**Forced Transnationalism and Labour Migration: Implications for Understanding Migrant Rights**

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**Abstract**

Increased labour mobility is inherently a transnational phenomenon that reflects the changing composition of labour markets and labour systems and has resulted in the rising presence of non-citizens in places of work. Transnationalism – as a dominant paradigm for understanding the economic, social and cultural ties maintained by migrants and migrant communities across the spatial divide of international migration – has tended to celebrate migrant agency located in activities taking place beyond the rigid boundaries of the 'nation-state'. While the transnationalism literature has made important contributions by shifting empirical attention beyond national boundaries and, in doing so, beyond a state-centric level of analysis, so too has it overstated migrant agency while downplaying the relevance of state power in shaping lapses in legal and economic rights that push many migrant workers into precarious transnational livelihoods. This paper draws on the concept of protracted precarity, as it applies to temporary labour migration within key migratory corridors in Asia, to develop an alternative paradigm of forced transnationalism that better accounts for transnationalism in the absence of meaningful agency. Three prominent features of cross-border labour migration are examined to demonstrate how forced transnationalism serves as a new concept for understanding migrant rights: temporary employer-tied contracts, commercialised recruitment, and displaced care. This leads on to a discussion of the specifically transnational dimensions of the curtailed economic and political rights that produce migrant precarity and precarious livelihoods.

**Keywords:** temporary labour migration, migrant precarity, transnationalism, transnational migrant rights activism, intra-Asian migration

**Introduction**

Increased labour mobility is inherently a transnational phenomenon, with temporal as well as spatial dimensions. It is a reflection of demographic shifts in labour under- and oversupply embedded in the changing composition of labour markets and dynamics of labour systems. The result has been a rising presence of foreigners in places of work who are not only non-citizens, but who constitute a highly transient workforce based on their temporary visa status and limited, if not entirely absent, pathways to permanence. Temporality is a phenomenon that is spreading around the world (Koleth 2017), as reflected in the dominant policy framework championing temporary or circular migration schemes that has emerged as the common denominator of a global approach to the regulation of migration to date. Labour mobility on a temporary basis is therefore the result of policy design by origin and destination countries simultaneously, and thus the product of political interests across the migration cycle in ‘management’ of migrant workers of a particular kind.

Transnationalism – as a dominant paradigm for understanding the economic, social and cultural ties maintained by migrants and migrant communities across the spatial divide of international migration – has tended to celebrate migrant agency located in activities taking place beyond the rigid confines of the ‘nation-state’. While the transnationalism literature has made important contributions by shifting empirical attention beyond national boundaries and, in doing so, beyond a state-centric level of analysis, it has become subject to criticism for overstating migrant agency (Faist 2008; Lazăr 2011). Our contribution to this critique takes migrant precarity and migrants’ truncated rights as the central point of departure for rethinking transnationalism. By shifting economic and political rights to the centre of analysis the state necessarily (re-)enters the discussion as a key actor. While early studies on transnationalism have downplayed the relevance of state power in shaping lapses in political and economic rights that push many migrant workers into precarious transnational livelihoods (Basch, Schiller, and Szanton Blanc 1994; Portes 1999), the aim of this paper, by contrast, is to develop an alternative conception of *forced transnationalism* derived from the empirical context of intra-regional (sometimes also referred to as ‘South-South’) migration and its formal management in political and policy terms. In our case, this is specifically applied to migration corridors between East, Southeast, South and West Asia.

This paper explores forced transnationalism in relation to the most common migrant experience globally – which is that of low-wage, low-skilled temporary contract foreign workers who often slip into undocumented status – and emphasises the aspect of ‘force’ for the meso and macro sociological level. We begin our discussion by arguing for a reconceptualisation of transnationalism in relation to the concept of protracted precarity, as it applies to temporary contract migration within key migratory corridors in Asia. We address the diverse settings of migration across Asia not because of contextual similarities between countries, of which there are few, but because temporary labour migration has occurred for a long time and on a massive scale throughout the region. Whereas temporary labour migration regimes are now becoming more common globally, important implications can be conceptualised by drawing on the various corridors of existing temporary labour migration in Asia. Conditions of highly restrictive migration policies and state management requires us, as we argue, to rethink migrant precarity in a holistic manner that spans the entire migration process, i.e. in relation to the causes leading to migration in the first place, employment practices during migration and lack of sustainable opportunities upon (at times involuntary) return. Here the concepts of transnationalism and precarity reinforce one another to produce a deeper analysis of temporary labour migration in this context. A holistic view of migrant precarity reveals how experiences of transnationalism can be inherently forced by adverse political and economic structures, while transnationalism meaningfully extends protracted precarity by emphasising how migrants navigate and contest spatially distinct modalities of vulnerability.

