SAMP), Rogerson (1999) found that the incorporation of foreign workers was uneven across the sector. Few foreign workers were employed directly by the largest companies. Most were employed on short term contracts by subcontractors, although a few (mostly Zimbabweans) were found in 'core' jobs where they were employed on a permanent basis. Most were young, single and with little formal education. 60% had entered South Africa before 1994 with Zimbabweans entering in the 1980s, followed by Mozambicans in the 1990s. While 68% of the sample started work as general labourers, only 15% were still working in this category, the majority having moved up into the trades. The later arrival of the Mozambicans could account for the fact that more of them were employed as general labourers and on temporary contracts, whereas Zimbabweans were more likely to be employed as painters, tilers, bricklayers and plasterers, with some of them incorporated into 'core' jobs. Most had entered the country legally but were working illegally. Nearly half had members of their family living and working in South Africa when they arrived and many used the contacts of friends or relatives to secure their first construction job. An alternative route to securing a construction job is recruitment at pickup points around the city or at the construction work site, with 19% of the sample obtaining their first job at work sites and 37% at pick-up points.

Ten years after the Rogerson (1999) study, the University of Witwatersrand in collaboration with the Department of Labour undertook a pilot study of the construction industry in Johannesburg (Araia et.al. 2010). This study reinforced the earlier finding that foreigners working in construction are from neighbouring SADC countries, with the largest numbers from Zimbabwe and Mozambique (Araia et.al. 2010). The majority (80%) of respondents claimed to have documents giving them the right to work with most holding either an asylum seeker permit or refugee status, leading the authors to suggest that the asylum system is replacing work permits as a way of documenting foreign workers. Lack of documentation did not preclude working, although those without documents tended to be hired by subcontractors. Most workers in the sample came straight to Johannesburg, before or around 1994. Both South Africans and foreign workers relied primarily on personal networks and pick-up points to find employment.

Surprisingly, little evidence points to the demand for migrant labour being that it is a cheaper source of labour; in fact, there appears to be little difference between the wages of foreign and national workers. Rather, similar to Rogerson's (1999) study which found that foreign workers were preferred by employers for their 'inherent skills and training' as well as the fact that they are hardworking and disciplined, trade unions interviewed in the study by Araia et.al. (2009) also expressed the view that the reason employers hire foreign nationals is their skills as artisans. While the report of the recent CIDB (2015) study of work conditions in construction contained no mention of foreign workers, in private correspondence with the CIDB we were informed that many contractors indicated off-the-record that they prefer employing migrant workers for a number of reasons which include that they are better trained. Other reasons are that they are perceived by some employers to have a 'better' work ethic and tend to be non-unionized.

4.3.4 Basic conditions of employment

General employment in South Africa is regulated by the Basic Conditions of Employment Act (BCEA) number 75 of 1977. Collective bargaining in the civil engineering sector is undertaken through the Bargaining Council for the Civil Engineering industry (BCCEI). However, there is no central bargaining council for the building industry. According to the BCEA and the BCCEI, the construction work week is 45 hours (CIDB 2015). Construction employees get fifteen days annual leave for every 12 months of employment, with ten of these days taken during the December shut down period. Employees also get a sick leave allowance and funeral cover. However only full time employees and those on limited duration contracts are entitled to these leave benefits (ibid). Temporary workers are only entitled to sick leave and that is mostly unpaid. More significant benefits such as medical insurance and pension cover are not provided for in the BCEA but covered through sectoral arrangements. The BCCEI provides for contributory retirement and medical aid cover for construction employees where the employer contributes part of the premiums.

While there is no evidence of discrimination between foreign and local workers in terms of wages or benefits, foreign workers without legal work permits may face other problems due to their precarious legal status. The biggest problem mentioned by foreign workers interviewed by Rogerson (1999) was frequent arrest and deportation, as well as mistreatment by the police. However the vulnerability of unauthorized workers was not only exploited by the police, some workers were also exploited by their employers. While 73% of foreign workers interviewed did not speak of major problems with employers, past or present, in one third of cases serious abuse was evident. This took the form of non-payment or short payment of wages, in addition to verbal abuse and threats of deportation. As one respondent explained, "I worked for five days for one employer who only paid me for two days: when I claimed the rest of the money he said he would call the police to deport me back to my country". Another recounted that "...I was detained in the Lindela Deportation Centre. When my employer released me he said that I should work for one month without salary or he would take me back to the centre" (Rogerson: 1999: 25).

There were also suggestions of possible collusion among employers, police and home affairs officials to arrest unauthorized workers on pay day in order to avoid having to pay wages. As noted by Araia et al. (2010: 11) "an immigration regime that creates large scale undocumented migration and then attempts to address this through arrest and deportation, as South Africa has done, leads to a situation in which undocumented workers feel unable to resist or organize against labour abuses because of fear of arrest".

A further problem faced by migrant workers is antagonism towards them because they are foreigners. There have been several bouts of xenophobic attacks in South Africa against foreign workers, the latest in April/March 2015. One violent outbreak in May 2008 led to the deaths of at least 62 people and the displacement of 100,000 around the country (Araia et al. 2010). A recent study set out to assess attitudes towards the employment of foreign workers in the construction industry by their employers and local peers. Interviews were conducted with contracts managers and local workers on five construction sites in Gauteng (Khateli 2015). The author found many instances of intimidation (name calling, general disrespect and bullying) towards foreign workers by their local peers. Interviews revealed that this often stems from foreign workers performing the assigned tasks more quickly and therefore being used as a benchmark by employers as to how an efficient worker should perform. Antagonism was greatest towards Mozambican workers but almost non-existent towards workers from Botswana, Lesotho and Swaziland who are ethnically similar to South Africans and are not regarded as foreigners. Some contracts managers were also found guilty of intimidation but this was not general. The study concluded that the negative behaviour towards foreign construction workers is rife at the grass roots level but not sanctioned by companies and does not prevent foreign workers from finding work (ibid).

