

ISSN 2454-3675

7  
JULY 2015

Global Research Forum on Diaspora and Transnationalism

**STATE STRATEGIES OF DIFFERENTIATED CITIZENSHIP**

**INDIA'S DIASPORA ENGAGEMENT POLICY**

**Diksha Jha**



**GRFDT**  
Global Research Forum on  
Diaspora and Transnationalism

**RESEARCH MONOGRAPH SERIES**



## **GRFDT Research Monograph Series**

GRFDT brings out Research Monograph series every month since January 2015. The Research Monograph covers current researches on Diaspora and International Migration issues. All the papers published in this research Monograph series are peer reviewed. There is no restriction in free use of the material in full or parts. However user must duly acknowledge the source.

### **Editorial Board**

Dr. Anjali Sahay	Associate Professor, International Relations and Political Science at Gannon University, Pennsylvania, USA
Dr. Ankur Datta	Assistant Professor, Department of Sociology, South Asian University, New Delhi
Dr. Els van Dongen	Assistant Professor, Nanyang Technological university, Singapore
Dr. Evans Stephen Osa- buohien	Dept. of Economics and Development Studies, Covenant University, Nigeria
Prof. Guofu LIU	School of Law, Beijing Institute of Technology, Beijing
Dr. Kumar Mahabir	The University of Trinidad and Tobago, Corinth Teachers College, UTT
Dr. M. Mahalingam	Research Fellow, Centre For Policy Analysis, New Delhi
Dr. Nandini C. Sen,	Associate Professor. Cluster Innovation Centre, University of Delhi, New Delhi
Dr. Nayeem Sultana	Associate Professor, Department of Development Studies, University of Dhaka, Bangladesh
Dr. Ned Bertz	Assistant Professor of History, University of Hawaii
Dr. Raj Bourdouille	Migration and Development Researcher, Centre for Refugee Studies, York University, Toronto, Canada
Dr. Smita Tiwari	Research Fellow, Indian Council of World Affairs, New Delhi
Dr. Veena Sharma	Independent Scholar on Diaspora, New Delhi
Prof. Vinesh Hookoomsing	University of Mauritius, Mauritius

**Managing Editor: Dr. Sadananda Sahoo**

**Email: editor@grfdt.com**

**Design and Production: Monika Bisht and Rakesh Ranjan**

**©Global Research Forum on Diaspora and Transnationalism (GRFDT) . Printed, designed & circulated by GRFDT**

**ISSN 2454-3675**

**STATE STRATEGIES OF DIFFERENTIATED CITIZENSHIP**

**INDIA'S DIASPORA ENGAGEMENT POLICY**

**Diksha Jha**

**PhD Scholar, Centre for the Study of Law and Governance**

**Jawaharlal Nehru University, New Delhi.**



**Global Research Forum on Diaspora and Transnationalism**

**K-1/114, First Floor, C R Park, New Delhi-110019,**

**Email: [contact@grfdt.org](mailto:contact@grfdt.org), Contact: +91-9818602718**

**Website- [www.grfdt.org](http://www.grfdt.org), Facebook- [www.facebook.com/diaspora.transnationalism](http://www.facebook.com/diaspora.transnationalism)**

**LinkedIn- [www.in.linkedin.com/in/grfdt](http://www.in.linkedin.com/in/grfdt), Twitter- [www.twitter.com/grfdt2012](http://www.twitter.com/grfdt2012)**

## Abstract

The nature of emigrant or diasporic citizenship assumes a differentiated form depending on how the state of origin chooses to engage with its diaspora residing in different parts of the world, having different migration history, and possessing different skill levels. This paper attempts at undertaking an analysis of the Indian state's policy vis-à-vis its diaspora. The two categories of diaspora taken for the purpose of analysis are the Persons of Indian Origin (PIOs) belonging to the high skilled and professional class residing in the developed states; and the short term emigrants who belong to the category of migrant workers going (to the Gulf states) for temporary employment. Though the Indian workforce is employed for temporary contracts in different parts of the world, this paper in particular chooses the Gulf states as the employment state. These two categories have been purposively chosen to illustrate the Indian state's differentiated nature of engagement with both of them. It has been argued that the Indian government's diaspora policy has a differentiated impact on citizenship statuses for these two categories. As regards the first category, the state remains extremely responsive and makes numerous efforts to chase them well enough in order to invite their economic contributions. The second category which constitutes the short term emigrant workforce of the lesser skilled order, in addition to being a lesser citizen at home, experiences state's apathy and lack of concern in the emigration context when they experience gross violation of rights in the Gulf states. The research methodology consists of both primary and secondary sources. The wide ranging secondary (scholarly) literature on emigration, citizenship has been backed by primary sources like interviews (largely semi-structured), citing anecdotal evidences from the 12th Pravasi Bharatiya Divas (attended by the author in January 2014).

=====

## About Author

Diksha Jha is Ph.D. Scholar at Centre for the Study of Law and Governance, Jawaharlal Nehru University. This paper is based on her M.Phil Dissertation titled "Differentiated State Strategies of Citizenship and the Indian Diaspora" that was submitted to Jawaharlal Nehru University in July 2014 under the supervision of Prof. Niraja Gopal Jayal (Centre for the Study of Law and Governance, JNU). The author completed her M.A. in Political Science from Lady Shri Ram College, Delhi University and B.A. (hons) in Political Science from Sri Venkateswara College, DU. The major areas of interests of the author includes, Migration studies, Diaspora, Citizenship, Governance. The author has presented papers on the above mentioned themes in national conferences and seminars. Her Doctoral research would focus on inter-state rural to urban migration in India and the citizenship issues involved in it.

**Statement: All the views expressed in the paper are of the author(s).**

# State Strategies of Differentiated Citizenship

## India's Diaspora Engagement Policy

**Diksha Jha**

### INTRODUCTION

Citizenship in the context of emigration can be understood in terms of both legal status and the actual practice (Barry 2006). This paper attempts to engage in a detailed discussion of both these aspects. The terms 'emigration', 'emigrants', 'emigrant state' would be quite frequently used throughout. Emigration implies permanent or temporary movement from the state of origin. Emigrants or diaspora are the category of population that move out temporarily or permanently from their state of origin and Emigrant states are the states from which this movement takes place. The reconfigured citizenship in the context of emigration may be called emigrant citizenship. This paper attempts at presenting an understanding of emigrant citizenship in the context of the Indian state's varied nature of engagement with its two different categories of diaspora. Using the conceptual frame of Diaspora Engagement Policy provided by Alan Gamlen, an analytical assessment of the same would be undertaken in the Indian context. The Indian diaspora for the study has been classified into two categories, namely, the persons of Indian origin of the high skilled order residing in the Western states and the temporary emigrant workforce possessing lesser skills and working on contract basis in the Gulf states.