Three prominent features of cross-border labour migration are examined to demonstrate how forced transnationalism serves as a new concept for understanding migrant rights: temporary employer-tied contracts, commercialised recruitment, and displaced care. This leads on to a discussion of the specifically transnational dimensions of the curtailed economic and political rights that produce migrant precarity and precarious livelihoods.

**Forced Transnationalism – Rethinking the Transnational Paradigm**

Migration studies is, by its very nature, a multidisciplinary field. Academic and policy interest has been hewn largely between the economic and developmental implications of labour migration on the one hand and the resultant reconfiguration of social, cultural and political life on the other. Within each of these two broad strands of migration research, newly dominant paradigms have become entrenched since the turn of the millennium. The migration-development debate has been ensconced in the mutually-beneficial policy rhetoric of a ‘triple win’ scenario for labour migrants and countries of origin and destination (World Bank 2006), while sociological inquiry has widely adopted variegated theories of transnationalism to analyse the manner in which migrants develop and maintain economic, political, social and cultural linkages between home and host countries (Portes 1999). Although conceptually unrelated, both paradigms have tended to celebrate migrant agency within international migration flows.

The origins of transnationalism date back to the work of Basch et al. in the early 1990s, who positioned transnationalism as an important objection to the then-dominant assimilationist framing of immigration (Lazăr 2011). Rather than simply discarding ‘old’ national identities by forging ‘new’ ones in keeping with the societal norms and expectations of destination countries, certain migrants were understood to sustain diverse connections between origin and destination countries and possess fluid transnational identities. Transnationalism, emerging alongside the proliferation of globalisation studies, thus contributed to a growing devaluation of the nation-state as the pertinent unit of social scientific analysis and pointed to the complex networks sustained across borders (Basch, Schiller, and Szanton Blanc 1994). Portes (1999) furthered the idea of migrant transnationalism, portraying these connections between home and host societies as a form of ‘transnationalism from below’ in contrast to the ‘transnationalism from above’ conducted by government representatives and multinational corporations (see also Guarnizo, Portes and Haller 2003). For Portes, transnationalism was an ‘adaptive strategy’ whose prevalence within a given migrant demographic is tempered by the relative acuteness of political and moral bonds to home communities, the extent of attendant ‘cultural resources’, and the degree of hostility and discrimination faced in countries of destination (1999). Transnationalism is framed as a fluid expression of migrant agency carried out, either individually or in small groups, in defiance of the rigidity of the state and its accompanying social structures. Although Portes notes that “these activities are not limited to economic enterprises, but include political, cultural and religious initiatives as well” (1999, 464), it is unsurprising that migrant transnationalism scholarship has tended to emphasise commercial networks and entrepreneurial activity. Cross-border economic migrant activity is both a visible and agency-centric affirmation of the existence of transnationalism, more tangible and measurable than the spectrum of complex socio-cultural connections that are spatially sustained by migrants and migrant communities. Transnationalism has accordingly encouraged a number of novel contributions to migration studies in the form of anthropologically-oriented studies that have uncovered rich economic and social ties maintained within particular transnational communities.