As a signatory to the SADC Facilitation of Movement Protocol, South Africa has indicated its willingness to move towards freer (but certainly not free) movement of people in the region. While the Protocol has implications for labour migration, this will still fall under the remit of national migration legislation and policy (Maja and Nakanyane 2007). The current level of labour unrest in the construction industry, the expectation

that the construction industry would offer work for those disadvantaged under Apartheid and the general antagonism to foreign workers all suggest it is unlikely that there will be major changes in policy towards freer movement of labour in the foreseeable future.

4.4 The UK: International labour mobility and the London labour market

Migrant workers compose a significant proportion of both the high- and the 'low-skill' building workforce in the UK. This is particularly evident in the residential sector fueled by recent booms in new house-building and renovation & repair. Typically, non-residential work on commercial, industrial and institutional projects tend to offer safer, more secure and permanent employment. However, chains of subcontracting, deregulation, anti-union practices and labour migration in some areas of non-residential building have produced employment conditions that mimic working conditions in the residential sector. Migrant workers in the UK primarily fill labour gaps in lower-skilled jobs, despite often being highly skilled. The regulation of employment, immigration and skill have undergone transformations in the UK within the past decade that are re-shaping migrant composition in building labour markets. In particular, the legal temporariness and mobility of migrant populations has intensified, resulting in shorter work terms and frequently illegal labour arrangements. Concurrent with these legal changes, the construction industry has also seen a rise in false forms of self-employment and 'posted labour', both of which serve to lower wages, benefits and other forms of security. The dual forces of changes in legal and regulatory frameworks along exploitative industry practices have made migrant construction in the UK particularly precarious.

4.4.1 The changing composition of migrant construction workers in the UK

Britain's building workforce is overwhelmingly male (98%) and white. Outside of the Greater London Area, the workforce has tended to be mostly comprised of national citizens with formal-sector migrants comprising only 4-8% of the workforce. However, international labour migration has been a long-term feature of the construction industry, especially in Greater London and the South-East. Some estimates are that migrants are anywhere from 18% to 37% of Greater London's construction workforce (Tutt et al., 2013). 'Migrant' building workers include European Union (EU) as well as non-EU migrants (ibid.). These workers primarily enter into lower-skilled jobs, often as labourers in subcontracted employment chains. Nonetheless, migrant workers hold approximately one third of skilled building jobs, with few holding managerial positions (McKay, 2009).

There are several avenues that migrant workers enter the UK to work in construction. First, the 'work permit scheme' allows employers to recruit workers outside of the European Economic Area if there is a demonstrable shortage of domestic workers. From 2000-2006, the issuance of permits rose considerably, with more than 96,740 permits issued in 2006, the highest since the program started (Chappell et al., 2008; Salt and Millar, 2006). The second source of international workers is from migration within the EU, particularly from central and eastern European countries, such as the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. Collectively these countries and their workers are referred to as 'A8' referring to their entrance into the EU in 2004.

Generally, immigrants to the UK are higher skilled than comparable workers in the UK. Some studies suggest that the skill level of recent immigrants has declined. However, this is likely more do to with job mismatching from a shortage of low skilled labour, rather than the skill level of the incoming workers. In the case of A8 immigrants, workers are often highly skilled, yet typically enter into low skill work out of necessity (Anderson et al., 2006; Chappell et al., 2008; Pollard et al., 2008).

4.4.2 Sub-contracting, false self-employment, and posted workers

While skills mismatch between migrant workers and their jobs tends to lower wages, the more pernicious trends leading to worker precarity stem from sector-wide responses to deregulation causing changes to employment structures within the sector along with anti-unionization practices such as blacklisting practices

that prevent workers with union affiliation from finding work. Patterns of employment deregulation have hollowed-out building workers' security through high rates of subcontracting and false self-employment.

The prevalence of subcontracting encourages 'false self-employment' where the self-employed assume all the downsides of self-employment with few of the benefits of employment (see for example, Chan et al., 2010). Similarly, cash transactions and other forms of employment informality also place workers at the margins of what protections exist for directly employed workers. When they are classified as self-employed, building workers can lose social, wage and benefit protections that are otherwise part of the standard wage relation. In the UK this means they are not paid for holiday and sick pay, do not contribute to National Insurance (NI) and pension programs. Of course, self-employed workers are exempt from collective agreements, and not covered by employment protections, such as protections against unfair dismissal.

The European Posted Workers Directive is designed to provide "posted" migrant workers with standards of employment equal to those as apply to national citizens. However, UK lawmakers have looked to the minimum legal standards as a baseline for migrants' wages and conditions rather than the voluntary standards established under collective agreements covering domestic workers. Consequently, the inequalities between 'posted' migrant and non-migrant construction workers have grown, and outright labour disputes between them have flared, as in the 2009 engineering construction strikes. In this case, 300 posted workers from Italy and Portugal brought in by an Italian contractor were employed to build a new de-sulphurization unit on the Lindsay oil refinery in North Lincolnshire. Living on a decommissioned barge, they experienced further isolation in regards to language barriers and substandard housing conditions. Workers at the refinery, along with sympathetic workers across the country held walkouts and wildcat strikes in response to the accusations of the union that the contractor was violating the National Agreement for the Engineering Construction Industry (NAECI) which stipulates wages and conditions for workers.

The unions had two primary grievances. First, that local workers' right to work was violated by bringing on site non-domiciled workers (Gall, 2012). The fear was not about losing work to foreign workers, but rather that these workers were hired on "inferior terms and conditions... undermining their (domiciled) terms and conditions" (Gall, 2012: 537). A second related grievance was that the foreign workers had an unfair competitive advantage in that their employer (IREM) did not pay their workers for tea breaks or for the time to put on protective clothing before a shift (Barnard, 2009: 258). The action was seemingly resolved when IREM agreed to hire more than 100 domiciled workers. However, shortly after a deal had been struck, more than 50 workers at the plant were made redundant, sparking additional wildcat strikes and walkouts.

In addition to regulatory issues and rampant false self-employment, there are also hidden workforces trafficked into the country who are controlled and managed by so-called 'gangmasters'. In an interview, the former head of the Vulnerable Workers' Unit at the country's major construction labour union UCATT described the appalling conditions in which some workers live, including 20 men packed into a small house who are paid day rates for under the table work. Of course, these workers are fully outside of the regulatory control of the formal workforce, and therefore have little access to workplace protections, benefits, and other supports. There was a private members bill tabled several years ago to have the Gangmasters' Licensing Act (which applies chiefly to the agriculture sector) amended to include the construction sector but it failed to make it through Parliament in 2010.

