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Demand for migrant workers: institutional system effects beyond national borders

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ABSTRACT
This paper explores how wealthy countries’ reliance on migrant workers is not restricted to migrants working within their borders but extends, through global supply chains, to migrants employed in lower-income countries. It provides an exploratory discussion of how migration, labour, and trade systems interact to argue for the expansion of research on dependence on migrant labour – a ‘widening of the lens’ – beyond national systems effects. Using the COVID-19 pandemic and associated concern with the provision of essential goods and services, we consider how the employment of migrants in global supply chains, and by extension societal resilience of higher-income countries, is shaped by trade policies and agreements regulating flows of essential products across countries; labour markets and conditions in low- and middle-income countries producing essential products for export; and migration systems between and within low- and middle-income countries. Thus, we tentatively explore how national systems and institutions interlock with those of other states, and also with transnational and international institutions. We illustrate our arguments with a case study of the Malaysian production and export of rubber gloves, an essential good during the COVID-19 pandemic that is heavily dependent on migrant labour.

KEYWORDS
Migrant workers; labour markets; institutional systems; supply chains; Malaysia

1. Introduction
The rapidly growing research literature on migrants and COVID-19 highlights the relatively high although variable share of migrants among workers employed in essential occupations in sectors such as health, care, food production, and transport in many high-income countries (e.g. Poeschel and Nivorozhkin 2022; Fasani and Mazza 2020; Fernández-Reino, Sumption, and Vargas-Silva 2020; Gelatt 2020; OECD 2020a). It also raises important questions about the role of migrant labour – both so-called high- and lower-skilled workers – in shaping societal resilience to an external shock, the potential implications for labour immigration policies and migrants’ rights, and
how these may vary across high-income countries with different institutional landscapes (Anderson, Poeschel, and Ruhs 2021; Tagliacozzo, Pisacane, and Kilkey 2020, 2021; Fox-Ruhs and Ruhs 2022).

The increased awareness of migrants as essential workers in rich countries has renewed interest in long-standing questions about the nature, variations, and determinants of the use and employment conditions of migrant workers in specific sectors and occupations (e.g. Waldinger and Lichter 2003). A key insight from this literature, that has been integrated in more recent work on migrants and societal resilience, is that the degree of reliance of a sector or occupation on migrant labour is influenced, at least in part, by the institutional and policy context, which comprises a series of intersecting systems (Anderson and Ruhs 2010). The systems shaping migrant labour demand, supply and conditions include not only labour immigration policies (including migrants’ legal rights) but also other national policies and institutions, for example, the regulation of labour markets, the provision of welfare, training and education, housing policies, and sector-specific policies such as different types of social care systems (e.g. Boräng and Cerna 2019; Boräng 2018; Afonso and Devitt 2016; Cerna 2016a; Wright 2012). Many of these broader institutions, which vary considerably across countries, are deeply embedded and ‘historically grown’ meaning that they typically – although not always – change slowly and incrementally (e.g. Hall and Thelen 2009; Streeck and Thelen 2005). This is one reason why there can be considerable cross-country variation and path dependence in the employment of migrant labour (e.g. Dias-Abey 2022).

A key policy implication of this research is that reducing reliance on migrant workers – a common demand of actors who argue against immigration – cannot be done through immigration policies alone but requires fundamental changes to certain societal institutions and policies (e.g. Anderson and Ruhs 2010; Kremer, Schrijvers, and Holtslag 2013; Afonso and Devitt 2017). Conversely, when institutional systems (such as national labour market regulations) do change – through exogenous shocks/crises (e.g. Bamber et al. 2021; Saurugger and Terpan 2018), endogenous processes within the system (e.g. Streeck and Thelen 2005) or a combination of both – there can be important implications for the employment of migrant workers (see Kaczmarczyk 2023 in this Special Issue).

The aim of this paper is to expand research on how national institutional systems shape the employment of migrants, and thus also societal resilience, in high-income countries by thinking about systems outside the box of the nation state. As discussed in the introduction to this Special Issue (Tagliacozzo, Pisacane & Kilkey, 2023), we are interested in ‘system thinking’ and in the ‘wider environment’ that both shapes and is shaped by migration systems, and we engage with the transnational and international facets of this environment. The COVID-19 pandemic has exposed how a significant share of the ‘essential’ goods such as medical equipment necessary for societal resilience in high-income countries is imported from lower-income countries, and that these global supply chains often involve the employment of migrant workers. In other words, high-income countries’ reliance on migrant workers is not restricted to migrants working in high-income countries but extends, through global supply chains, to migrants employed in lower-income countries. This brings to the fore the importance of considering how the employment of migrants in global supply chains, and by extension societal resilience of higher-income countries, is shaped by trade policies and agreements regulating flows of essential products across countries; labour markets and conditions in low- and middle-
income countries producing essential products for export; and migration systems between and within low- and middle-income countries. We understand these as institutional systems insofar as they comprise formal rules and regulations as well as informal rules (anchored in people’s values and norms) that structure and govern the behaviour and interaction of actors (compare Streeck and Thelen 2005). As argued in the Introduction to this Special Issue (Tagliacozzo, Pisacane & Kilkey, 2023), critically, these institutional systems are not standalone but interact and affect each other. Relatively little attention has been paid to the crucial role of migration systems in linking different institutional systems relating to labour and trade both within and across countries.

By widening the analytical lens from migrants employed in rich countries to migrants employed in lower-income countries as part of global supply chains, we expand the analysis of ‘system effects’ from the intersections of different national systems within high-income countries to the intersections of different countries’ national systems, and relevant trans-national systems such as international trade regimes. In our view, how national and transnational systems interact is key to understanding global demand for and conditions of migrant workers, and to the broader analysis of the interlinkages between migration governance and other systems and related policies – the focus of this Special Issue (see Tagliacozzo, Pisacane & Kilkey, 2023).