The varied nature of state's engagement with both these segments of the diaspora results in what I call differentiated citizenship status in the context of emigration. While the PIOs experience a value addition in their citizenship status through the home state's efforts at extending benefits (like Overseas Citizenship of India status), the migrant workers, from being the lesser citizens already at home face further rights erosion in the context of temporary emigration.

### Section 1: The Global Indian Diaspora: Nature of Indian Emigration

India has the second largest diaspora in the world after the Chinese. The 25 million overseas Indians that constitute the so called 'global Indian family' (popularly referred as in the annual diaspora meet like the Pravasi Bharatiya Divas) is not a homogenous group either. It is vastly varied in terms of nature of migration, region, skill type and belonging to the homeland. The Indian diaspora, comprising of Persons of Indian Origin and Non-Resident Indians constitutes a global community "representing diversity of forms, types, geographies and times of formation" and thus calls for an engagement that is distinct and diverse(Annual Report 2012-13).

The dispersion of people from India over the past hundred years may be divided into two phases. The first phase of migration that took place in the colonial era, involved the involuntary, forced movement of people to fulfil the demand for cheap labour in the aftermath of the abolition of slavery. The second phase consists of two kinds of movement. The first includes the flow of highly skilled professionals, workers and students with tertiary and higher educational qualifications to the developed countries of the West. The second group includes the semi-skilled and unskilled workers going to the Gulf states and South East Asian states. It may be noted that the government of India overlooks the category of such migrant workers into the fold of its global diaspora. This paper seeks to include this segment of less skilled workers (in the Gulf countries) into the fold of the Indian diaspora, and then analyse the state's diaspora policy. It may be argued that this inclusion is undertaken due to the fact that such categories of temporary migrant workers follow a pattern of migration that involves migration, return and re-migration (when their contracts get renewed). It may further be noted that, they fall under the broader definition of diaspora as suggested by Vertovec (1997) who defines the diaspora as, "any population that is deterritorialized or transnational, that is, which has originated in a land other than the one where it currently resides, and whose social, economic and political networks cross the borders of nation-state."

## Section 2: Forms of Diasporic belonging and practices of citizenship

The feeling of belonging to the homeland has manifested differently at various points of time in history. From undertaking revolutionary activities against British Imperial rule, while in exile (Zachariah 2013, 575), to being firmly rooted in Indian cultural traditions and customs (Graf 2008, 81), to being a significant contributor to the Indian economy (through remittances, investments, technological knowledge), the Indian diaspora has showcased from time to time its desire to connect with the homeland. The nature of belonging however remains varied for the different diasporic categories.

The categories of persons of Indian origin who are descendants of the older generation (who migrated in the pre-independence era) exercise a form of belonging that is primarily cultural in nature. For most of them, visiting India means renewing ties of culture, locating ancestral roots and learning about the country's history and culture. What remains pertinent in all this is the presence of a pervading hierarchy that these PIOs experience (*vis-à-vis* their counterparts who are recent migrants settled in the West) and at the same time speak at forums like the Pravasi Bharatiya Divas. Often, as it turns out from their experience during the visits they make to their cultural homeland where they are doubted to be the "real" PIOs (Indians). In one of the interactions I had on the occasion of 12th Pravasi Bharatiya Divas with a fourth generation PIO (presently resident of The Netherlands, whose ancestors had migrated to Suriname in the early twentieth century), who felt that her belonging towards homeland was purely cultural, as, despite being away from India, her family had ensured that the religious and ritualistic practices in the Hindu tradition are adopted by every family member. At the same time she also believed a strong presence of hierarchy among the PIOs which meant that the Government of India had not much to offer to its older diaspora. She said, "I don't think the Indian government treats people like us at par with the affluent and high class people coming from the Western countries. Most of the schemes that are for the diaspora are available not for all but few, who are close to the government." Another PIO shared a similar sentiment regarding cultural belonging to India. He said: "My ancestral village is in Bihar...I don't know exactly where, but I want to find out. People of Indian origin who are in Mauritius mostly have their ancestral roots in Bihar and they have kept the culture intact...like everyone knows the Bhojpuri language."

The other category constitutes the recent (post-independence emigrants) PIOs of the high skilled and professional class, standing tall in the hierarchical order, primarily due to their economic affluence thus making them the most favourable diasporic asset for the state. Their belonging to homeland, it may be argued is not just cultural and affective, but also economic and utili-

tarian in a number of ways. They are contributors to development processes in the state of origin in manifold ways. These include, "remitting money, investing, getting involved in trade or philanthropic projects, transferring knowledge, raising the country's tax income, spending as tourists, or by bringing about social change in the country or its bureaucracy" (Naujoks 2013, 83). This phenomenon of contribution not just exists at the individual level but at the level of organisations too. The Indus Entrepreneurs (TiE) recruits successful veteran entrepreneurs, corporate executives, and senior professionals who have reached a stage in their professional life when they are ready and willingly able to contribute to the industry at large in both the countries of residence and origin (Sahay 2009, 205).

While the above category of the diaspora and its contribution is widely recognized and appreciated by the Indian state which regards them to be the diasporic heroes, the segment of temporary emigrants or migrant workforce in the Gulf countries constitutes that category of the Indian diaspora which the state exports in the form of cheap labour force requisite for the host state's construction industry, which is no less significant in terms of contribution through remittances, and also goes unnoticed in the eyes of the home state. The home state, in this case the Government of India refuses to interfere and protect their rights which get eroded in a huge way in the host states largely due to the labour unfriendly policies practiced in the Gulf countries. The already lesser citizens at home, the migrant workers, after migrating to the Gulf states on contractual basis, find themselves trapped in a situation under mercy of the employers and inconsiderate host state governments. Under such a helpless scenario, they pin their bleak hopes on the Indian government, which to add to the already existing worries, turns a blind eye to their problems.