However, by focusing on transnational expressions of migrant agency, sending-country governments tend to be conceptualised as secondary (and reactionary) actors that “enter the picture as the importance of the phenomenon becomes evident” and intervene “in pursuit of the economic and political benefits of transnationalism” (Portes 1999, 467). The backgrounding of state power as subordinate to migrant transnationalism reflects the ontological departure from state-centric analysis that essentialises transnationalism as a paradigm. Yet, in making this departure, transnationalism often neglects the role of states and political-economic structures in shaping international labour migration flows and, within these flows, the more circumscribed experiences of transnationalism endured by great numbers of migrants who travel abroad out of economic necessity but are trapped between multi-layered interests that ensure their migration is strictly temporary. Transnationalism shies away from defining these temporary labour migrants as *transmigrants* on account of the narrow scope of activities presumed to be carried about by the remitting labourer (Castles, Haas, and Miller 2014, 43). Yet while the economic transactions of temporary labour migrants may be more routinised, the social strains of a transnational existence still apply. Moreover, the temporariness of legal migration in Asia often results in multiple contract renewals amounting to a ‘permanently temporary’ situation compounded by the absence of pathways available towards permanent residence and citizenship in most destination countries. The economic hardships, severed social ties, truncated familial interactions and spatial disconnect endured by the most prominent categories of migrant workers satisfy the definition of transnationalism, only without exhibiting the accompanying empowerment of agency that transnationalism has tended to emphasise.

Just as critical migration theory surrounding the migration-development nexus has emphasised the disconnect between empirical evidence and the abstract optimism of the ‘triple win’ rhetoric (Wickramasekara 2011), so too must transnational activities be reconsidered in light of the stringent constraints imposed on migrants by sending and receiving states. Transnationalism constitutes an important extension of an analytical focus beyond the real and imagined boundaries of the ‘nation-state’, but needs to be reconciled with various political-economic structures that prevent migrant agency from being a dominant experience of international labour migration. A distinction is usually drawn between transnationalism, generally associated with ‘voluntary’ labour migration, and diaspora communities which also include communities that have been formed through forcible displacement and humanitarian migration. The implied reductionism of people movements as either ‘free’ or ‘forcibly displaced’, however, is inattentive of the large number of temporary labour migrants whose decisions to work abroad are reflective of *forced economic migration* (Delgado Wise 2009) caused by underdevelopment, uneven development, and a deficit of basic rights arising from the policies of sending and receiving countries. The categorical primacy of transnational agency must therefore be supplanted by a more attentive theorisation of the limitations to migrants’ human and economic rights arising from spatial configurations of state power and economic exploitation. Importantly, for labour migrants, these rights are as relevant in their home countries as they are in the countries in which they labour, as economic precarity and a lack of decent local work are themselves fundamental drivers of labour migration (Piper, Rosewarne, and Withers 2017).

The concept of *forced transnationalism,* as we argue, better reflects how the political and economic interests of sending and receiving countries coalesce to undermine migrants’ rights to work (at home) and rights at work (abroad). For migrant workers caught between these constraints, transnationalism is an involuntary experience defined by economic and social hardships that are endured in the absence of meaningful alternatives. Frequently originating from emerging economies of the global south, labour migrants are often forced to pursue foreign employment out of economic necessity stemming from a lack of decent work or inclusive development. Examples of such are found in the displacement of the rural poor whose traditional livelihoods have been undermined by capital-intensive production (Castles 2013), the feminisation of export industries and migration flows (Standing 1989, 1999) and the variegated means of curtailing indecent work to ethnic minorities (Fernando 2013). Sending economies are generally constrained by historical patterns of underdevelopment, but governments of these countries also buttress structures of uneven development when aligning economic governance with the ‘demands’ of capital accumulation within a competitive global economy. Development under such circumstances is, therefore, predicated on the cultivation of a precarious workforce whose inability to access decent work locally prompts internal or international, and often overlapping (Skeldon 2006), migration into exploitative employment that nonetheless confers potential for a more predictable income.

Throughout Asia, working rights have been stymied alongside the growth of manufacturing industries dependent on the availability of low-wage and exploitable labour, with informal labour practices more the norm than the exception (Lee and Kofman 2012). While international labour migration can sometimes offer more dependable or better remunerated work for these marginalised populations, it also entails another form of precarity arising from the vulnerability inherent to working under short-term contracts mediated through ‘merchants of labour’ (Kuptsch 2006) and executed at the discretion of employers. Migrants are subject to further limitations of rights as non-citizens working within vacuums of sufficient legal jurisdiction. Forced transnationalism similarly describes the way in which responses to these lack of rights, i.e. migrant activism, must be conducted across spatially and legally fragmented spaces of contestation that mirror the transnational dimensions of labour migration flows. The challenge of organising the effective distribution of social, financial, legal and political resources within and alongside transnational networks has proven one of the greatest practical hindrances to successful migrant activism.