We define migrant workers as people who reside and work in countries where they do not hold citizenship. While in high income countries, citizens who move within their state of citizenship for work are rarely described as ‘migrant workers’, in low- and middle-income countries ‘internal migration’ is acknowledged as having important economic, social and political ramifications. We recognise that internal and international migration are interconnected, and indeed, that their relationship exemplifies an important intersection between national and international mobility systems. However, we focus on international migrants, primarily because they are subject to particular forms of state governance that have important consequences for their employment relations and experiences of the labour market, but also with an eye to concerns about dependence on migrant labour in high-income countries.

The paper is set in the context of COVID-19 because the pandemic highlighted – and presents an opportunity for studying – systemic interdependence in the global employment of migrant labour (for other articles in this Special Issue concerned with COVID-19, see Cheng et al., 2023; Corrado, Pisacane & Ferrari, 2023; Kaczmarczyk, 2023; Kilkey & Baldassar, 2023). The pandemic also put considerable pressure on institutional systems, so it is important to investigate whether and how it resulted in institutional change and the consequences of this for the employment of migrant workers. Our discussion is exploratory, comprising theoretical reflections (Section 2) and an illustrative empirical case study (Section 3). The theoretical reflections discuss how interconnected trade, labour and migration systems beyond national borders can shape the employment of migrants in global supply chains, and how these systems may have changed during the COVID-19 crisis. We work with a broad understanding of resilience as the ability to withstand, recover from, and adapt to unexpected external shocks (OECD 2020b).

For the illustrative empirical case study, we examine the production of rubber gloves in Malaysia (Section 3). Malaysia is a middle-income country whose manufacturing sector contributes significantly to GDP, exports and employment. While, as with other South East Asian states, there is significant internal migration, unusually, in Malaysia
more than three quarters of this migration is urban-urban rather than rural-urban, and for family or environment related reasons rather than motivated by employment.\textsuperscript{1} Malaysia was among the world’s leading producers and exporters of COVID-19 critical products (ranked 5th globally in 2021; see WTO\textsuperscript{2022}) including medical rubber gloves which became an essential product during the COVID-19 pandemic. At that time, Personal Protective Equipment (PPE) production, sourcing and distribution came under intense scrutiny, and Malaysia was no exception (Hughes et al.\textsuperscript{2022}). Rubber glove production in Malaysia relies heavily on migrant labour making it an interesting case that we use to discuss and illustrate empirically how migration systems in lower- and middle-income countries, and their intersections with international trade and labour systems, can shape the employment of migrants in a global supply chain that delivers essential goods to higher-income countries.

Our exploratory analysis of the Malaysian case draws on existing data and research as well as the personal experiences and insights of one of the co-authors of this study (Upasana Khadka), who has previously worked at the Labour Ministry in Nepal, which governs labour emigration of Nepalese workers abroad, including Malaysia. It also draws on research conducted by Khadka for the MigResHub think piece ‘Disposable Medical Gloves, Indispensable Migrant Workers’ (Khadka\textsuperscript{2020}).

2. Intersecting institutional systems: migration, labour and trade, and societal resilience

Our reflections on how institutional system effects beyond national borders shape the employment of migrants is based on the following basic scenario: Country A, a middle-income country, employs migrant workers from country B, a lower-income country to produce and export essential goods to country C, a high-income country. This is a highly simplified and stylised scenario and in practice, global supply chains can and typically do involve a larger number of countries producing and exporting intermediary-parts rather than just finished products. The simplification, however, facilitates our conceptual discussion and exploratory analysis. It also reflects important real-world trends.

Low- and middle-income countries play an important role in the global production of goods and services, and a significant share of essential goods produced in these countries is exported to higher-income countries (WTO\textsuperscript{2020}). Lower- and middle-income countries have also become increasingly important in global supply chains which constitute about two thirds of global trade (OECD\textsuperscript{2013}). For many countries global supply chains constitute important aspects of development strategies. Moreover, although the majority of migrant workers are in high-income countries, there is considerable labour migration between low- and middle-income countries (ILO\textsuperscript{2021}; IOM\textsuperscript{2021}). This includes migrants working in the production of essential goods for export.

Given this scenario, the use and employment of migrants in the middle-income country and, therefore, potentially also the societal resilience of the high-income, importing country, is shaped by the migration system governing and shaping migrant labour flows from the low-income country B to country A; the labour system in country A (where migrants work); and the trade system structuring the flows of essential products and services between countries A and C. In the discussion below, we draw on existing
theories and research to (1) highlight key features of these systems, (2) discuss how they influence the employment of migrants and societal resilience, and (3) reflect on how – if at all – they can be expected to change during an external shock such as COVID-19. We also discuss what the intersections and inter-dependence of these systems may mean for societal resilience to an external shock such as COVID-19.

2.1. Migration systems (immigration/emigration) in low- and middle-income countries

Research on the institutions that shape labour migration and the conditions of non-citizens who work (who may or may not be formally ‘economic migrants’) is heavily weighted to wealthy receiving states (Adamson and Tsourapas 2020; Crush and Chikanda 2018; Awumbila, Bedasu, and Teye 2018). Widening an institutional analysis of labour migration systems outside high-income countries draws attention to three features. The first is the importance of emigration policies. While some wealthy states do have diaspora policies (Gamlen 2019), including policies designed to encourage ‘return’ of co-ethnic groups (Anderson, Shutes, and Walker 2014), most high income liberal democratic states do not currently have policies that restrict or encourage emigration. In contrast, the ‘developmental migration state’ (Adamson and Tsourapas 2020) often creates emigration regulatory instruments. Outmigration can serve as part of an economic development strategy, in terms of remittances and foreign exchange, and the lowering of unemployment. While it is common for origin states to impose emigration conditionalities to minimise malpractices, some low- and middle-income states have also instigated policies to restrict movement, most notably partial or blanket bans on the emigration of women to work in domestic services (Lenard 2021).