The next section will provide a conceptual understanding of the Indian diaspora policy using the theoretical frame of Alan Gamlen's Diaspora Engagement Policy. An attempt will be made thereafter to elucidate upon the differentiated state strategies towards the diaspora and the varied implications for citizenship for both the categories. Such an analysis will affirm the view that class and skill remain major indicators for state's engagement with the diaspora and that, privileging of one diaspora over the other on grounds of higher degree of skill and economic affluence are markers of Indian diaspora policy.

## Section 3: Indian Diaspora Engagement Policy: A conceptual understanding

The policy of engaging with the diaspora signaled a break from the past (till about the 1980s) when the Indian government made it amply clear that the diaspora was meant to show loyalty towards the state of residence and no attempt whatsoever was made from

the part of the Indian state to reach out or involve the overseas Indians in any way with the issues of homeland. With changed global settings that included end of bipolar period and host of domestic factors like the balance of payment crisis which led to a more open and liberalized Indian economy were some of the several reasons that resulted in the state's renewed interest in its diaspora. The Indian diaspora engagement policy must be understood in the light of this background.

The working of Indian diaspora policy and its varied implications for different categories of the diaspora (the two categories in this study) can be explored at the conceptual level by using the typology of diaspora engagement policy as proffered by Gamlen. There are two main underlying arguments. One, the diaspora engagement policies must be viewed as "a constellation of institutional and legislative arrangements and programmes that come into being at different times, for different reasons, and operate across different time-scales at different levels within home-states" (Gamlen 2006, 4). Secondly, such policies aim at "(re)producing citizen-sovereign relationships with expatriates, thus transnationalizing governmentality- the means by which a population is rendered governable, through the construction, machination, and normalization of a set of governmental apparatuses and knowledges" (Gamlen 2006, 5). In other words, such policies should not be necessarily considered as one homogenous strategy applied uniformly, but rather, as varied in nature.

The other point regarding the transnationalisation of governmentality implies that, the "disciplinary apparatus requisite for the exercise of power constitutes three kinds of relationships, namely, relations of power, relationships of communication, and finalized activities." Thus, the three components of the Diaspora engagement policy (Gamlen 2006) include the following:

- Capacity building policies which aim at "discursively producing a state-centric transnational national society, and developing a set of corresponding state institutions."
- Extension of rights to the diaspora, thus "playing a role that befits a legitimate sovereign."
- Extraction of obligation from the diaspora, on the ground that emigrants "owe loyalty to this legitimate sovereign" (Gamlen 2006).

## Capacity Building Initiatives: Symbolic Practices and Institutional Building

Capacity building for the diaspora is achieved through the twin processes of institution and symbolic nation building processes (Gamlen 2006, 5). Thus, while institution building makes possible the exercise of power through putting in place the "objective capacities", symbolic nation building allows the transmission of the exercise of power by establishing a "relationship of communication" through a system of symbols and signs. Symbolic nation building policies consist of "a broad range of initiatives and programmes to increase emigrant's sense of belonging to a transnational community of co-nationals and to boost the profile of the state within this community" (Gamlen 2006). The symbolic gestures are expressed during the high level rhetorical celebrations organized for the diaspora, where they receive "national heroes" welcome and often even bestowed with prizes and accolades.

In India, such symbolic gestures are expressed during the annual diaspora meet called the "Pravasi Bharatiya Divas." Since 2003, India has been celebrating the Pravasi Bharatiya Divas (PBD) as an occasion to mark the contribution of the overseas Indian community in the development of India. Counting the diaspora to be an integral part of the global Indian family, the Prime Minister in his address at the Fifth Pravasi Divas said,

We are one family. The whole world is our home. That is why I have often said that while the sun has set on many great empires of the world in the past, the sun will never set on the world of the Indian diaspora! From Fiji in the East to Los Angeles in the West, from Cape Town in the South to Toronto in the North, the people of Indian origin are the world's most globalized community.

The rhetorical invocation of "Mother India's Children" and "One Global Indian Family" marks a crucial departure from a uniform stand (of leaving out the diaspora) that was held by the government for a long time. Such rhetorical imaginings and gestures assume a kind of uniformity and homogeneity in the diaspora by appearing to be difference blind towards the "nature of migration, history of migration and class positions." Events like the PBD manage to consolidate such distinct categories like NRIs and PIOs in order to "produce a single history of cultural, economic and political affiliation to India" (Mani and Varadarajan 2005, 51). This Indian diasporic subject represented "ancient histories of migration as well as more recent travels, that may be

temporary or permanent; established residence and acquired citizenship in developing as well as industrialised countries; and accumulated wealth through manual as well as intellectual labour" (Mani and Varadarajan 2005).

The trend of holding conventions like the Mini or Regional PBD in the overseas states from time to time can be seen as continuance of the state's attempts to engage and interact with its diaspora and ensure their connectivity with the ancestral homeland (Annual Report 2012-13, 17). To add to the fervor of symbolism and gestures, the Pravasi Bharatiya Samman (Annual Report 2006-07, 14) award does contribute further to such imaginings. Since 2003, the government on the occasion of PBD confers these awards to "honour distinguished overseas Indians in recognition of their achievements; their contribution in strengthening India's relations with other countries, promoting the honour and prestige of India and fostering the interests of overseas Indians" (Annual Report 2006-07, 16). Through events like the PBD, the Indian state seeks to create a "transnational network between diasporic populations that is nationalist in origin, character, and aspiration" (Mani and Varadarajan 2005). Other symbolic initiatives include programmes like the Know India Program, Study India Program, and Tracing the Roots program in order to familiarize the Indian diaspora youth (the PIO children and also the PIOs) with the culture, traditions and modern day practices of their ancestral land. These are attempts primarily aimed at strengthening the bond at the cultural level.

Having a set institutional mechanism in place is a second crucial element of the capacity building initiative by the state of origin. India has in place an institutional framework to cater to the varied needs of its diaspora (the Persons of Indian origin, Non-Resident Indians, and the migrant workers). Such policy related to institutional building, Gamlen regards "furnish the state with technologies, systems, and institutions to govern diaspora populations." Steps like monitoring efforts through the Foreign Service department, having in place a dedicated bureaucratic structure, and consular and consultative bodies to help build transnational networks, assist in the preparation of the state's strategic techniques to govern the diaspora (Gamlen 2006, 8).