4.4.3 Organizing migrant workers

There are number of challenges that affect migrant labour organization in the UK. However, with work place accidents resulting in death for foreign workers on the rise (McKay, Craw, & Chopra, 2006), organizing migrant and other vulnerable workers important. The UK has particularly low collective bargaining coverage and low employment protections (Meardi et al., 2012: 11) and the construction sector in particular has some of the highest levels of self-employment in comparison to other EU countries (Van den Brink and Anagboso, 2010). Since collective bargaining coverage is low, unions in the UK have a particular interest in organizing workers. However, as illustrated in the Lindsey Strike described above, many are fearful that the use of

posted labour will undermine collective agreements already in place (Barnard, 2009). These fears, however, have not manifest exclusivity in UK unions. Rather Fitzgerald (2009) shows that labour organizing is actually inclusive of foreigners – the unions UCATT and UNITE in particular have made significant efforts both through campaigns and in the structure of their unions to incorporate temporary non-citizens into their ranks. Here, unions are primarily concerned with expanding the already limited access to collective bargaining, and protecting existing collective agreements (Meardi et al., 2012). Meardi et al. (2012) highlight an organizer with Unite, one of the largest unions in the UK, who expresses concern with bringing protection to foreign workers. Specifically, the organizer identifies the deplorable living conditions some migrants find themselves in, and extreme differences in wages between unionized and non-unionized workers. For example, the unionist mentions a case where Hungarian workers were paid less than half of what a collective agreement called for. When the union grieved this concern, the company sent the workers back to Hungary. However, the union was successful in getting back wages paid to the workers, and got their job reinstated (Meardi et al., 2012: 17). This case highlights the important role that unions can play in providing protections for migrant and vulnerable workers.

Other research on international industrial citizenship for construction migrants across the UK and Europe has argued that the ability of national unions to protect migrants in construction is increasingly ineffective, particularly as posted workers within firms are often sent to other EU member countries with very different sets of rights and entitlements; as Greer et al. (2013) point out (citing Lillie 2010), accessing posted workers on home country soil through subcontractors is effectively a substitute for off-shoring labour to low income countries. Efforts to enhance industrial citizenship for construction migrants in the UK and across the EU, however, have been challenging. In 2004, the European Migrant Workers' Union was established which in part marked an effort to better protect and advocate internationally for migrants in the sector. Recognizing the structural dependence of the regional construction market on posted workers– and the uneven fabric of entitlements and rights that this created in local construction labour markets – the EMWU sought to create a transnational union affiliation for posted workers regardless of where they worked and lived. The EMWU's mandate, however, was reconstituted in 2008 into primarily an advocacy and informational agency for migrants.

4.5 Thailand: Migrant workers and the gendered dimensions of construction

A number of Thai industries, including construction, are heavily reliant on migrant labour – both authorized and unauthorized – as the core of their workforce (Human Rights Watch 2010). Migrant employment provides a key source of competitiveness for construction firms across the country (Pearson et al., 2006). Migrants in the trades in Thailand generally come from neighbouring states to the north-west and east – including Cambodia, Laos and Myanmar (Burma), but also from Indonesia and Malaysia. In general terms, this reflects the broader migrant population in Thailand. Migrant workers from neighbouring Burma, Cambodia, and Laos comprise a sizable portion of the workforce in Thailand; estimates range from 1.8 million to upwards of 3 million workers and their families, which totals about 8% of Thailand's workforce (Human Rights Watch 2010). Unlike all of the other case studies in this report, meanwhile, women make up a significant proportion of the migrant construction workforce in Thailand (Tajgman, 2005).

Three main laws that govern labour migration in Thailand are the Foreign Workers Employment Act (2008), the Labour Protection Act (2008) and the Immigration Act (1979). Policies implemented through the National Committee on Illegal Worker Administration (NCIWA) aim to regularize the status of irregular migrants. Despite legal frameworks, the implementation of policies to ensure worker protections remain inadequate, in part due to lack of enforcement, and because in general terms, the legal fabric governing migration and migrant employment in Thailand is highly fragmented and at times contradictory. This is in part due to the fact that the state's treatment and management of its migrant workforce has been subject to acute changes over the last two decades owing to a series of national and regional crises which have led to both economic and political instability in the country. While unauthorized migration, particularly from neighbouring states, has been a longstanding structural component of construction labour markets throughout the country, beginning

in the 1990s, the Royal Thai Government (RTG) established a migrant registration process to regularize the cross-border flow of migrants (Martin 2004). In subsequent years, however, the implementation of this regulatory framework was found to be deeply flawed and inconsistent (Amnesty International, 2005). In the early 2000s, registered migrants were required to register again, but only about half did so. Subsequent policy frameworks only protected migrants who went through the 're-registration process', leaving others migrants at risk of losing their employment status if they became unemployed. Again in 2009, the Thai government reopened a migrant registration system, which attracted over a million registrants (785,017 Burmese, 120,824 Lao, and 148,420 Cambodians) (Human Rights Watch, 2010, p. 72). Of these legally registered migrants, nearly approximately one in five was employed in construction (Huguet and Chamrathirong 2011).

However, there are a number of systemic barriers that discourage migrants from migrating legally. High costs and a complex registration process (for example, it is time consuming, registration periods change frequently, and without warning¹¹, and the process to secure travel documents is arduous) are some of the barriers preventing migrants from accessing the system. As a result, the total number of unauthorized migrants (i.e., migrants without legal work permits) tends to outweigh the total registered migrants; for example, in the year 2000, only 30% of foreign workers in Thailand were registered (Rukumnuaykit 2009). At the end of 2007, just 14,151 migrant workers had moved through formal, bilateral government migration channels (Human Rights Watch 2010).