A second key feature of labour migration systems in lower- and middle-income countries is the growth of bilateral agreements and non-binding Memoranda of Understanding (MoUs). These facilitate and regulate migration in accordance with certain principles and procedures. They support destination states in channelling types of labour to meet particular sectoral and employer demands, and for states of origin they provide their citizens with legal access to overseas labour markets and some protective mechanisms. Inputs for provisions in the draft agreements are sometimes sought from private sector players including employers and recruitment agencies and civil society. The MoUs detail specific roles and responsibilities for key actors in the migration process including Governments of origin and receiving countries, employers, recruiters and migrant workers. In her analysis of bilateral agreements around the world, Peters (2019) finds that ‘receiving states turn to formal treaties when they cannot unilaterally obtain the migrant labor they need due to a need for a lot of labor, a lack of existing migrant networks, or a deficit in relatively skilled migrant labor’ (292). However, in practice monitoring and enforcement mechanisms tend to be weak and most countries of destination prefer the less formal MoUs (Wickramasekara 2015). In recent years, the share of MoUs has been much higher in Asia than in Europe, Africa and the Americas (Wickramasekara 2015).

Third, compared to higher-income countries, low- and middle-income countries have less economic capacity to provide economic and social protections for workers, including
migrant workers, with consequences for the economic and social rights protections in temporary labour migration programmes including bilateral agreements and MoUs.

Having made these broad generalisations it is important to stress that there is not a singular system of migration management in lower- and middle-income states that can be contrasted with a singular system in higher-income states (Adamson and Tsourapas 2020; Hollifield and Foley 2020; Ruhs 2018). Different relations with global economies and different regional dynamics map on to histories of regional mobility often disrupted or reshaped by colonial policies (Geddes et al. 2019). At the implementation level there is a wide range of different stakeholders: politicians, bureaucrats, employers, recruitment agencies, other third parties as well as migrants themselves. Labour brokers can be crucial to these systems – they often have their roots in historical practices that have proved difficult to extirpate even if there is political will (Low 2020). Notably, while there is considerable interest in the role of recruitment agencies in navigating immigration/emigration policies (Xiang 2013) less attention has been paid to the role of employers themselves in shaping recruitment practices in countries of origin (Iskander 2021).

How do migration systems shape the contribution of migrant labour not only to national economies but also to global supply chains? As in higher-income countries, low- and middle-income countries’ migration and citizenship policies interconnect with national labour regimes to produce certain kinds of workers. Immigration controls, emigration policies and associated state-to-state agreements do not simply facilitate a flow of labour to the ‘right’ place, but they create particular kinds of workers and employment relations (Anderson 2010). In contrast to migration systems in higher-income countries, emigration countries often play a larger role in helping select or screen workers for employment in the middle-income country. There is, therefore, some capacity to provide workers according to migrant receiving countries’/employers’ specifications. This is key to understanding why, despite availability of citizen workers for lower-waged jobs, certain industries in middle-income countries can develop a structural dependence on migrant labour.

How the intersection of immigration and employment systems impacts on migrant workers, depends on national level institutions and labour migration programmes. In a context of limited social welfare services and high levels of informality among the citizen workforce, the state endorsed differentiation between citizens and migrants may deploy different mechanisms to institutionalise differential rights. For instance, some states forbid non-citizens from joining trades unions or other forms of political participation; deportation can serve as a response to labour unrest; wages can be set in bilateral agreements. While there may be legal provisions on equality of treatment between citizen and migrant workers regarding contributory social assistance and health care, this does not mean that migrants have the same access to social protections in practice. There are often inbuilt protection gaps, with limitations by visa, country of origin, length of stay etc. (van Panhuys, Kazi-Aoul, and Binette 2017; Ruhs 2013). It is important too to recognise the practical factors that create barriers to access rights such as language, administrative complexity, ignorance of rights, concerns about visa status and family reunion, and racism and xenophobia. Key too are questions of formality/informality.
Given these broad characteristics – which vary significantly across countries and regions – how may we expect migration systems that connect lower- with middle-income countries to respond to external shocks and crises? The answer is obviously contingent on the nature and type of crisis as well as the specific migration system under consideration. Moreover, there may well be contradictory forces. On the one hand, the need for the continued production and export of essential products to ensure societal resilience, can result in strong pressure to maintain or even expand the employment of migrants. A structural dependence on migrant labour, with jobs designed based on the assumption that they will be done by migrant workers, can make it difficult to replace migrant with domestic workers even during crises, and other alternatives to migration, such as technological change, may not be available in the short term.

On the other hand, concerns about security may be heightened by moving, i.e. moving itself may be seen as a threat, resulting in immigration restrictions even for essential jobs. Furthermore, in cases where emigration countries play a relatively large role in regulating labour emigration, the migrant labour supply may become more uncertain during a health crisis such as COVID-19, especially if there is political pressure in the migrant-origin country to repatriate its citizens working abroad. At the same time, suffering from adverse economic effects of the global health crisis, the migrant-origin country may perceive economic pressure to maintain emigration flows and employment of migrants abroad, to facilitate the continued flows of remittances. The obvious but important broader point here is that the effects of Covid19 on the migration system connecting lower- and middle-income countries will depend on the national politics of migration during the crisis in both migrant origin and receiving countries.

2.2. Labour and trade systems involving low- and middle-income countries

The use and employment conditions of migrants working in a country producing (essential) products for export to other countries will also be affected by labour policies and regulations in the country and the trade policies and agreements between the exporting and importing countries (the middle- and high-income countries in our stylised scenario). There are important links between international trade and labour standards, in terms of both their effects on each other and the intersections of their institutional systems. Over the past few decades there has been a significant increase in the number of labour rights provisions (as well as other provisions related to democracy, human rights, development and the environment) included in trade agreements between high- and lower-income countries (e.g. Raess and Sari 2018).