In India, the Ministry of Overseas Indian Affairs (MOIA), established in 2004, functions as an umbrella institution to facilitate the above mentioned motives (Annual Re-

port 2006-07). As is evident from its functioning and the structural framework, the creation of two divisions, namely, "Diaspora Services" and "Emigration Management" caters to the needs of high-skilled diaspora (PIOs and NRIs) and the low skilled emigrant workers respectively. Furthermore, the use of the term 'services' and 'management' is indicative of the fact that how the state views the two categories of its diaspora (the high skilled and the low skilled) where the low skilled emigrant is subject to management and control by the state, and the high skilled and professional diaspora are seen as contributors to India's development processes.

The Protector General of Emigrants (PGE) under the Ministry is the authority responsible for protecting the interests of the Indian workers going abroad. It is also the authority to "issue registration certificate to the Recruiting Agents (RAs) for overseas manpower exporting business" (Annual Report 2012-13, 31). The main logic governing the emigration of low skilled workers is the fact that due to the lower educational and skill levels, they remain prone to exploitation and thus need additional protection of the State. This results in a range of protectionist safeguards. The Emigration Act, 1983 regulates the recruitment for overseas employment and departure of the intending emigrants from India. Under Section 22 of the Act, "no citizen of India shall emigrate for any work falling under Section 2 (1) (o), unless he obtains emigration clearance from the Protector of Emigrants" (Annual Report 2012-13). These come under the Emigration Check Required (ECR) passport holders, whose educational qualifications are below matriculation and who wish to emigrate for employment to the 17 ECR countries. This process of categorizing emigrants according to education and skill levels and nature of work is a continuation from the colonial past where "indentured laborers" emigrating to work in the colonial plantations were not supposed to possess any document of citizenship and thus were left to face the brunt of local labor laws in the destination countries. The creation of ECR (Emigration Check Required) category of emigrants in a similar way attempts at dividing the citizenship governance regime by bringing the less skilled workers under a strong regulatory framework, and thus making their situation in the host states even more vulnerable (Rajan, Varghese and Jayakumar 2010, 20-21).

Thus, from being lesser citizens at home, such laws and rules lead to further rights erosion for the less skilled

ECR category Indian diasporic emigrants in the Gulf countries. This makes a strong case for the argument that this paper intends at. The policies and state strategies work in a way that privilege the high skilled professional category of the Indian diaspora over those possessing less skills and whose migration is temporary in nature. Moreover, attempts by the state to control and manage the category of overseas Indian workers on the one hand, and ensuring the involvement of the high skilled permanent emigrants (PIOs in this case) by rhetorical and symbolic practices and extending them certain rights and privileges from time to time is what acts as differentiating state strategies of citizenship, and which also constitutes the second element of the diaspora engagement policy that is taken up in the following section.

### **Extension of Rights: Rights and Benefits for high skilled PIOs and Legislative measures and regulations for Emigrant workers**

While in the last section, discussion on institution building was aimed at "constructing objective capacities to realize relations of power and symbolic practices that produced relationship of communication," in this section, the extension of rights would "constitute finalized activities or specific effects of the exercise of power" (Gamlen 2006, 10). The Indian state through its diaspora policy attempts at this transnationalisation of citizenship by, on the one hand extending limited overseas citizenship rights to its PIOs (thus practicing extension of thin membership and thin rights) and on the other hand, extending instruments of control, regulation and protectionist measures for its overseas worker community (thus extending thin sovereignty).

The long standing demand of the Indian diaspora for dual citizenship was met in the form of "Overseas Citizenship of India," which was a middle path that worked as a compromise solution in place of dual citizenship. The first step towards establishing connection with the diaspora (Persons of Indian Origin in particular) began with the formulation of the "Scheme for Issuance of Person of Indian Origin Card" or the PIO Card in 1999. According to section 2(b) of the notification issued by the Government of India, a Person of Indian Origin meant a "foreign citizen (not being a citizen of Pakistan, Bangladesh and other countries as the Central Government may specify from time to time)." The benefits to a PIO card holder included, getting visa free travel to India, with the card's validity being 20 years, non-requirement for registration with Foreigner's Registration Officer if the stay in India did not exceed 180 days, and enjoying parity with the NRI's with regard to facilities in the economic, financial and educational fields except for acquisition of agricultural/plantation properties. The PIO card due to high fees (1000 USD) and lack of adequate publicity failed to attract the attention of the diaspora.

The High Level Committee on the Indian Diaspora in 2002 submitted a report regarding the possibility of granting dual citizenship to the diaspora. It held that sections 9, 10 and 12 of the Citizenship Act, 1955 could be suitably amended to provide for dual nationality thus avoiding any kind of constitutional amendment that would have otherwise complicated matters (Singhvi 2001). It was also argued that the conferment of dual citizenship would not be automatic and that "it would be confined to persons who were or were entitled to become citizens of India, as well as their children and grandchildren if they have taken the citizenship of the countries specified in the schedule" (Singhvi 2001). The contents in the report therefore were indicative of the fact that unlike the PIO card scheme, this new scheme regarding dual citizenship would benefit only selective diaspora population (mostly resident in the Western states, who migrated in the post-independence period) and that meant overlooking the descendants of the pre-independence migrants (old diaspora).

The new generation of Indian migrants to Europe, North America, Australia, who had become naturalized citizens in those countries had a sense of nostalgia while giving up their Indian passports and were eagerly awaiting the Indian government's offer of dual citizenship. This wait finally ended, when, on the occasion of the first Pravasi Bharatiya Divas (January 2003), the Prime Minister formally declared to extend the facility of Overseas Indian Citizenship (which was not exactly dual citizenship) to the diaspora. Subsequently, suitable amendments were made in the Citizenship Act, 1955 (with an addition of section 7A in the Citizenship Act, 1955) to make room for the rights of the diaspora and it came to be known as "Overseas Citizenship of India" or "OCI" status. Often regarded as an upgraded version of the PIO card (Singh 2005, 145), the benefits under the OCI scheme included

- 1) Multiple entry, multi-purpose lifelong visa to visit India;
- 2) Exemption from reporting to Police authorities for any length of stay in India;
- 3) Parity with Non-Resident Indians in financial, economic and educational fields except in the acquisition of agricultural or plantation properties;
- 4) Registered Overseas Citizen of India shall be treated at par with Non-Resident Indians in the matter of inter-country adoption of Indian children;
- 5) Registered Overseas Citizen of India shall be treated at par with the resident Indians in the matters of tariffs in air fares in domestic sectors in India;
- 6) Registered Overseas Citizen of India shall be charged the same entry fee as domestic Indian visitors to visit national parks and wildlife sanctuaries in India;
- 7) Parity with Non-Resident Indians with respect to entry fees to be

charged for visiting national monuments and museums; and in pursuance of certain professions, namely, doctors, dentist, nurses, pharmacists, advocates, architects and chartered accountants; 8) Parity with Non-Resident Indians to appear for All India Pre-Medical Test or such other tests to make them eligible for admission in pursuance of the provisions governing the relevant acts (Annual Report 2012-13).