Forced transnationalism thus offers a new concept for understanding the contestation of migrant rights by confronting the existing overstatement of migrant agency and emphasising the strained social and economic ties inherent to transnational existences within state-managed migration flows, along with the challenges of organising resistance within these same spatial and jurisdictional parameters. We now draw on this concept to analyse the transnational hardships and limited rights endured in relation to the most prominent migrant categories found throughout Asia: ‘low-skilled’ (female and male) labour migrants. Our analysis of these particular migration contexts will be followed by a discussion of the importance of a rights-based approach to migration, and of the challenges inherent to the forced transnationalism of migrant activism itself.

**The Migrant Experience of Forced Transnationalism**

This section identifies three dominant and interrelated features that characterise intra-Asian migration and shape the migrant experience with the effect of limiting the potential for migrant agency: temporariness, commercialised recruitment and displaced care. These features illustrate the gap between formal rights and the informal, yet often institutionalised, means by which these rights are denied to a majority of labour migrants who move within Asia. Throughout this section we draw on these archetypal features of migration to identify multiple drivers of *forced* transnationalism – i.e. spanning economic, social, cultural and political considerations – while examining the specific involuntary attributes of each example. This allows us to demonstrate what is meant by forced transnationalism; that is, not the expression of agency predominantly assumed and focused upon by the existing literature, but as a set of severe constraints that condition the irregular and precarious spatial/emotional nexus of transnationalism.

As stated above, a state-driven regulatory framework is at the root of what we refer to as forced transnationalism. In the absence of pathways to permanent residence and citizenship for those who migrate to or within Asia, migrant workers are all subject to a migration policy regime based on a strictly temporary basis – the skilled and low-skilled, in professional as well as low-wage sectors. Despite certain differences across some categories, all migrants thus share one common characteristic: they usually have fewer rights than the native population and are subject to the widespread idea of not being entitled to the full range of economic, social, political and cultural rights (UNESCO 2005). As a result, the risks migrants are typically exposed to include discrimination, racism and xenophobia; trafficking and forced labour; recruitment malpractices such as fraudulent job offers and exorbitant placement fees; debt bondage; sexual and physical harassment; employment in hazardous jobs und the under- or non-payment of wages (ILO 2010). These issues and their effects on migrants’ rights are largely the outcome of the specific features of labour migration in the region under discussion.

The three most prominent ones are:

*1. Temporary Labour Migration*

Cross-border migration has been an important dimension of economic development throughout Asia, as regions of capital accumulation have expressed increased demand for low-wage labour needed to sustain production and care regimes. As a result, many Asians remain within Asia when migrating. Their migration is proactively shaped by states: most governments in the region have come to actively promote outflows or inflows of migrant workers as a key economic strategy, and have primarily done so based on strictly temporary visa policies. This is because origin countries typically seek remittance inflows and skill transfers, while destination countries use temporary migrant labour as ‘cheap’ and ‘disposable’ inputs for jobs shunned by the local workforce under conditions of rapidly ageing societies and rising levels of education. Intergovernmental adherence to the supposedly mutually-beneficial economic outcomes of temporary labour migration has resulted in the subordination of migrants’ legal and working rights as lesser considerations to the economic ‘management’ paradigm of migration flows. The experiences of migrant workers throughout Asia therefore tend to typify the spatial fragmentation of social life implied by transnationalism, but without the agency or entrepreneurial capacity typically associated with the paradigm. Instead, the explicit exercise of state power by migrant origin and destination countries has created a ‘narrow’ or forced transnationalism, comprised of a lack of rights to work (at home) and a lack of rights at work (while abroad), that many migrants must navigate out of economic necessity. The transnational nature of these rights limitations entails an experience of protracted precarity for migrant workers and a complex discursive and institutional challenge to migrant advocacy groups seeking to advance a rights-based approach to labour migration.