Existing research has paid relatively limited attention to the links of these interconnecting trade and labour systems with migration systems, and to the implications for the employment of migrants. Most of the long-standing research and policy literature on how international trade and labour standards affect each other has not considered in any detail the impacts of and on migrants employed in the exporting country. More recent research on the effectiveness of labour provisions in trade agreements on actual labour standards (e.g. Ferrari et al. 2021; ILO 2017) has also not focused on the impacts on the employment conditions of migrant workers in the exporting country. A recent report of the UN’s Special Rapporteur on the human rights of migrants on the impact of bilateral and multilateral trade agreements on the human rights of migrants
(UN 2016) very much focused on migration between the countries that have signed the trade agreement and, therefore, not on migrants employed in lower- and middle-income countries exporting goods to higher-income countries. Similarly, the long-standing research on the inter-relationships between international trade and international migration, e.g. on whether they are substitutes and complements (e.g. Venables 1999; Schmieg 2019) has been focused on trade and migration between two countries, and has not examined the role of migration (from country B to country A) in the production of goods for export (to country C).

This literature has generally overlooked how migration figures in interactions between multiple countries in terms of trade, but there is an important exception. This lies in research on the conditions of migrant labour in global supply chains and global production networks (GPNs) – ‘the nexus of interconnected functions, operations, and transactions through which a specific product or service is produced, distributed, and consumed’ (Coe, Dicken, and Hess 2008, 272). This is by its nature engaged with institutions and systems, implicating a wide range of actors: states, nongovernmental organisations (NGOs), trade unions, and social movements, that shape the relation between the global economy and labour conditions.

While the internationally recognised ‘base code’ of the Ethical Trading Initiative does not mention migration or migration status, some OECD states do now require the adoption of supplier contracts and ‘humane labour practices’ that abide by particular codes of conduct – e.g. EU Trafficking Directive, 2011; UK Modern Slavery Act, 2015; California Transparency in Supply Chains Act, 2010; Executive Order – Strengthening Protections against Trafficking in Persons in Federal Contracts, 2012. Policy and audits often have a particular focus on migrant recruitment agencies and subagents because of reliance on the international definition of trafficking in the Palermo Protocol which requires an ‘act’ of recruitment, transportation, harbouring or receipt of persons (Lloyd 2020; Siller and van Doore 2020).

How, then, might these linked trade and labour systems shape the demand for and conditions of migrant labour? As is the case with the effects of migration systems discussed above, there are likely to be a number of competing forces. For example, where trade agreements lead to increased opportunities for exports in a sector, the demand for migrant labour in that sector may rise. At the same time, if trade agreements include labour provisions that effectively raise labour standards in the exporting country, demand for migrant labour may fall if more citizens are prepared to do these jobs under the improved conditions (see, however, the caveat around structural dependence on migrant labour discussed above).

How stable can we expect these interconnected institutional labour and trade systems to be under an external shock? Again, there is likely to be a range of factors and pressures, which may push in opposite directions. For example, high-income countries’ concerns with labour standards in trading partners may be outweighed by the need for the societal resilience facilitated by continued imports of essential products. There may also be pressures to promote the domestic production of these essential goods, however difficult to achieve in the short run. Or, as we see in our case study, the nature of the shock may result in more attention to the labour conditions in sectors producing particular goods.
2.3. Systemic inter-dependence and societal resilience

Given their impacts on the use and employment conditions of migrants in global supply chains as well as their potential adjustments during external shocks, these three institutional systems (migration, labour and trade) and their interactions operate beyond rich countries’ national borders but play an important role in shaping the societal resilience of high-income countries. Understanding the dependence of imported goods on multiple intersecting systems including international migration to exporting states, makes visible a number of pressure points that might otherwise be missed by importers. The contentious politics of migrant labour are by no means restricted to wealthy countries. *Efficient and effective migrant recruitment systems* can have important impacts on specific goods but wealthy states may have little influence on recruitment processes and relations between labour exporting and labour importing states, nor on how the latter respond to domestic political pressures around migration. At the same time, *labour conditions* in the country producing the essential product for export will play a key role in helping maintain production. Migrant workers may be rendered particularly vulnerable to poor employment practices because recruitment systems often introduce third parties (including placement agencies and loan sharks) as institutional actors. Labour intermediaries can be important factors exacerbating labour exploitation, and some have argued that their increasing use is a result of GPNs (Barrientos 2013). Thus, labour conditions and migration and trade/GPNs are inter-related.

In response to reports of abuse, lead firms or, as discussed above, the importing state, may impose *trade conditionalities* (via labour provisions). The potential limitation of this however is that while it might put pressure on specific employers it does not substitute for exporting state regulation (Jackson, Doellgast, and Baccaro 2018). Moreover the dependence of high-income importing countries on the goods produced by international migrants may make this response less attractive in the context of shock which might also make enforcement an issue. Furthermore, while punishing bad employers may be straightforward, there may be structural reasons that lie behind certain practices, including the use of migrant labour that are much more difficult to shift. In the case of essential goods, whose reliable provision is necessary, not only for economic but also for social and political resilience, this raises the question of the role of migrant labour in bearing the costs of that resilience in countries with which they have no formal connection.

3. Case study: migrants in rubber glove production in Malaysia

Drawing on the conceptual and theoretical reflections above, our brief case study of rubber glove production in Malaysia focuses on the intersection and developments of migration, labour and trade systems before and during the COVID-19 pandemic, and the consequences for the resilience of this particular global supply chain.