Harping on the immense success of the OCI scheme among the contemporary, high skilled PIOs, the Secretary of Ministry of Overseas Indian affairs states,

There are about 15 lakh OCI card holders at this point in time. The largest numbers have been issued in London (about 2.5 lakh), New York (about 1.8 lakh), San Francisco (about 1.3 lakh), Birmingham and Houston (about 1 lakh each). OCI cards have been issued by about 148 countries. The number of card holders is increasing at great pace, nearly 1000 cards are being issued each day. This gives us the confidence that those Indian brothers and sisters who are staying outside also want to have link with the home country. That link could be economic, cultural and social in nature. (...) We have the confidence based on the OCI cards that our engagements can accelerate in science and technology, finance, banking and economics (Chakravarty 2014, 13).

With the access to overseas Indian citizenship, the PIOs experience an elevated citizenship status as in addition to the citizenship rights in the state of residence, the home state offers socio economic benefits in the form of OCI. OCI status may be seen as a form of legal incorporation of diaspora. For the other category of the Indian diaspora, that is the less skilled migrant workers, the state strategies work towards regulation and protectionism rather than rights and status. The Act of 1983 introduced a licensed recruitment regime by bringing about a new system of 'emigration clearance' where 'no citizen was allowed to emigrate without the prior approval of the Protector of Emigrants (Annual Report 2012-13). By subscribing to the logic of 'protection by exception', emigration clearance was made mandatory only for the Emigration check required (ECR) category passport holders, leaving the ECNR passport holders out of the regulatory framework. The ECNR status was conferred by virtue of higher educational status of the passport holder, and initially, persons who were graduates and above were exempted from ECR; this was subsequently reduced, first to the Intermediate level and recently to matriculation level

(Rajan&Percott eds. 2011, 229). The purposive division of citizenry on the basis of educational levels and making emigration extremely difficult for those with lesser skills appears to have a strong resonance with the colonial treatment of the indentured workers.

A review of the management of foreign employment system suggests that there exist four kinds of practices around the world. The laissez faire system, the regulatory system, the state managed system and the system of State monopoly (Sasikumar& Hussain 2008, 12). Under the laissez faire system, the decision regarding labour employment overseas is left completely to the market forces. In a state managed system, the state doesn't simply regulate, but sets up State enterprises to send workers abroad. Under the system of state monopoly, the state assumes full responsibility of labour migration. The emigration management system in India is regulatory in nature. In a regulated system, the state of origin adopts laws and regulation governing overseas employment. The regulatory nature of the Emigration Act, 1983 is evident from the manner in which the persons intending to migrate annually for temporary employment in the unskilled and the semi-skilled categories are subject to the procedures of getting emigration clearance (Sasikumar& Hussain 2008).

As per the law, employment contracts of the workers in the ECR category have to be scrutinized. However, there exist divergences between the letter of the law and the actual experiences of the migrant workers. In a large number of cases, the emigration authorities do not undertake proper verification of the employment contracts. The existing infrastructure in most of the Protector of Emigrants (POE) offices is grossly inadequate to perform the functions efficiently (Rajan\_&\_Percott eds. 2011). Along with this, there is hardly any system in place to monitor the conditions of workers in the destination countries. As a result, the unskilled and semi-skilled migrants encounter problems like premature termination of job contracts, changing of clauses of the contract to their disadvantage, delay in the payment of salary dues, and violation of minimum wage standards. Thus, the ECR status that was intended to provide protection to its holder, in practice has become "a stamp of vulnerability of its holder exposing him/her to various forms of exploitation at every stage of emigration and expatriate life" (Rajan\_&\_Percott eds. 2011, 230).

### **Gendered differentiated Emigration Law**

The women emigrants falling under the ECR category constitute the most vulnerable category. The low skilled women in general and domestic workers in particular are put under "structures of governmentality, where the exertion of power is more effective as it is exercised through seemingly benevolent institutions" (Rajan & Percott eds. 2011, 231). The government of India has sought to undertake restrictive practices for the women emigrants in the ECR category. Following the principle

of 'protection by exception,' such practices, it is believed, would offer protective cover to the women. In 1999, the government banned the migration of Indian workers as house-maids to Kuwait due to the post-war turmoil scenario. In 2002, the Ministry of Labour fixed 30 years as the minimum age prescribed for the deployment of Indian citizens as housemaids in the Gulf States. At the behest of the National Commission for Women, the Ministry of Labour, in 2003, directed all the POE offices to not grant emigration clearance to women who are below 30 years of age and wish to get employed as domestic workers in any foreign country (Rajan & Percott eds. 2011). Such practices tend to attach stigma with the kind of work emigrating women in the less skilled/ECR categories want to take up. The government through an order issued in 2007 declared that women below the age of 30 years and seeking employment as housemaids, domestic workers, hair dressers, beauticians, dancers, stage artists, labourers, etc. in any foreign country would be denied clearance from Protector's office (Rajan&Percott eds. 2011).

The Emigration Management Bill of 2012 though promises to ease out the regulatory tendencies in the current law by replacing ECR with emigration management or what it calls "registration of emigrants"; it does not prescribe a detailed procedure whereby how such a process would be undertaken. This can be understood to be a mere nomenclatural change without any attempt to make the process more emigration friendly. Furthermore, the new bill doesn't address the issue of women and less skilled migrant workers specifically. Rather, it brings the entire overseas recruitment industry including those involved in recruiting the high skilled workers possessing under the purview of emigration management, thus ambiguously dealing with the issue of the lesser skilled workers. There are some positive features in the bill that provides for punitive measures to address the issue of recruitment agents using unscrupulous practices. The bill lists out provisions involving "registration, definition of functions, duties and responsibilities, and periodical rating of the recruitment agents" (Annual Report 2012-13). The bill provides for some strong penal provisions as the maximum penalty has been increased from Rs. 2000 to Rs. 1,00,000. In cases involving exploitation of women and minors, a "punishment of not less than five years of imprisonment and fine not less than Rs. 1 lakh has been provided" (Annual Report 2012-13). Overall, the Indian state practices an emigration policy that clearly doesn't promote emigration. Rather, it proscribes emigration on the basis of gender, age, profession, skill levels which expose the already vulnerable sections like women, less skilled workers to further exploitation in the host state.