The most current migration policy (2010) now requires migrants be vetted by their own government through a nationality verification process. Upon doing so, workers are provided with a temporary passport and visa from Thai officials to permit entry and establish themselves in the country. Failure to do so means workers become unauthorized, and exist outside of the registration system. Many cases reveal scenarios where employers keep registration cards to prevent workers from quitting or leaving (Human Rights Watch, 2010).

The legal framework also explicitly constructs migrants as temporary; employers make deductions from migrant workers' pay to be put towards a government sanctioned deportation fund, and workers bear all the costs of registration when fees are subtracted from their wages (Human Rights Watch 2010; Rukumnuaykit 2010). The numerous gaps in policy result in many workers falling through the cracks, and create openings for unofficial recruiting channels filled with smugglers and middlemen.

An added layer of political and economic insecurity exists for migrants employed in the Thai construction sector due to ongoing political instability in Thailand, and recent regional economic crises that have gripped the nation more broadly. In May of 2014, the Thai military launched a coup d'état which had a profound effect on both immigration policy and the regional construction labour markets in Thailand, which rely heavily on migrants (BWI, 2014). As Hedman (2008) documents, both the Asian financial crisis and the coup were accompanied by large-scale migrant expulsions. The 1997 crisis had profound effects on the Thai economy, and particularly on the highly speculative residential and commercial construction sectors. In the wake of the crisis, the government launched a migrant repatriation campaign which saw over 300,000 unauthorized migrants deported by 1999, a number which had increased to nearly 450,000 by the following year (Hedman 2008).

4.5.1 Legislating a subcontracted workforce

Employment arrangements in the Thai construction sector have rapidly transformed in response to changes in the labour market. A rise in regional migration by those seeking employment in construction – as well as in other sectors – has precipitated a rise of subcontracting. International labour agreements with neighbouring countries have been implemented to facilitate subcontracted work; the Thai government has adapted their employment system to include subcontracted work as part of the bilateral agreement between Thailand and the neighbouring countries. This change has set in motion a rise of labour market intermediaries designed to recruit employees. Construction work, in particular, is an occupation that has seen new companies emerge

¹¹ For example in 2006, the window to register was one month, between June 1st and 30th.

– effectively labour subcontractors who do not directly supervise or manage construction work, but hire employees to be subcontracted out to construction firms.

While as of 2004, migrant workers from Burma and Cambodia with registration cards have been legally entitled to the same labour rights as Thai citizens (Eberle and Holiday 2011), this has very recently changed. Non-nationals, including unauthorized workers as well as migrants with legal status, are exempt from the 2014 interim constitution of the Kingdom of Thailand, which stipulates these protections are extended to “Thai People” only. This is a significant shift from the former 2007 Thai constitution which included constitutional rights for “the people” (HRDF 2015). The current constitution contains no enabling provisions to adequately enforce the human and labour rights of subcontracted migrant workers (ibid.).

4.5.2 Geographical and labour market immobilities

There are a number of ways in which various levels of the Thai state produce geographical and labour market immobility for workers in the construction trades; these ways, moreover, tend to be highly geographically uneven. For example, each province has their own set of rules governing migrants’ mobility, which can include restrictions on worker gatherings, curfews, and/or restrictions on the use of cell phones¹², motorcycles, and cars. In other cases, policy in some provinces permits the use of motorcycles on the condition that workers pay a monthly fee of 500 baht or their motorcycle will be seized, although this varies widely¹³. Lack of communication and motorized transport pose serious personal health and safety risks, limit opportunities to travel for basic needs such as food as well as recreation and transporting children to education centres. For those working in remote areas, these risks are magnified. Medical emergencies, pregnancy, and child-birth can place migrants’ health and safety in a jeopardy given the distance between them and emergency care. Restrictions placed on migrants’ freedom to move is deeply felt in the day-to-day life of many migrants, as illustrated by this Burmese migrant construction worker from the Surat Thani province:

“There are many dangers for workers who work at night. For example, when the workers meet Thai teenager gangs, they are robbed and beaten....the danger we face is invisible. If we were able to have mobile phones and motorcycles, we might manage to escape from danger...” (Human Rights Watch 2010: 30).

Even in provinces where legal provisions exist that permit vehicle registration for registered migrant workers, in some cases vehicle registration continues to be denied to workers from Burma, Cambodia, and Laos. This has led some migrants to ‘hire’ Thai citizens as buyers and register the vehicle on their behalf.

Workers’ geographical mobility is also compounded by legislated labour market immobility. Thailand’s current migrant registration process, for example, places a number of restrictions on workers and the companies that hire them. Workers are only allowed to work for the employer with whom they are registered, employers must report the status of workers every three months and must pay significant fees and provide health insurance. Not unlike recent reforms to the UAE’s kafala laws, Thailand’s Labour Protection Act (2008) did introduce policies enabling migrants in Thailand to change employers. However, this has given rise to contradictory conditions for migrants that put their safety and economic security at risk. Take, for instance, the case of Sai Saw who was apprehended on the construction site of his new employer while in the process of legally transferring employers:

[Sai Saw] told police he was in the process of changing his registration but his card still listed him as attached to his previous employer. The police refused to believe his explanation and detained him at the Chang Phuak sub-district police station overnight. The next day, the Chiang Mai court fined him 1000 baht.

¹² For example, migrant workers who live in Thailand without a legal work permit cannot generally obtain a registered cell phone.

¹³ For example, in Koh Samui and Koh Tao, Surat Thani province, the state authorities often charge fees to migrant workers who own vehicles such as motorcycles. However, the situation is quite different in Mahachai, Samut Sakhon province, as migrant workers can obtain a vehicle and driver’s license if they have their passport.

He said he evaded deportation by bribing a well-connected broker 200 baht to be set free in front of Chiang Mai city hall instead of being taken back to the Chang police lock-up (Human Rights Watch 2010: 75).