3.1. Malaysia as a global supplier of rubber gloves

There are three principal types of rubber gloves used for medical purposes: latex, nitrile, and vinyl. Malaysia is a globally significant producer of both latex (‘natural rubber’) and nitril (‘synthetic rubber’) gloves. In 2020, it supplied nearly 67 per cent of the global
demand for disposable gloves (Malaysian Rubber Council 2020). According to the Malaysian Rubber Council (MRC), Malaysia was the seventh largest natural rubber producer in 2021. Its role as a global rubber supplier began with the British Empire and continued after Independence and today the rubber industry is one of twelve National Key Economic Area sectors. This means it is granted special support including tax breaks and reduced fuel prices. The country has heavily invested in R&D, innovation and automation, boosting productivity from an average of 3,000 gloves per hour in 1988 to 45,000 gloves per hour in 2020 (MARGMA 2020).

There are 127 rubber glove factories in Malaysia mainly operating in the Klang valley area (Hughes et al. 2022), with 2086 installed production lines and an annual production capacity of 279 billion gloves (MARGMA 2020). These employ 71,800 workers of whom 61 per cent are international migrants mostly working in packing and quality control roles (MARGMA 2020). Production is dominated by a small number of large companies including Top Glove, Hartalega, Kossan Rubber and Supermax which are also the leading glove makers globally (MARGMA 2020). All four are members of the Malaysian Rubber Glove Manufacturers Association (MARGMA), the industry association comprising 227 members including 57 manufacturers and 170 associated suppliers and supporting organisations. MARGMA works closely with Government agencies and ASEAN trade associations.

3.2. Pressure points in intersecting migration, labour and trade systems before COVID-19

Because of its export-oriented nature and high use of migrant workers, the production and export of rubber gloves in Malaysia have been shaped by intersecting systems of migration, labour, and trade. Our brief discussion of these systems identifies three long-standing (‘pre-Covid’) and inter-related pressure points in this global supply chain: volatilities in migrant labour supply; poor employment conditions; and trade conditionalities imposed by importing countries.

3.2.1. Migration systems: contested and politicised recruitment processes lead to volatilities in migrant labour supply

Bastide (2021) citing the 2019 Labour Force Survey, claims Malaysia is the largest labour importer in East Asia, with 2.183 million registered foreign workers in 2018 out of a labour force of 14.776 million. Women account for only 20 per cent of the migrant labour force (Yi et al. 2020). The main countries of origin are Indonesia (40 per cent), Nepal (22 per cent) and Bangladesh (14 per cent) (Yi et al. 2020). Thirty six percent of the registered foreign workforce are engaged in manufacturing (Yi et al. 2020), but Nepalis are disproportionately represented, with some 75 per cent of Nepali workers in Malaysia working in manufacturing (MOLESS 2020).

The production of both latex and nitrile gloves is one of many sectors where Malaysia has a structural dependence on migrant workers. Employers have been exploring alternatives to migrant labour, including automation. The pandemic has given an impetus to investment in better quality and intensified technology adoption at various stages of production including material handling, processing, packaging, inspection and testing. The largest employer, Top Glove, has invested over 3 billion Malaysian ringgit (MYR) to add
450 new production lines by 2026, with the aim of increasing output and modernising production facilities to reduce dependency on migrant workers. The pandemic-induced economic downturn also spurred the MRC to set up a RM 36 million fund to replace 10,000 foreign workers with national workers by providing a 12 month wage subsidy of RM 300 (Malaysiakini 2020). However, employers continue to struggle to attract Malaysian citizens and in January 2023 the government announced plans to relax conditions on recruiting foreign labour in five sectors, including manufacturing as a response to the continuing labour shortage.

Like many migrant worker regimes in ASEAN, Malaysia’s foreign worker scheme is a temporary labour migration scheme that aims to ‘micro-manage’ migrant labour demand and supply through a complex net of regulation and (dis)incentives. To enter Malaysia for temporary employment in semi-skilled jobs, migrant workers must obtain a Visit Pass (Temporary Employment) or VP(TE). Eligibility requirements include age (between 18 and 45), nationality (15 eligible countries, of which 8 have concluded MOUs with Malaysia – see Aun and Pereira 2023), and sector (manufacturing, construction, plantations, agriculture, services, and domestic work) (Yi et al. 2020). Employers are required to demonstrate that they made efforts to recruit Malaysian workers before applying for a foreign worker quota (Yi et al. 2020). If their application is successful, employers must make a levy payment, purchase insurance policies, and deposit a security bond for each migrant worker recruited and workers must pass a medical test and sign a contract before they can obtain a Malaysian visa. On arrival in Malaysia, they have a further medical check-up and are given a foreign worker permit – the VP(TE) – issued by the Ministry of Home Affairs before starting employment. The VP(TE) is subject to annual renewal up to a maximum of ten years. Workers are not allowed to change employers, bring dependents to Malaysia or obtain permanent residence.

The immigration system of Malaysia interlocks in highly bureaucratised ways with the emigration systems of the major migrant-origin countries. In the case of Nepal, every worker must obtain a labour approval from the Government of Nepal before travelling overseas (Ministry of Labour, Employment and Social Security [MOLESS] 2020). The employer needs a ‘demand letter’ attested at the Nepali Embassy in Malaysia. This includes the number and gender of workers to be recruited, terms of employment and benefits, an agreement with a licenced recruitment agency in Nepal, power of attorney, company profile and a sample contract. On attestation the Nepali recruitment agency must obtain approval from Nepal’s Department of Foreign Employment to advertise the job. Selected workers have to undergo medical screening, pre-departure training, sign a contract, obtain insurance, visas and contribute to the Nepal Government’s contributory migrant welfare fund before the recruitment agency can apply for final approval. Only then is the worker legally permitted to travel overseas for employment.