The trouble for the less skilled workers keeps on multiplying once they reach the host state. While the Indian government regards such emigration to be risky, it is evident that once such section of its overseas population faces problems pertaining to citizenship issues, exploitation at workplace resulting from gross violation of

work contracts, the Indian state and its representatives (embassies and consulate offices) in the Gulf countries choose to remain in a state of oblivion. In such a scenario, the bilateral agreements and numerous memorandums of understanding signed between the home and host nations provide an empty solution to their persistent struggles.

### **Challenges of Citizenship for the less skilled Indian diaspora in the Gulf**

While the high skilled, professional class of the Indian diaspora in the advanced states gets all the attention and accolade from the Indian government in the form of PIO status, OCI benefits as the earlier section had discussed in length, the less skilled segment comprising the temporary migrant workers in the Gulf states stand at the other extreme of the spectrum. This category of the Indian diaspora is not the state's favorite diasporic actor or hero. Rather, the already lesser citizens at home witness further decline in the citizenship status on emigrating for temporary work in the Gulf. The Gulf States have been one of the largest markets for the Arab and Asian job seekers. Ever since the discovery of oil in these countries, the demand for expatriate labour force has arisen in view of the lack of local workforce in these states. The deployment of foreign workforce in the unskilled and semi-skilled categories led to the rapid development of these countries. The influx of the foreign workforce into these countries also led to rapid population growth in these states (Kapiszewski 2006). Almost 70 per cent of the Indian migrants in the Gulf region comprise the semi-skilled and the unskilled category (Rajan and Percot eds. 2011). Unlike the skilled category of workers, this segment of the unskilled and semi-skilled does not enjoy protection of the labour laws. Largely employed on the basis of temporary contracts, they are constantly subjected to inhuman treatment at workplace, and are grossly underpaid as their contracts are violated on routine basis by the employers. In addition, their basic proof of citizenship, that is, the passport and the other related documents are to be surrendered to the employer making their position extremely vulnerable (Rajan and Percot eds. 2011).

While in the context of emigrant citizenship, a large part of the literature discusses the sending state's relationship with the permanent emigrants (who eventually acquire the foreign citizenship), there is minimal focus on the temporary contract workers (in the unskilled and semi-skilled category) who migrate for a short time period, return and then re-migrate. Since, for most of these temporary migrants, their country of citizenship is their country of origin, in case they face violation of rights in the destination state, there is a limit to what the state of origin can offer regarding protection and welfare. Thus the citizens employed overseas for a temporary time period cannot lay claim on the state (of citizenship) for the implementation of their rights. It remains the origin state's prerogative to intervene and

the extent of such intervention. The origin state (in this case the Indian government) often plays it safely when it comes to strongly negotiating with the host state on the issues confronting the interests of their citizens. During the special Gulf Session at the 12<sup>th</sup> Pravasi Bhartiya Divas held in 2014, a Non-Resident Indian residing in Bahrain brought up the issue of Indian prisoners languishing in deportation cells even after finishing their jail term. He said,

Once the Indian prisoners finish their jail term, they are moved to the deportation cell thus facing travel ban after ending the jail term. In order to get this ban lifted, the prisoners are required to get a no objection notice from their first sponsor. It is extremely difficult for them to go back and find the first sponsor and as a result they have no chance to escape from the deportation center and return home.

To this query, an Indian Embassy official replied that, "it is not easy to negotiate with the Bahrain authorities on issues like the travel ban as we have a lot of resource constraint." This clearly brings to light the apathy, an attitude of indifference of the Indian government towards the problems of its migrant workforce in the Gulf. Under the mechanism of the MoU, the role of joint committees or joint working groups become significant as they are responsible for monitoring the implementation of the MoUs.

Negotiations regarding such practices need to be undertaken on a high pitch by the Indian government. According to a social worker residing in Bahrain whom I met during the 12<sup>th</sup> PBD, "It is not a big issue for the Indian government to take up the issue of its worker's rights one on one with the Government of Bahrain. After all it's a very small island nation and India can have a strong negotiation with them. But the political will is often lacking" (Anecdotes from 12<sup>th</sup> PBD 2014). The Government of India believes that it has been doing what is required and cannot go beyond a point in the negotiation process. The statement from a former official in the Ministry of External Affairs is quite apt in describing the Indian state's stand on the issue of the migrant workforce in the Gulf,

Given the resources available, I believe the Government has done all it could have. It is a well-known fact that the Arab countries treat the workers coming from the developing states very shabbily. However, given our vulnerability on the energy security front, we cannot weigh this issue as a central point.

### **Extraction of Obligations: Diaspora's contributions through remittances, investments and knowledge**

Through the process of extension of rights (which also is equivalent to extending 'thin rights'), the sending states can expect to demand obligations from the diaspora, that is start asserting "thin sovereignty." The states may begin by attempting to "assert thin sovereignty by extracting obligations without extending rights, but if these attempts are sustained, the extension of reciprocal rights becomes inevitable (Gamlen 2006, 13). During a parliamentary debate, a prominent Rajya Sabha M.P. said,

It is advantageous to us that we expect FDI because a large number of our diaspora are very well off and are at very high position. It is a great potential which we should tap. It's a deposit there and therefore is brain bank. Moves like granting of OCI right to our diaspora is part of the larger attempt to draw from that deposit. Everyone says China gets much more FDI than India. If you analyse that, then you will find that they are getting the FDI mostly from the overseas Chinese (Rajya Sabha Debate).

The states have often courted their emigrant population most extensively in the economic sphere. According to Kim Barry, the state's efforts at capturing a part of emigrant earnings fall under three broad categories, namely, sustaining or increasing the inflow of remittances; seeking to coerce economic contribution through taxation; and offering a wide array of benefits and incentives to attract capital and investment inflows from them (Barry 2006, 35).