While the migrant registration system permits workers the right to change employers, the employer retains a certain level of control over the process. Under the current system, workers must make the case for changing employers based on the following set of conditions: the employer has gone bankrupt; has violated the worker's right based on labour law; or, the employer fires a worker with the caveat of signing a transfer to another employer. In the event of termination, workers have a seven day window to arrange new employment – which is effectively prohibitive unless they have the full cooperation of their former employer to see the transfer through. The administration of the transfer process also comes at a price; it is common for employers' representatives to demand between 3000 and 4000 baht to sign and authorize the transfer (Human Rights Watch 2010), while migrant workers who are employees also often have to pay 1000 baht for this as well. Opposition to such employer negligence by migrants is rare as many fear reprisal if they voice their labour rights. Geographic mobility and changing employers are interrelated problems facing migrants trying to move across borders and establish themselves in the local labour market.

4.5.3 State abuse: harassment, assault, collusion and extortion

A further factor exacerbating barriers to the ability of construction migrants' to earn an income safely and fairly is that the very institutions meant to ensure their protection under the law are often directly involved in the production of precarious legal status and the denial of workplace rights. Migrants within and outside the construction sector are particularly vulnerable to abuses by police, immigration officials, and military officials as well as private individuals. In the stark words of a Human Rights Watch report, this can include “killings, beatings, sexual harassment and rape, forced labour, abductions and other forms of arbitrary detention, death threats and other forms of intimidation, and various types of extortion and theft” (2010: 41). A lack of investigation and legal action against the perpetrators of extortion or assaults on migrants, coupled with a deep distrust for the police in Thailand has created a climate of fear in which migrant workers – both within and outside the construction sector, and both authorized and unauthorized migrants – have no recourse for protection from employer abuses or even the very state institutions tasked with protecting them.

A key dimension of migrants' lack of rights outside the workplace includes the widespread practice of police extorting money from migrants. The same report by Human Rights Watch (2010: 4) found,

police commonly extort money and valuables from migrants, either when they are stopped by police or while the migrant is in police detention. Migrants reported paying bribes ranging from 200 to 8000 baht or more, depending on the area, the circumstances of the arrest and the attitudes of the police officers involved.

These extortions extend to the construction workplace. As Human Rights Watch reports, it is not uncommon for police protection rackets to extort money from employers of migrant workers on a monthly 'payment-per-worker' basis. A migrant named Zaw Zaw who was supervising 15 migrant workers on a construction site at the time explained, “whenever a new worker starts working, I have to take him and show [him] to the police. Then the police ask for money and tell him [the new migrant] not to go anywhere” (c.f. Human Rights Watch 2010: 66). According to Human Rights Watch (2010), the terms of police 'protection' in these instances can extend to local police alerting employers to immigration inspections or other worksite visits by the authorities. Meanwhile, police often also compel employers to pay for the release of their employees if they are arrested or detained.

There is also anecdotal evidence of retaliation by employers against construction migrants filing labour complaints about wage theft, as well as collusion with employers by local Departments of Labour Protection and Welfare – the very state offices mandated to fairly adjudicate these complaints (Human Rights Watch 2010: 84).

4.5.4 Wage hierarchies, wage theft and discrimination

Wage hierarchies based on ethno-nationality, as well as wage theft by employers has been documented in Thailand. One study showed for example that Indonesian construction workers in Thailand made on average 33% less than Thai workers in the same occupational subsector (Santoso 2009). As Santoso (2009) explains, the wages of construction migrants in Thailand in part tends to reflect the general level of wages and standard of living in workers' respective home countries. It is also shaped by structural factors, such as the quota system that the Thai government has in place, which restricts the number of workers of particular nationality that can enter the country at any given time (ibid.). These differentials, which are rarely based on skill, have been shown in Thailand to depress productivity as workers become aware that their skills are not valued nor compensated for (ibid.).

It has also been reported that some employers force migrants to take a wage cut below the guaranteed minimum wage, or cheat them out of wages altogether (Human Rights Watch 2010). This reality is worsened by the fact that migrants can be fired without cause, and are less likely to unionize or contest unduly employer actions. As recounted in Human Rights Watch's report (2010: 86), a female migrant construction worker from Cambodia recounted the problems she encountered in recouping her stolen wages when

... a Thai construction sub-contractor who paid her first two days on the job but then failed to pay for the rest of the month's work. She said her boss threatened her and six other Cambodian workers with arrest by the police if they complained. Meanwhile, Thai citizens from Surin province who were also on the work crew took the matter to the construction contractor who had hired the sub-contractor. The Thais secured payment for their back wages but when the Cambodian workers went to seek the same remedy, they were told the money was all gone. She said: "I was so angry, I wanted to yell and scream – but I was not brave enough because that person threatened that if anyone raised an issue he would file a police complaint and have the police arrest us...I am certain the police would come, because if it is a Thai who files the complaint, then they definitely come. But for me [if I filed a complaint], I don't know if they would come... I am too scared to even call the police station".

This instance illustrates how systemic forms of exploitation that are particular to Thailand's construction labour market, such as wage theft and ethnonational (and perhaps gendered) hierarchies of privilege, are in turn compounded by the active antagonism against migrants by local protective agencies like the police.

4.5.5 Labour brokerage and trafficking in construction

Recent migration trends indicate a significant shift of labour migration in the form of human trafficking from Laos, Burma and other South Asian countries to Thailand. While historically, the Laos-Thai and Burma-Thai borders have been fluid with flows of people travelling in both directions, recent research highlights growing inequity between these countries and a resulting change in migration vectors between these countries, in which migrants are increasingly moving towards Thailand (Lindquist et al. 2012). Research indicates that unauthorized workers are a core part of the construction industry (Pearson, et al. 2006), while there is also evidence that some of these workers are also victims of trafficking through various forms of fraud and deception committed by illegitimate brokers (Human Rights Watch, 2010: 23).

The complicated nature of the migrant registration system encourages the use of brokers or other intermediaries such as the employer to file the paperwork for registration. However, these brokers are frequently exploitative to migrants, and in many instances broker assisted migration tends to resemble trafficking. Many workers reported having overpaid brokers or having been charged exorbitant fees for the registration process; being tricked into working arrangements other than what they initially agreed with the broker; other still were forced into indentured working arrangements when they arrived (Human Rights Watch, 2010: 56, 76).