The complexity of this transnational recruitment system means private recruitment agencies have become indispensable for workers and employers alike. These agencies capitalise on their links with foreign employers and other intermediaries to obtain job quotas and otherwise facilitate the recruitment process. Private recruitment agencies are notorious for exploiting workers, providing incorrect information, exaggerating the benefits of the job and charging exorbitant fees. The Nepal Government’s efforts to regulate its recruitment industry have met with mixed results. For example, although
the Government has capped recruitment fees at around 80 USD since 2015, agencies often ignore the cap, requiring workers to take out informal loans at excessive interest rates (IOM 2019).

Disputes over recruitment processes and employment conditions of migrant workers can lead to sudden changes in migrant labour supply. In 2018 the Government of Nepal banned the emigration of workers to Malaysia over allegations of unauthorised recruitment costs (MOLESS 2020). This adversely affected employers and migrant workers alike. Recruitment resumed only in 2019 following a comprehensive MoU that was signed between the two Governments in 2018. The MOU covered some of the most pressing issues relating to worker protection including provisions for an ‘employer pays’ model requiring employers to bear all costs associated with the worker’s recruitment and a standardised contract of employment (MOLESS 2020).

The demand for workers from Nepal can also be shaped by emigration systems of other common migrant origin countries for Malaysia. For example, Malaysia banned the intake of workers from Bangladesh since September 2018 over concerns about irregularities in the recruitment practices. In December 2021, the two countries signed a labour agreement to reopen the market although resumption has been rife with challenges (The Daily Star 2022).

3.2.2. Labour systems: weak labour protections contribute to sub-standard employment conditions and strong employer controls over migrant workers

Once in Malaysia, foreign workers’ employment and living conditions are governed by a range of laws and regulations. The MoU with Nepal requires equality of treatment between Nepalis and Malaysians in their terms of employment. Like all foreign workers, Nepali migrants come within the framework of general employment laws in Malaysia. These include Malaysia’s Employment Act 1955, Employment (Limitations on Overtime Work) Regulations 1980, the Minimum Wage Order 2020, the Immigration Act 1959/63, the Passports Act 1966, and the Employees’ Minimum Standards of Housing, Accommodations and Amenities Act 1990 (Testaverde et al. 2017; Hughes et al. 2022). Together these mandate equality of treatment, minimum wages (1500 MYR), working hours (8 h a day with a maximum of 12), rest days (one full day weekly leave), entitlement to hold one’s passport and minimum accommodation standards. Migrant workers are allowed to join trade unions but not to hold positions nor to form separate unions (Testaverde et al. 2017).

Despite claims to formal equality of treatment, in practice immigration requirements give employers disproportionate control over workers not least because they are legally unable to switch employers and cannot leave Malaysia without their employer’s permission. Migrants often live in employer provided accommodation (Bastide 2021) and debts incurred from high recruitment costs can be further motivation for tolerating unfavourable conditions. Moreover, enforcement of legal protections is weak with just one inspector per 40,000 workers (the ILO recommended ratio is one per 10,000 workers) (Testaverde et al. 2017). There is evidence of overcrowded accommodation, excessive working hours, employer retention of contracts, unpaid wages and arbitrary deductions (Hughes et al. 2022). With language barriers and inadequate information about the protection and support mechanisms available, migrant workers find it difficult to access grievance mechanisms. Leaving abusive employment conditions
often irregularises migrants which makes them vulnerable in other ways as undocumented workers are subject to detention, prosecution, and deportation as well as exploitation by employers, and immigration raids are common (Yi et al. 2020).

Malaysia’s relatively weak labour protections, especially for migrant workers, are reflected in the country’s poor record of ratifications of ILO conventions: Malaysia has ratified only 18 of the ILO’s 190 labour conventions. Conventions not ratified by Malaysia include two of the ILO’s fundamental conventions (C087 on freedom of association and C111 on discrimination) as well as the two migrant worker conventions (C097 and C143). In recent years, Malaysia has come under increasing pressure to adopt more ILO standards and on 21 March 2022, the Government of Malaysia ratified the Protocol of 2014 to the Forced Labour Convention 29 (1930).

### 3.2.3. Trade systems: trade conditionalities to combat forced labour in the global supply chain

Malaysia’s largest export markets are China, Singapore and the United States (World Bank 2019) and its role in global production networks is shaped by its access to foreign labour (Bastide 2021). Labour, immigration and trade systems are tightly intertwinen and more particularly directly intersect with procurement and trade policies of third countries importing the goods.

In a situation where sourcing decisions are made primarily based on cost efficiency the risk is that companies compromise on labour standards, the implications of which are borne by low waged workers, including migrants, including through debt bondage and lower remuneration. The US and some other countries have expressed a commitment to fight forced labour and exploitative labour conditions and increase transparency and accountability in global supply chains. The enforcement of laws for due diligence in global supply chains hold parent companies liable for activities of subcontractors and suppliers, regardless of where they operate. These laws include the UK Modern Slavery Act (2015), the French Corporate Duty of Vigilance Law (2017), and the Australian Modern Slavery Act (2018). The US Customs and Border Protection (CBP) can issue a Withhold Release Order (WRO) when the agency has ‘reasonable evidence of the use of forced labour in the manufacturing or production of a good or goods entering the US supply chain’ (Customs and Border Protection 2019). The WRO allows CBP to detain products at all US ports of entry until importers prove they have not used forced labour.

The United States is the top buyer of Malaysian gloves. In October 2019, the CBP issued a Withhold Release Order against the glove company WRP Asia Pacific Sdn. Bhd. The WRO was issued following a two-day strike organised by over 2,000 Nepali and Bangladeshi migrant workers demanding months’ of unpaid wages brought attention to this case. It was lifted in March 2020 – just as global concerns about the pandemic were escalating – after proof that the company had taken remedial actions (Customs and Border Protection 2019).