According to a World Bank estimate, the total volume of financial remittances to the developing states rose from 57.5 billion USD in 1995 to 240 billion USD in 2007 (Kapur 2010). The increased movement of semi-skilled and unskilled workers to the Gulf states in the light of the Gulf oil boom of the 1970's. A steady increase from 15.8 billion USD in 2001-02 to 70 billion USD in 2012 has been noted (Annual Report 2012-13). Another way of demanding obligations from the diaspora is by floating attractive investment incentives. The "Resurgent India Bonds", also called "diaspora bonds" can be termed as one such initiative taken by the Indian state towards economic incorporation of its wealthy emigrant population. A term coined by Anupam Chander, 'Diaspora bonds' are "debt instruments offered by sovereign governments to raise capital principally or exclusively from their diasporas." The reason that homeland states find the diasporas attractive to raise capital is that, even a lower rate of return on the capital than offered in general market is acceptable to them, and they are willing to supply capital at reasonable rates

even when the country's economy is in bad shape (Chander 2001, 534).

The first time that India turned to its expatriate community was in 1991 by offering the "India Development Bonds" during the balance of payments crisis. It helped in raising 2 billion USD in 1992 and 1993. Again in 1998, during the economic crisis following the international sanctions imposed on India after it had conducted the Pokhran nuclear tests, it once again turned to its diaspora "sons and daughters" (Chander 2001). The Resurgent India Bonds (RIB's) launched in 1998 had the following features:

- India asserted that these instruments offered by its State Bank were certificates of deposit and not debt securities.
- The instruments specified that the suits under them could be brought only under Indian law and courts.
- They were available only to the diaspora.

It may also be noted that these instruments were sold to the expatriates residing in Europe, the Middle East and the US through Indian and foreign commercial banks that specialized in providing services to Indian expatriates. The sale was overwhelmingly successful raising 4.2 billion USD, almost more than double the initial expectations. Interestingly these diasporic heroes or "departed sons and daughters" (Chander 2001) were selectively identified by the state whereby a large section of Indian overseas population (belonging to the older diaspora) was categorically overlooked.

### Conclusion

After an analysis of the Indian diaspora policy through the conceptual lens of the diaspora engagement policy, one can conclude that it tends to have a differentiated and varied impact on the diaspora. On the one hand, the policy of Overseas Indian Citizenship provides a value addition in the citizenship status of the diaspora. Through OCI, the diaspora practices the idea of dual nationality. The OCI may not be a formal fulfilment of the aspiration of dual citizenship for the Indian diaspora, but it does offer them recognition as they "embrace this new status with overwhelming national pride (Naujoks 2013, 214). Many of them even go to the extent in saying that they would not have naturalized (taken foreign citizenship) if OCI had not been available. The presence of a status like OCI provides the diaspora with emotional comfort while they decide to forego the Indian citizenship and naturalize and become permanent emigrants. They came to view it as a "replacement of their Indian passport and saw a lot of tangible and intangible benefits to it" (Naujoks 2013).

On the other hand, the emigration policy of the government of India is marked by a sense of conundrum where citizenship status that is already minimal in the homeland, undergoes further erosion in the emigration context with regard to temporary migrant workers in

the Gulf countries. It begins with seizing of the workers' passport by the employer which is their basic proof of identity (as a citizen of India) in a foreign state. In extreme cases of harassment at workplace, the workers run away from the employer and as a result become illegal migrant in a foreign country and thus more vulnerable (Rajan, Varghese and Jayakumar 2010, 49). The section on the extension of rights for the diaspora clearly illustrated the point regarding differentiated nature of engagement whereby the high skilled emigrants/diaspora receives all the accolades for its contribution and success stories are written; and at the same time the less skilled working force in the Gulf states who are no less contributing in terms of remittances get very low attention and recognition (when compared to the high skilled counterparts) and also no protection from the home state when they face gross violation of their citizenship rights in the context of temporary emigration.

It may well be argued that the Indian state views its different categories of diaspora from different lens as is evident from the analysis of its diaspora policy. The high skilled, professional diaspora category get all the concern and affection from the home state while the less skilled temporary emigrant category remains marginalized and outside of the umbrella of care of the Indian government. Thus, such a differential diaspora policy has varied impact on the citizenship statuses of both the categories of diaspora.

### Endnotes

1. The term diasporic citizenship defines the relation between the state of origin and its diaspora.
2. The class of temporary unskilled Indian migrant workers in the Gulf have been termed as short term emigrants for the convenience of the reader.
3. These interviews taken during the 12<sup>th</sup> Pravasi Bharatiya Divas 2014 and through email over the period of March and April 2014 by the author was of immense help to arrive at the main findings for this research.
4. Anecdotal evidence from the 12<sup>th</sup> Pravasi Bharatiya Divas (PBD) held in New Delhi during 7<sup>th</sup>-9<sup>th</sup> January 2014.
5. Ibid.
6. Based on an email interview taken with a PIO residing in The Netherlands. I met her during the 12<sup>th</sup> PBD.
7. Anecdotal evidence from the 12<sup>th</sup> PBD 2014.