Since the early 2000s, international and state governments in South East Asia, including Thailand and Laos have tried to tackle human trafficking through policies and programs that legalize cross border migration for

work. Generally, these frameworks follow a tripartite program of “strengthening policy and legislation, building capacity of stakeholders, and providing services to migrant workers, through Migrant Worker Resource Centres” (ILO, 2015a). This approach to combat trafficking is guided by two assumptions: “the promotion of legal and “safe” will “dry out” a market for “traffickers”, and that dubious migration brokerage is primarily the domain of external recruiters” (Molland, 2012: 121). Most recently, for example, in early January 2016, officials from the Ministry of Labour in Thailand attended meetings with key representatives from Burma to discuss issues relating to formalizing the unauthorized Burmese workforce in Thailand. Burmese officials agreed to distribute formal Certificates of Identity – CI cards – for use as a temporary document for Thailand’s National Verification process. As a result, Burmese migrant workers currently working in Thailand and who possess a ‘Pink card’ will now be able to obtain a formal CI document. However, this certificate will be valid for only two years from the date of issue.

However, as Molland (2012) argues, such legalization and formalization schemes have had little effect on traffickers, as the author argues,

legality does not “dry out” dubious recruitment practices as they are taking place within the very same intimate networks that are supposed to constitute “safe migration.” In the process, legality becomes a resource that is appropriated in the migration process. (Molland, 2012: 121)

Molland goes on to describe how many seeking to migrate for work in Thailand rely on their social networks to find brokers. These brokers use both their social proximity to the work and a guise of legality to lure workers to traffic workers into Thailand. As such, while the intentions of these programs are laudable, legalization frameworks that attempt to “dry out” illegal brokers are ineffective at combating human trafficking in Southeast Asia, in that in many instances, the opportunity for legal operations serves to legitimate illegal, non-compliant, fraudulent or exploitative brokers.

4.5.6 Some gains: workmen’s compensation and the challenges of subcontracted labour

As described above, since 1996 there have been seven rounds of short term migrant registration programs allowing foreign workers to register and work legally in a number of low skill industries including construction. While part of the aim of these programs has been to reduce instances of trafficking, these registration systems have also produced forms of legal classifications that endanger migrant workers through limited access to rights and entitlements. For example, Human Rights Watch highlights the story of Nang Noom Mai Seng, a migrant construction worker who was paralyzed from the waist down in a construction accident (Human Rights Watch, 2010, p. 73). Initially Nang Noom’s status prevented her from accessing the national Workmen’s Compensation Fund (WCF). This decision triggered a National Human Rights Commission investigation, which found this decision to be in violation of the ratified ILO Convention No. 19, which requires that states must provide the same compensation to foreign nationals as their own. Currently, registered migrants, through these legal struggles, have gained some access to work site protections and workplace accident compensation.

There have been a number of important gains for workers of all types in Thailand. A 2014 ILO guide for migrant workers traveling to Thailand highlights the availability of Workmen’s compensation, maternity leave, paid sick leave, a six day work week, the right to refuse overtime, and vacation time amongst other protections including a minimum wage (ILO 2014). As of 2014, illegal migrants are now also covered under the policy as long as they carry an ID card (HRDF 2014). In particular, the Supreme Administrative Court in Thailand very recently ruled in a case between several migrant workers – including a migrant construction worker – and the Social Security Office (SSO), regarding the protection for migrant workers suffering a work-related injury or sickness under the Workmen Compensation Fund Act. The court’s verdict affirmed the legal principle of the Act which aims to provide protection to all employees who suffer from injuries, disabilities, or death relating to the work or while serving the interest of their employer. The Workmen’s Compensation Fund has thus been more firmly established as a guarantee for provision of compensation to the employee on behalf of the

employer who is supposed to pay contributions to the fund. The protection is intended to cover all employees without any discrimination based on the legal or contractual categorization of the employees.

However, the expansion of the policy alone is not enough to ensure that all migrant workers have access to compensation fund. For example, in one documented case relating to the injury of an unauthorized construction migrant, where the subcontractor employer responsible for paying compensation could not be found, the clients commissioning the construction project voluntarily agreed to pay the injured migrant (HRDF 2014: 30). However, this example illustrates the specific challenges that subcontracted and informal construction sector poses to migrants' welfare, particularly the ongoing difficulties of holding subcontractors responsible despite the expansion of the workmen's compensation policy to all migrants regardless of their legal status. Indeed, while these protections and regulations in Thailand represent a significant gain for registered migrant and domestic workers, an Asian Development Bank (2013) report indicates that many workers, particularly unauthorized workers, rarely receive minimum wage or access to these provisions. As such, while registration schemes bring protection and status to certain migrant workers, in many instances these same programs encourage the flow of unauthorized migrant workers as employers can avoid paying minimum wages, providing other entitlements, and other regulations.

Conclusion and recommendations

In reviewing the five national case studies and the broader literature on migrant construction work and employment, it is clear that construction migrants' experiences and working conditions – from country to country, region to region, or within any single labour market – are obviously extremely variable. Nonetheless, based on the material reviewed in this report, several broad trends and commonalities about migrants' roles and experiences in the construction industry can be identified. Sectorally, general patterns of growing income polarization, subcontracting and de-unionization can be seen across the industry as a whole. Additionally, while the experiences of individual migrant workers are heterogeneous and cannot be universalized in any way, common and endemic practices regarding the regulation of construction migrants' lives and livelihoods can be drawn from this study – particularly for those working in precarious employment relations, in lower-waged and skilled jobs at the bottom of subcontracting chains. This group of migrants can tend to be disproportionately likely to face significant barriers to fair, decent and safe work due to an array of factors, including:

- The propensity for wage theft or wage-withholding by employers, particularly at lower ends of the subcontracting ladder;
- The prevalence in the industry of precarious employment conditions including false self-employment, casualized work (e.g. day labouring), and various forms of 'triangular' employment such as labour subcontracting, and migrants' disproportionate representation in the most precarious relations;
- The extraction of other illegal fees from migrants by employers, the police, labour recruiters or other labour market intermediaries;
- The tendency for job insecurity and asymmetrical or deceptive labour market information across borders;
- The prevalence of racialized, gendered, and ethno-nationalized hierarchies of access to better jobs and wages in the trades;
- A legislated lack of access to collective representation and bargaining;
- An increased risk of on-the-job injury and fatality;
- Exclusion (whether by law or in day-to-day practice) from an array of state supports in destination countries such as employment insurance, subsidized housing or job training;
- Disproportionate vulnerability to a continuum of unfreedom and labour market immobilities, which can range from being legally tied to one employer to conditions of debt bondage or forced labour.