### 3.3. Systemic pressure and resilience during the COVID-19 pandemic

Before the COVID-19 pandemic, there were already ‘pressure points’ testing the resilience of the supply of rubber gloves, converging around the migratory processes, labour conditions of migrant workers, and trade policies of importers. These pressures
were exacerbated with the onset of COVID-19 which led to a surge in global demand for PPE. According to the WHO, the global shortage of PPE was one of the most urgent threats to the efforts to contain the coronavirus. Rubber gloves were an important component of PPE. Health response teams had an estimated monthly demand of 80 million gloves, requiring a 45 per cent increase in global production capacity (WHO 2020). In 2020, Malaysia’s earnings from glove exports increased by 103 per cent to over 8.5 billion USD while in 2021, it grew to 12.4 billion USD. In the first half of 2021, Malaysia’s exports grew by 146 per cent which can primarily be attributed to the production of medical supplies, specifically rubber gloves (WTO 2021a). In 2021, earnings from glove exports comprised 88.8 per cent of the earnings from export of rubber products from Malaysia.

How did the onset of COVID-19 pandemic affect the intersecting migration, labour and trade systems related to the production of rubber gloves in Malaysia? In particular, what happened to the systemic pressure points identified above?

3.3.1. Migrant labour supply
In 2019, MARGMA reported that the industry was facing an urgent shortage of some 25,000 workers (MARGMA 2020), even before the need to ramp up production as part of the global COVID-19 response. This shortage was compounded when international flights were suspended and Nepal stopped issuing labour approvals for outbound migrant workers. However, from August 2020 Nepal eased emigration restrictions subject to various conditions including vaccination and PCR tests. In July 2020, the Malaysian Government announced that it would limit hiring of foreign workers to agriculture, construction, and plantation work, in an effort to increase employment for citizens, but pressure from employers including glove manufacturers meant this restriction lasted only a month. While the intake of new foreign workers continued to be restricted until October 2021, employers facing worker shortages were permitted to rehire Malaysia-based migrants who had lost jobs and met certain legal and health pre-conditions. In addition, under the Government’s Labour Recalibration Programme and Return Recalibration Programme introduced in November 2020, undocumented workers in Malaysia could either be rehired in four sectors including manufacturing or returned to their respective countries.

Between March 2020 and October 2021, the Government of Malaysia imposed a Movement Control Order (MCO) that restricted movement and economic activities other than in essential services. Glove manufacturers were able to continue their operations but initially only with 50 per cent of the workforce. However, the demand for PPE both in Malaysia and globally led the Government to permit them to operate at full capacity from April 2020.

3.3.2. Employment conditions
COVID-19 exacerbated the already poor working and living conditions of migrant workers in Malaysia. The combination of the surge in demand and hiring restrictions meant increased workload and hours often exceeding legal limits (Hughes et al. 2022). During this period, labour violations reported in the rubber gloves sector included failing to comply with MCO and social distancing rules, poor health and safety, excessive working hours, forced labour and non-compliance with minimum standards in employer
provided accommodations (Hughes et al. 2022; The Star 2020). There were frequent reports of glove making plants being shut down due to COVID-19 outbreaks (Reuters 2020b). Even after travel restrictions were eased, media reports show many workers were unable to return to their home countries because their employers did not help them secure the mandatory check-out memos from the Immigration Department because of their labour shortages (Nepali Times 2021).

3.3.3. Trade conditionalities
During the pandemic, Malaysia’s rubber glove industry was subject to changing pressures via trade systems. In 2021, US imports of COVID-19 critical products from Malaysia grew by 187.2 per cent year-on-year, primarily driven by rubber gloves (WTO 2021a). Despite the shortage of this critical product, increased media and civil society attention to the experiences and conditions of migrant workers producing these export-oriented goods escalated pressure to address human rights violations in the glove factories in Malaysia. This ran alongside considerable US concern at the country’s dependence on medical gloves sourced from South East Asia and a surge of interest in manufacturing nitrile gloves in the US. For example, in 2021 the company American Nitrile was established to manufacture rubber gloves, describing its origins ‘in response to the need for domestic sources of manufacturing of critical PPE products, and the ability to address long supply chains, use of forced labour from foreign countries, as well as the need for more sustainable production in this product category’ (American Nitrile 2021).

In July 2020, the Customs and Border Protection (CBP) imposed a Withholding Release Order (WRO) on imports from two subsidiaries of Top Glove alleging debt bondage, excessive overtime, abusive working and living conditions, and retention of identity documents (Customs and Border Protection 2019). The CBP recognised the critical need for disposable rubber gloves and stated that entry of gloves produced by all other manufacturers, including other Top Glove subsidiaries, would continue, and that the order would have no significant impact on total US imports of that type of glove (Customs and Border Protection 2021a). The WRO was removed after Top Glove took a number of worker-focused initiatives including a remediation programme of 32.77 million USD to compensate migrant workers for recruitment costs and improving working and living conditions at companies’ facilities (Customs and Border Protection 2021b).

These actions also led glovemakers in Malaysia not directly impacted by such bans to take remedial actions. This included reimbursement of recruitment costs paid to recruitment intermediaries and improvements in the working and living conditions (Nepali Times 2021). The four leading manufacturers in Malaysia allocated monies as part of recruitment fees remediation programmes to repay migrant workers including 36 million USD by Top Glove, 12.15 million USD by Kossan, 9.5 million USD by Hartalega and 5.5 million USD by Supermax (The Diplomat 2021).

These bans come at a significant financial cost and MARGMA estimated that the potential loss in export revenue due to the WROs could be as high as 1.2 billion USD (The Business Times 2022). Moreover, after the US slapped a WRO against Supermax, Canada’s Public Services and Procurement also put a hold on its contract with Supermax until the completion of audit (Reuters 2021). Similarly, the WRO on Top Glove in the US
led large buyers in New Zealand like Ebos (Newsroom 2020), the largest medical and PPE supplier to the healthcare market and Foodstuffs (The Edge Markets 2020), the largest supermarket chain, to stop importing Top Glove products. In May 2022, the UK Government was sued for awarding a contract to Supermax for supplying gloves to the NHS despite evidence of forced labour allegations.