8. The typology of diaspora engagement policy has been originally provided by Alan Gamlen in "Diaspora Engagement Policies: What are they, and what kinds of States use them?" Centre on Migration, Policy and Society Working Paper No. 32, University of Oxford, 2006.
  9. Prime Minister's address at the Fifth Pravasi Bharatiya Divas held on 7<sup>th</sup> January 2007
  10. The 17 countries for which an emigration check is required includes Afghanistan, Bahrain, Indonesia, Iraq, Jordan, Kingdom of Saudi Arabia, Kuwait, Lebanon, Libya, Malaysia, Oman, Qatar, Sudan, Syria, Thailand, United Arab of Emirates (UAE), and Yemen (Annual Report 2012-13).
  11. Ministry of Home Affairs Notification F.No. 26011/9/98- IC of 30<sup>th</sup> March, 1999. <http://indiandiaspora.nic.in/diasporapdf/chapter24.pdf>
  12. Ibid., p. 371.
  13. Ibid., Under Section 8 and subclause (i), (ii), (iii), and (iv).
  14. The High Level Committee on the Indian Diaspora mentioned that dual citizenship would be applicable to citizens of select countries like the United States of America, the United Kingdom, countries of the EU, Canada, Australia, Singapore, Malaysia, Thailand, Japan, New Zealand and such other countries mentioned in the schedule to the Citizenship Act, p. 530.
  15. Based on anecdotal evidence from the Special Gulf Session during 12<sup>th</sup> PBD held on 9<sup>th</sup> January 2014 and in an email interview conducted during the course of this research.
  16. Gulf Session, PBD 2014, Anecdotes.
  17. Based on an interview conducted during the course of this research with former Member Secretary, GOI.
- Barry, Kim. 2006. "Home and Away: The Construction of Citizenship in an Emigration Context." New York University Public Law and Legal Theory Working Paper. New York University School of Law.
- Bosniak, Linda. 2002. "Multiple Nationality and the Post-national Transformation of Citizenship." *Virginia Journal of International Law*: pp 979-1004.
- Chakravarty, Sayantan. 2014, Interview with Mr. PremNarain, Secretary, Ministry of Overseas Indian Affairs, Interview- Government of India, *India Empire Magazine*, January 2014.
- Chander, Anupam. 2001."Diaspora Bonds." *New York University Law Review*: pp 479-573.
- Gamlen, Alan. 2006. "Diaspora Engagement Policies: What are they, and what kinds of States use them?" Centre on Migration, Policy and Society Working Paper No. 32, 2: pp 1-32.
- Graf, Carmen Voigt-. 2008. "Transnationalism and the Indo-Fijian diaspora: The relationship of Indo-Fijians to India and its people." *Journal of Intercultural Studies*: pp 81-109.
- Kapiszewski, Andrzej, "Arab Versus Asian Migrant Workers in the GCC Countries," UN Expert Group Meeting on International Migration and Development in the Arab Region, Population Division, Beirut, 2006.
- Kapur, Devesh. 2010. *Diaspora, Development and Democracy The Domestic Impact of International Migration from India*. Princeton: Princeton University Press.
- Lall, Marie- Carine. 2001. *India's Missed Opportunity: India's relationship with the Non-Resident Indians*. Burlington: Ashgate.
- Mani, Bakirathi, Latha Varadarajan. 2005. "The Largest Gathering of the Global Indian Family": Neoliberalism, Nationalism and Diaspora at Pravasi Bharatiya Divas." *Diaspora: A Journal of Transnational Studies*: pp 45-74.
- Ministry of Home Affairs, 30th March 1999, Notification F. No. 26011/9/98- IC, HYPERLINK "<http://indiandiaspora.nic.in/diasporapdf/chapter24.pdf>"

## References

Annual Report 2006-07: Ministry of Overseas Indian Affairs, New Delhi, Government of India.

Annual Report 2012-13: Ministry of Overseas Indian Affairs, New Delhi, Government of India.

<http://indiandiaspora.nic.in/diasporapdf/chapter24.pdf> ,  
accessed on 20<sup>th</sup> June 2014.

Naujoks, Daniel. 2013. Migration, Citizenship, and Development Diasporic Membership Policies and Overseas Indians in the United States. New Delhi: Oxford University Press.

Rajan, S. Irudaya, V.J.Varghese and M.S. Jayakumar.2010. "Overseas Recruitment in India: Structures, Practices and Remedies," in Working Paper 421.

Rajya Sabha Debates.

Sahay, Anjali. 2009.Indian Diaspora in the US: Brain Drain or Gain. Lanham: Lexington Books.

Sasikumar, S. K., and Zakir Hussain. October (2008). "Managing international labour migration from India: policies and perspectives." ILO Asia-Pacific Working Paper Series, International Labour Organisation.

S. Irudaya Rajan, Marie Percot eds. 2011. Dynamics of Indian Migration Historical and Current Perspectives. New Delhi: Routledge.

Singh, Shubha.2005. Overseas Indians The Global Family. Delhi: Shipra Publications.

Singhvi, L.M.2001. High Level Committee on the Indian Diaspora. Government Report, New Delhi: Government of India.

Vertovec, Steven.1997. "Three Meanings of Diaspora exemplified among South Asian Religions." Diaspora: A Journal of Transnational Studies 6, no. 3 : pp 277-299.

Vora, Neha. 2013. Impossible Citizens: Dubai's Indian Diaspora . Durham: Duke University Press.

Zachariah, Benjamin. 2013."A long, strange trip: the lives in exile of Har Dayal." South Asian History and Culture: pp 574-592.

=====

---

## GRFDT Research Monograph Series

### Guidelines for Authors

Original research articles along with abstracts are invited from scholars for Working Paper Series. The papers should be about 5000-6000 words. Illustrations, figures, maps and graphs should be prepared in black and white and be kept to the minimum. All manuscripts are referred to experts in the areas concerned. The editorial decisions will normally be communicated to the authors within one month from the date of submission unless otherwise delayed by the reviewers. The authors may be asked to revise the article after receiving referee's comments. The revised version should highlight revisions so as to have a quick review of the revisions. All the papers will have ISSN no and will be cited in Google Scholar and other academic citation index. The published papers will be available online at [www.grfdt.com](http://www.grfdt.com) in pdf format freely for public view. The complete paper can be submitted to the Editor, Working Paper Series, GRFDT, Email: [editor@grfdt.com](mailto:editor@grfdt.com).

#### Structure of the Paper

##### Headings and Subheadings

The papers should be structured through numbered main headings (in all caps bold), subheadings (in upper/lower bold), and sub-sub-headings (in normal italics). Spellings of frequently used words should be consistent all through the paper.

##### Notes/ Foot/End Notes

Notes should be numbered in Arabic numerals as superscripts inside the text, and their details should appear as end notes. Tables should appear along with their data sources (if not generated from author's own research) in the appropriate places inside the text. Notes for tables should be marked with (\*) and should appear at the bottom of the table.

##### References Style

Reference cited in the text should follow the author-date system (e.g., Cohen, 1997) and should be properly referred to at the end of the text in the APA style.

Note: Please visit our website for detail guidelines. [www.grfdt.org](http://www.grfdt.org)



Global Research Forum on Diaspora and Transnationalism (GRFDT) is a consortium of researchers and policy makers drawn from national and international universities, institutes and organizations. GRFDT is presently based in India and is shaping as the largest such group focusing specifically on the issues related to diaspora and transnationalism.

The GRFDT works as an academic and policy think tank by engaging national and international experts from academics, practitioners and policy makers in a broad range of areas such as migration policies, transnational linkages of development, human rights, culture, gender to mention a few. In the changing global environment of academic research and policy making, the role of GRFDT will be of immense help to the various stakeholders. Many developing countries cannot afford to miss the opportunity to harness the knowledge revolution of the present era. The engagement of diaspora with various platform need to be reassessed in the present context to engage them in the best possible manner for the development human societies by providing policy in-put at the national and global context.