Government practiced temporary contract migration schemes mean that legal migration takes almost exclusively place on the basis of strictly fixed term contracts for the duration of one to three years. Such contracts typically tie the worker to one specific employer, as per the notorious *Kafala* system[[2]](#footnote-2) practiced in the Gulf Cooperation Council (GCC) countries and derivations thereof elsewhere. Breaking a contract to seek employment elsewhere – for instance in the case of abuse or contract violation on the part of the employer – turns a migrant into an ‘illegal’ worker and resident. In this sense, there is no free access to the labour market. Because of the strictly temporary nature of migration, return migration is a natural consequence of this arrangement. As migrants are often unable to meet their own or their families' ambitions (which is related to high levels of debt they incur in the recruitment process), they are compelled to re-migrate. This can lead to a vicious cycle of migration and re-migration whereby the first cycle is often used to repay debts and it is not until the second stint abroad that migrants finally manage to accrue some of the savings they need. Temporary migration thus has permanent features, structurally as well as existentially, and conforms to an experience of protracted precarity.

2*. Commercialisation of the Recruitment and Hiring Process*

Legal migration is limited to workers who have individually arranged their employment contracts in advance, while still in their country of origin. The limited role of governments in the process of recruitment has turned towards the commercialisation of migrant labour flows through the assistance of designated public or private recruitment agencies. According to Haque (2005, 49), over 90 per cent of the labour recruitment in Bangladesh, India, Pakistan and Sri Lanka has been carried out by private agencies. This practice exposes migrants in the low skill categories to rampant illegal human and financial exploitation (Plant 2008; Agunias 2010). It also causes the potential for collusion among members of business and government circles as reported by Khadria: “the short-term labour contracts have facilitated the proliferation of recruitment and placement agencies… sometimes colluding with the prospective employers and the dubious ones rampantly duping illiterate job seekers… There are even cases of some fraudulent employers based in countries of the Gulf Cooperation Council who import labour for hawking or “body-shopping” them to others at attractive margins of commissions” (2009, 30). Private recruitment agencies which operate in both origin and destination countries are, thus, facilitating and sometimes driving the substantial migration flow of low-skilled and semi-skilled workers, especially in contexts where governments do not provide information or assistance of any kind, be it micro-credits or other forms of cheap loans. There is abundant evidence of recruitment agencies misleading their ‘clients’ and engaging in malpractices such as contract substitution and the charging of excessive fees (Farbenblum, Taylor-Nicholson, and Paoletti 2013): the costs they impose on migrants often outweigh their value due to the exorbitant amount charged (Agunias 2010). Yet, in the absence of sufficient ‘decent work’ opportunities (in quantitative as well as qualitative terms), and an emerging “migration culture” whereby migration is being presented as key to personal and national development, migrants are faced with constrained choices and often opt for migration out of sheer necessity.

Furthermore, the practices of private recruitment agencies tend to exacerbate existing patterns of uneven development by exploiting more acutely those already marginalised from development. Rural communities, or groups otherwise discriminated against on ethnic or religious grounds, are often more severely exposed to the effects of lopsided development strategies and the accompanying prevalence of unemployment and underemployment. In Sri Lanka, for instance, impoverished and war-affected Tamil-majority regions make up a rapidly increasing share of migrant recruitment yet do so under significant disadvantages relative to more established Sinhalese and Muslim migrant communities (Withers 2016). On the one hand, the lack of decent work within such communities creates additional pressure to migrate out of financial necessity, while on the other the very remoteness and dearth of government involvement in these regions renders a geographic and cultural fixity that is readily exploited by mobile recruiters (Withers 2016). Large recruitment companies in urban regions frequently employ unregulated ‘sub-agents’ who travel to less developed regions and in turn employ local labour brokers to recruit migrant workers needed to fill foreign job orders (ILO 2013). A lack of local knowledge about recruitment practices and regulation often results in the poorest migrants being charged excessive fees for basic job placements, thereby providing commission for the sub-agents and labour brokers that form additional ‘links’ in the recruitment chain.