In many cases, both countries of origin and destination recognize the prevalence of many of these labour market risks for migrants in the trades, and have made substantial efforts in some cases to improve workplace safety, combat illegal migration fees, improve migrants' collective organizing and bargaining power, curb wage theft and improve housing conditions for construction migrants. What is also clear, however, is that these efforts have met with sizable challenges, whether due to the legal limits of any single state to regulate phenomena that extend between and across national borders, the structural embeddedness of contingent and temporary relationships within the construction industry, or the high costs associated with the effective enforcement and oversight of an industry that is constantly changing worksites, projects and work teams. Governments and employers appreciate that making progress on these issues requires innovative and new forms of transnational cooperation, such as bilateral agreements for zero-cost migration or

international framework agreements between multinational companies and workers. However, we wish to stress that these efforts must also be *multi-scalar*; not only national governments but local authorities and provincial and state bodies, in both origin and destination countries, must also play a key role in harmonizing and transforming local territorial policies, regulations and practices. These can range from improving the relations between migrants and local police forces, to enhancing local oversight of recruitment practices in migrants' home towns, to extending migrants' access to regional provincial or municipal social welfare programs. Relatedly, more scrutiny is needed of the sub-national frameworks and practices that either criminalize migrants or exclude them from the protections they need to safely exercise their rights at work and in their country of destination. Finally, a number of the case studies highlight how multi-scalar forms immigration law, regulation, enforcement and practice play an absolutely fundamental role in shaping migrants' workplace relations, their relationship and role within their community of destination, and their labour market outcomes more broadly. Considering more carefully how local and national forms of regulation intersect to shape migrant construction labour markets is key to removing barriers to safe, decent and fair work for migrants both in the formal and informal economy.

To do this, however, more information is required. There is a substantial and growing body of high quality research being produced by both policy-oriented and academic institutions on migrant work and employment in the trades. Despite this, there remains a shortage of knowledge and research on a variety of key areas. For example:

- More information is needed on migrants' experience in construction work and employment particularly in African nations, specifically on the ways that migration costs, circular migration and labour intermediaries shape and sustain construction labour markets;
- Following Kumar & Fernández (2015), more research is needed on new and existing flows of *internal* migrants and their role in national construction markets;
- There is also a dearth of research on construction migrants who work in the informal sector, and particularly unauthorized migrants both in the global North and the South, especially those in the local economies and labour markets involved in informal settlement building or in some of the least-regulated sectors such as renovation and demolition;
- Further work remains to be done on understanding how broad trends such as urbanization, land speculation and the erosion of peri-urban and agrarian livelihoods are shaping internal, regional and international migration into construction sectors;
- There is a pressing need for research on the effectiveness and outcomes of international cooperation and coordination efforts between labour-sending and receiving states to combat labour trafficking, exorbitant and illegal migration fees, and poor or deceitful labour market information specifically for construction migrants;
- More research needs to be done on the role of migrant women and children in construction;
- Insufficient research exists that synthesizes, assesses and develops best practices by employers, unions, governments and civil society groups to improve migrants' access to decent, fair and safe jobs in construction;
- Most importantly, there needs to be more research undertaken which draws on the experiences, knowledge and ideas of construction migrants themselves, who must play a key role in the development of any local and transnational policies aimed at fostering safe, decent and fair work in the trades.

Despite the need for more research, much of the direction and steps forward for governments, employers, labour representatives and civil society groups can be informed by the ongoing work of global trade unions such as Building and Woodworkers International, who are leading the way in assisting both local unions and migrants themselves to organize on the ground, develop place-specific strategies to challenge exploitative

employment and recruitment practices and strengthen supra-national governance on migrant protection and empowerment. They can also be informed by the work of national unions, including some in the UK, that have integrated efforts to protect and reach out to migrants into the very structure of their union through the establishment of Vulnerable Workers' Units. The tabling of recent best practices reports in the industry also reflects significant advancements in the sharing of knowledge on this issue (e.g. ILO 2015b). Finally, better and best practices for employers in engendering systemic change exist in the form of initiatives such as BuildSafe Dubai, an umbrella organization of both foreign and local contractors who are dedicated to improving occupational health and safety practices across the emirate. Obviously it is impossible to make general recommendations that will be effective or appropriate in every national context. However, emanating from some of these best practices as well as the findings of this report, below are five general and very broad-based recommendations for improving the outcomes for migrants employed in construction.

Objective 1: Enhance migrants' ability to organize, advocate and collectively bargain

a. Recommendations for country of origin governments

- i. Establish or enhance pre-departure programs to educate migrants on their rights of assembly and organization in destination countries;
- ii. Establish programs to make migrants aware of their eligibility and the process for obtaining union representation in destination countries;
- iii. Offer information on the process for reporting abuses, lodging complaints and the organizations that can assist them in doing so in destination countries.

b. Recommendations for destination country governments

- i. Legislate and/or enforce migrant workers' rights of assembly, the right to join or establish independent trade unions, as well as the right to collectively bargain with employers;
- ii. Address structural facets or loopholes in immigration and/or employment law that indirectly serve to undermine migrants' ability to exercise their legal rights to fair, decent and safe work;
- iii. Foster the development of agreements that concretely enhance migrants' access to bargaining and negotiation powers, whether that be local tripartite agreements on labour rights in construction between employers, the state and trade unions, international framework agreements between multinational contractors and workers, or other schemes.

Objective 2: Ensure the transparent and fair recruitment of migrant construction workers¹⁴

a. Recommendations for employers

- i. Ensure proper payment of all recruitment costs for migrant workers, including the administrative and legal costs of renewing work visas or processing paperwork for ongoing employment;
- ii. Use licensed and approved recruiters and follow state sanctioned policies for transparent and fair recruitment processes;

¹⁴ See also the ILO's General Principles and Operational Guidelines for Fair Recruitment, covering both cross-border and national recruitment, developed at a Tripartite Meeting of Experts held in September 2016.