*3. Displaced Care*

The increasing share of women in migration in the role as primary income earners reflects the reconfiguration of the globally networked economy and resultant gendered ‘demand’ and ‘push’ factors. Migrant women usually find work in traditionally female-dominated occupations, mostly in the health sector and domestic or care services, i.e. in paid reproductive labour. In smaller but considerable numbers, they can also be found working in factories, the service industry and in agriculture. Although well-regulated via formal migration policies, possession of legal status (that is, entry and work permit) does not necessarily translate into labour law protection or even recognition by labour laws. Thus, national employment acts or labour standard laws do not recognise domestic work as a legitimate form of labour despite the work permit most of these migrants hold. These are issues the new ILO Convention no. 189 on Decent Work for Domestic Workers (adopted on 16th June, 2011) addresses which has to date been ratified by one Asian country only: the Philippines. The following section offers a more detailed discussion of the concept of decent work as it relates to migrant rights.

In a region as poor as South Asia, the trend toward the feminisation of migration is also directly related to the feminisation of poverty, amounting to ‘triple feminisation’ (Piper 2011). In Nepal, one of the poorest countries of the world, for instance, the brunt of poverty is said to fall disproportionately upon women due to gender discrimination, which makes women experience greater livelihood insecurity than men. In Nepal, the majority of female migrants are reported to be married with children, hence it can be assumed they migrate because of financial problems in sustaining a household and men’s inability to provide a sufficient income in order to sustain a whole (and often extended) family (Bhadra 2007). Feminisation of migration, thus, means that it is now more often mothers who leave their children and husbands behind than in previous migration phases; this entails all sorts of problems in terms of shaking up existing gender regimes. Yet, the temporary nature of women’s migration, without the option for family unification, also means that the chances for sustained social change are minimal. Re-absorption into existing structures is more often the result. With the broader social acceptance of shifting gender roles only slowly catching up with reality, it is often the women who are blamed for the familial or marital problems that occur in the context of their outmigration, and are socially chastised as having abandoned their children and families in the pursuit of foreign employment. Ironically, sending-country governments will often perpetuate dominant patriarchal narratives that stigmatise women’s migration while implicitly relying on these same categories of migration as key foreign exchange earners via remittance transfers (Withers 2016). What is ignored is that marital problems and the pressures of family life often existed well before the women’s decision to take up employment overseas (see e.g. Gamburd 2000) and, in some cases, are a primary motivating factor for migration itself.

These three features of migration practices – the temporariness of labour migration, the commercial brokering of recruitment and the prevalence of embedded gender asymmetries – represent institutional characteristics that ensure the perpetuation of migrant precarity at home and abroad. The notion of forced transnationalism arises from the recognition that this experience of protracted precarity is, for many migrants, an inescapable set of social and working realities whose navigation demands the adoption of transnational existences. While recourse to transnationalism, in the form of labour migration, may ease certain economic and social tensions of developmental marginalisation in sending countries, the straining of cultural ties, familial life and work itself produces another set of hardships. This combination of factors explain why transnationalism is understood as ‘forced’, but also why the migrant rights movement has, in turn, become a transnationally-organised political force; the spatial fragmentation of migrant hardships has necessitated a similarly broad network of advocacy and support for those workers.

**Rethinking Migrant Rights as a Consequence of Forced Transnationalism**

*The Right to Decent Work*

Work is central to the migrant experience but since much of intra-Asian labour migration is to feed persistent demand in low-paid sector jobs, a deficit of *decent* work has become prominent. The concept of ‘decent work’ as a critique of dehumanising work and earning conditions, as well as a critique of broader social injustice in light of a globally networked economy and the expansion of low wage sectors around the world has gained in moral and political significance (Menge and Scheper 2012). The issue of a more equitable shaping of globalisation which includes fairer and safer forms of cross-border migration, therefore, crucially centres upon decent work and decent income.

Since temporary contract migrants’ primary goal is to access overseas employment and remain in continuous employment throughout the length of their contract in order to maximize the opportunities provided to them, the two key components of ‘decent work’ – ‘right to work’ as well as ‘rights at work’ – are of paramount importance to allow for the best possible outcome while abroad but also upon return. Work in low-wage sectors, especially for non-citizens, however poses serious problems regarding migrants’ ability to be ‘agents of development’ or entrepreneurs. Low-wage migrants rarely enjoy the same degree of labour protection as indigenous workers or highly skilled migrants. Low-wage migrant labourers are subjected to constant risk of breach of contract, substitution of contract and the non- or under-payment of wages (Human Rights Watch 2006; Farbenblum, Taylor-Nicholson, and Paoletti 2013; Amnesty International 2016). In addition, care and domestic work is often not recognized as ‘work’ by national labour legislation, subjecting the many foreign domestic workers to the whims of individual employers. Although migrant workers tend to have in principle the right to join trade unions in most countries, they are barred from forming their own unions, even in many so-called democracies such as South Korea. Often, when temporary contract migrants lose their job, even in cases of unfair dismissal, they are made to return home without being able to obtain redress for their treatment. Labour markets are inherently transnational yet labour rights, it seems, are not.

In this context, global institutions such as the ILO play an important role. The ILO’s definition of decent work is based on the idea of key working conditions and expressed in its declaration of 1998 on fundamental principles and rights at work. Those principles are freedom of assembly and right to collective bargaining; abolition of all forms of forced labour and child labour; and the ban on discrimination at the workplace. Although the issue of wages and income do not directly appear among those principles, the Constitution of the ILO (in its chapter III, section d) does state as an explicit aim that wages should reflect a just share of the fruits of progress to all. The latest development as regards the topicalising of decent work from a global and development perspective, are the Sustainable Development Goals and Agenda 2030. Unlike their predecessors, the Millennium Development Goals, migration is explicitly referred to. Goal 8.3 on ‘decent work for all’ and Goal 5.4 on recognising and valuing unpaid care and domestic work are particularly vital – and reflect the ILO’s existing work in this regard, including the new ILO Convention no. 189 on Decent Work for Domestic Workers. They are therefore also a reflection of the influence taken by the trade unions in conjunction with migrant and labour rights advocates.

*Translating Decent Work into Practice: Migrant Rights Activism*

In this sub-section we turn to activism as means of contesting the lack of attention paid by the policy making world to, or barriers put in place to the realisation of, migrant rights. Forced transnationalism similarly suggests the way in which responses to the lack of rights, i.e. migrant activism, must be conducted across spatially and legally fragmented spaces of contestation that mirror the transnational dimensions of labour migration flows. The challenge of organising the effective distribution of social, financial, legal and political resources within and alongside transnational networks has proven one of the greatest practical hindrances to successful migrant activism. For countries that have long been engaged in international labour migration, such as the Philippines, the ‘export’ of labour has been paralleled by a rising migrant rights movement that operates locally as well as through transnational networks spanning the whole region. This movement broadly attempts to reassert a rights-based approach to the regulation of international migration that otherwise tends to be dominated by a utilitarian approach preoccupied with the economic benefits for sending and receiving countries, and is less concerned with supporting the interests of individual migrants and their families.

The current framework of highly restrictive migration policies in the absence of effective labour regulation has become subject to increasing levels of politicisation on the part of an expanding transnational migrant rights network within the evolving global migrant rights movement. The necessity to build coalitions across borders – a prominent feature within the transnational advocacy network literature (Keck and Sikkink 1998; Piper 2015) – is reinforced by, and its particular urgency derived from, the specific circumstances surrounding the strictly temporary nature of legal migration in Asia, manifested in the simultaneous lobbying of countries of origin as well as countries of destination to safeguard migrants’ basic labour rights and uphold international standards. Regional networks such as the Migrant Forum in Asia have the additional task to also lobby ASEAN, another space comprised of countries of origin and destination that make up specific intra-regional migration corridors. Since political opportunity structures are almost absent at the regional level, however, the global level – the United Nations and fora such as the Global Forum on Migration and Development, therefore, often remains the only target for asserting pressure.

In cases where national channels of engagement with policy processes are non-existent (such as Malaysia and West Asia, that is the Gulf states), the strategy employed by activists has been to scale ‘up’ – that is to direct their activism to the global level of policy making and thus international organisations or global policy fora); and also to reach ‘out’ by forging transnational and cross-institutional alliances. In other words, the key strategy employed by advocacy organisations is to form or join networks and alliances that allow them to operate in a transnational space and engage with the politics of policy making at multiple levels of governance. Global union federations have proven vital allies in this regard, and their participation in the Global Coalition on Migration has been a great achievement. The ultimate message by the emerging migrants’ rights movement at national, regional and global level is to stop what is essentially been viewed as a matter of forced migration – a concept which was hitherto primarily applied to the case of refugees (Wui and Delias 2015; Piper 2015). The key ‘action’ has been the challenging of the dominant discourse and policy prescriptions emanating from policy fora and processes. This challenge involves addressing the lack of attention paid to ‘labour’ governance in addition to, or instead of, an almost exclusive focus on migration governance.