- iii. Put in place measures to ensure that subcontractors exercise the same due diligence in ensuring recruitment practices are fair and equitable;
- iv. Establish reporting mechanisms with returned migrants about their experiences with recruiters or other intermediaries in order to assess the effectiveness of current policies and programs aiming to foster fair and transparent recruitment practices.

b. Recommendations for country of origin governments

- i. Institute programs to rectify information deficits between recruiters and prospective migrants and provide construction migrants with, for example, country-specific pre-departure training, public information campaigns to curtail exploitative recruitment practices;
- ii. With destination country governments, establish bilateral agreements for zero-cost migration;
- iii. License recruitment agencies and inspect and prosecute those that fail to comply with legislation;
- iv. Following Gordon (2015) establish effective economic and other incentives to firms to employ fair recruitment processes, as well as effective and enforced penalties for not doing so;
- v. In coordination with destination country governments, regulate and enforce standards for local recruitment agencies as well as other key intermediaries (for example, local banking institutions) to eradicate illegal migration fees and exorbitant migration debt.
- vi. Establish reporting mechanisms with returned migrants about their experiences with recruiters and employment abroad in order to assess the effectiveness of current policies and programs aiming to enhance migrants' rights abroad.

c. Recommendations for destination country governments

- i. Establish and enforce legal frameworks that inhibit recruitment into conditions of debt bondage and other forms of unfree labour in the building trades;
- ii. In cooperation with labour sending countries, establish bilateral agreements for zero-cost migration, focusing on eradicating illegal recruitment fees and exploitative migration debt between receiving and sending countries;
- iii. Establish effective incentives to firms to employ fair recruitment processes, as well as effective and enforced penalties for not doing so;
- iv. Legislate and enforce accountability for fair recruitment practices to key agents along the supply chain (main recruiters, employers using recruitment agencies) who have the power to shape the recruitment process.

Objective 3:
Eradicate employment conditions and practices that erode construction migrants' earnings and safety on the job

a. Recommendations for country of origin governments

- i. Institute pre-departure programs, social media information campaigns, or other appropriate programs to inform prospective migrants about the process for reporting unpaid wages, about their right to resist illegal fees, to refuse and report unsafe work, and other mechanisms for securing workers' earnings and safety abroad.

b. Recommendations for destination country governments

- i. Combat wage theft by properly enforcing employment standards laws already enshrined in law, and by instituting, enforcing and monitoring electronic wage transfers so that wage payments are transparent and can be tracked by third parties;
- ii. Foster the development of main contractor liability and accountability schemes or other schemes to enhance employer accountability for meeting employment standards, especially in cases of long and complex subcontracting chains;
- iii. Ban “pay if paid” and “pay when paid” clauses in contracts or take other measures to ensure the payment system (from the main contractor through to the subcontractors) is fair;
- iv. In cases of insolvency of either the main contractor or subcontractors, create and enforce mechanisms to ensure that the workers’ wages are paid;
- v. Pass and enforce legislation that closes legal loopholes allowing false self-employment, and clarify and enforce the legal responsibilities of brokers, labour-only subcontractors and other agents involved in ‘triangular’ employment conditions;
- vi. Consider adopting main contractor liability schemes which place liability for all workers on the site on the principal contractor.
- vii. Enhance the protections for workers against retaliation for reporting or resisting abuses or unpaid wages or for refusing unsafe work on the construction site.

c. Recommendations for employers

- i. Undertake due diligence in appointment of subcontractors;
- ii. Inspect and audit subcontractors’ adherence to labour standards and workers’ welfare.

Objective 4:
**Improve the protection of construction migrants’ livelihoods
across institutions and borders**

a. Recommendations for country of origin governments

- i. Offer training for migrants on their employment and residency rights in destination countries;
- ii. Provide migrants with specific information on the local support organizations and consular labour attachés operating in the regions where they will be working;
- iii. Strengthen the role of consular labour attachés in destination countries to better protect construction migrants, as well as combat their exploitation and abuse in overseas construction labour markets.

b. Recommendations for destination country governments

- i. Combat extortion and ill treatment of migrants by local authorities and police by providing third party oversight of police and local authorities who have regular interaction with migrants, both authorized and unauthorized;
- ii. Ensure that local authorities with regular interaction with migrants receive special training on migrants’ rights and human rights statutes;

- iii. Connect and foster partnerships between trade unions and civil society groups assisting migrants. E.g.: Assist in coordinating the efforts of advocacy, labour and protective organizations catering to workers with precarious legal status (migrants' rights organizations, settlement agencies, diasporic community organizations, etc.) and those catering to migrant' employment conditions (trade unions, workers' advocacy centres etc.);
- iv. Remove legal structures and practices that unfairly criminalize and illegalize migrants working in the trades.

Objective 5: Strengthen the rights-based global governance of construction migration

a. Recommendations for the International Labour Organization

- i. Offer a direct role for construction migrants from a variety of backgrounds to shape transnational and supranational policies, directives and programs pertaining to construction labour migration and recruitment;
- ii. Harmonize the research agenda on migrant work in construction across the various bureaus and sectors;
- iii. Commission further research on best practices in the protection of migrants in construction, including the adoption of ethical labour standards, subcontractor oversight and liability schemes, and social media tools for migrants to report abusive recruitment and employment practices;
- iv. Bring affiliates together with groups that are key agents in the protection and advocacy of migrants in the trades for an international symposium on construction work and migrant labour;
- v. Explore the potential benefits of engaging local authorities and associations such as United Cities and Local Governments (UCLG) and other subnational state authorities on issues specific to migrant construction labour and urbanization. This is because the powers typically granted to local authorities – from approving large urban development and infrastructure projects to delivering services like policing and vehicle licensing – have a disproportionate impact in shaping both the *demand for* and *governance of* migrant construction workers on the ground.

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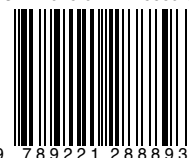


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