The multi-scalar migrant rights movement interprets, frames and gives meaning to the notion of the rights of non-citizen workers in a holistic manner. On a general and more abstract level, for migrant workers, the conceptualisation of their rights has to be located within the overlapping frames of citizenship, human and labour rights. The blurring of those rights frames derives from an approach to migrants’ rights that is necessarily global and transnational, and in doing so moves responsibility for a better redistribution of the gains of migration beyond the confines of singular states or the realm of bilateralism between specific pairs of sending and receiving countries. This in turn is related to the institutional environment involved in migration policy: the global, regional and national. This environment is fragmented, inconsistent in terms of capacity and level of involvement as well as in terms of offering opportunities for engagement to civil society actors, including unions. Finally, the highly restrictive policy environment based on the primacy of temporary migration promoted at the global level by many international organisations and practiced by many Asian states for decades is characterised by the absence of pathways to citizenship or constitutes a pathway with increasing obstacles. This situation has serious implications for migrants’ ability to exercise their political rights.

In less abstract and more concrete terms, the most pressing issues identified by migrant and labour rights activists (see e.g. Farbenblum, Taylor-Nicholson, and Paoletti 2013) relate to the exploitative recruitment process along the global production and care chains, substitution of contracts as well as the underpayment and non-payment of wages. Given the high competition on the low-wage ‘migrant labour market’ in light of corrupt state institutions and an expanding private recruitment industry, migrants are subjected to inhumane labour conditions and violation of their labour rights throughout the migration cycle, starting already at the pre-migration stage, continuing on during overseas employment as well as upon return. The ultimate challenge that remains concerns the issue of how to address the structural inequalities that result from the neoliberal and growth-oriented economic model that still predominates globally and will also hamper the realisation of the United Nations’ Sustainable Development Goals. Labour and migrant rights activism has to be incorporated into broader activism that deals with global redistribution – be it along taxation, the incorporation of social clauses into trade agreements and a universal basic income implemented nationally for everyone everywhere.

**Concluding Remarks**

Investigating the manner of regulating intra-Asian migratory movements serves as a laboratory to trends we can observe on the global level. That is, the trend away from permanent settlement and the citizenship model to rising incidences of temporary or circular migration, often employer-tied, exposing migrants to heightened socio-legal precarity as a result. Based on a utilitarian economic calculus, and in light of migrants’ lacking political rights, we argue that this regulatory framework results in ‘forced’ transnationalism. ‘Forced’ is thereby understood in two ways: i) the imposition of migrant subjectivity as ‘agents of development’ in light of lacking work opportunities ‘at home’, fostered by a specific culture of migration; and ii) the ongoing politico-economic crisis situation in countries of origin, captured here by the notion of ‘protracted precarity’.

The literature on migrant transnationalism has predominantly dealt with socio-cultural practices at micro or individual level and tended to take a celebratory stance on transnational practices. By bringing in the issue of precarity, on the basis of migrants’ insecure legal, political and economic status, we take a more critical stance on transnationalism by re-conceptualising it as often being a ‘forced’ experience. In doing so we do not claim that all forms of transnationalism are involuntary or have negative outcomes. Rather, it is to add an additional perspective on transnationalism that derives from the particular experience of migrant workers across Asia – which is an experience that is, however, spreading globally – and which encourages a dialogue between transnationalism and precarity as related concepts. Forced transnationalism thus offers a new concept for understanding the contestation of migrant rights by confronting the existing overstatement of migrant agency and emphasising the strained social and economic ties inherent to transnational existences within state-managed migration flows, along with the challenges of organising resistance within these same spatial and jurisdictional parameters.

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2. The employer-tied visa sponsorship scheme used extensively in the Persian Gulf [↑](#footnote-ref-2)