Financial and reputational risks have spurred more action from the Malaysian Government. In the US Department’s Office to Monitor and Combat Trafficking in Persons, Malaysia was downgraded to Tier Three for the first time since 2017 for ‘not adequately addressing or criminally pursuing credible allegations of labour trafficking including in rubber manufacturing made by international media, NGOs, and foreign governments’ (DOS 2021). According to the TIP report, while the Malaysian government’s own investigations have found evidence of non-compliance with housing laws and debt-based coercion, they did not investigate or prosecute companies for potential human trafficking. In response, the Malaysian government pledged to crack down on forced labour, amended its anti-trafficking laws and formed a joint committee with the US CBP to tackle forced labour issues jointly (The Star 2022). The impact of these actions in systematically addressing the pervasive malpractices including in the rubber glove industry, however, boils down to effective implementation.

The Malaysia case shows the clear linkages between multiple states and interactions between migration, labour and trade policies in promoting the resilience of globally essential goods. High-income countries are reliant on migrant workers for essential goods outside their borders and proper due diligence and monitoring is essential if they do not want to be associated with grave worker abuses. The pandemic also demonstrated how credible threats with reputational and financial costs pushed some employers of migrant workers to enforce better worker standards. Both Malaysia and Nepal already have unilateral and bilateral migration policies to address common worker issues including high recruitment costs and poor accommodations. However, it was pressure from third-country governments and importers using trade conditionalities that pushed several employers to take tangible action to address labour standards issues, though the scale of unaddressed vulnerabilities remains significant (Aun and Pereira 2023).

4. Conclusion

Existing research on labour migration has focussed on particular states, especially high-income countries, and it has paid much less attention to the role of migrants in global supply chains. This is in part a result of migration studies’ perennial challenge of methodological nationalism – the assumption that the nation state is a container of socio-economic processes, a challenge that the field is increasingly engaging with (Dahinden and Anderson 2021). We suggest that the problem for migration studies is not only that this overlooks the productive nature of borders, but also the methodologically nationalist framing of the analysis gives only a partial view of the role and effects of migrants in global and national economies. The effects of migration and migrants on a particular country – including on its economic and societal resilience to external shocks such as COVID-19 – are not limited to those arising from migrants employed in the country but also include the impacts of migrants employed in global supply chains.
chains of products imported by the country. As a consequence, analysis of a country’s reliance on migrant labour – its characteristics, causes and consequences – must include consideration of migrants working in global supply chains. This also involves a critical interrogation of the common idea of outsourcing as a way for high-income countries to reduce their dependence on migrant labour.

As we have argued and shown in this paper, widening the analytical lens from migrants employed in high-income countries to migrants employed in global supply chains has important implications for the analysis of the factors that shape the demand for and conditions of migrant workers. The demand for migrant labour in high-income countries is shaped primarily (although not exclusively) by a range of intersecting national systems of the country where migrants are employed, such as immigration policies, labour market regulations, welfare policies, housing policies, etc. In comparison, demand for and conditions of migrants employed in lower-income countries as part of global supply chains are also, and often more significantly, influenced by system effects related to migrants’ countries of origin (such as their emigration policies), importing countries (such as trade conditions linked to concerns about labour standards), and transnational agreements (e.g. international cooperation against forced labour and trafficking).

The study of labour migration can benefit from consideration not only of national systems effects but also of the transnational and international institutional landscape and how this meshes and comes into tension with these national systems. There is an extensive literature on global supply chains that engages with institutions and organisations and international governance (see Jackson, Doellgast, and Baccaro 2018 for an overview) and Wright and Kaine (2015) note that the relevance of this for research on employment relations is coming to be recognised. As well as employment systems, we argue that immigration systems also play a crucial role in analysing global production networks and supply chains. When it has engaged with migration issues, the GPN and related literature, including the literature on corporate social responsibility, has very much focussed on trafficking and forced labour. We suggest that there is benefit to ‘widening the lens’ to consider the more mundane ways in which migrant workers bear the cost of societal resilience in wealthy countries. Given findings that private regulation (i.e. corporate social responsibility measures) risks substituting for national laws in countries where labour protections are poorly enforced (Locke 2013), we think it is important to consider the role of migrants who are often more poorly protected than citizens and who may also face rigorous immigration enforcement.

As our case study of rubber glove production in Malaysia has shown, the national does matter. The particularities of Malaysia’s immigration and employment regimes, and Nepal’s emigration systems are all factors that bear on the resilience of a particular global supply chain. Indeed, it can be precisely at the point of national/international intersection (migrant recruitment, trade conditionalities) that some pressure points arise. In our case the resilience of the global supply chain was achieved because of the persistence of restrictions placed on migrant workers.

At the same time, our exploratory case study has also illustrated that, while resilience led to clear deteriorations in some conditions for migrant workers, other aspects of their work improved. The US-imposed WROs and the credible threat of such bans also changed the behaviour of some firms that were not directly impacted by the WRO,
and some migrant workers have benefited from recruitment fee reimbursement schemes, and improved conditions, though there are significant unaddressed vulnerabilities. Trade policies and conditionalities are not always effective in raising labour standards (e.g. ILO 2016; Ferrari et al. 2021) but the changing policy dynamics during an external shock, and concern with resilience of the provision of essential goods, can lead to both upward and downward pressure on employment conditions for migrants and other workers in global supply chains.

Our exploratory theoretical discussion and illustrative case-study are meant to inform the development of a new research agenda on the economics and politics of migrant workers in lower-income countries that are part of global supply chains for products consumed in rich countries. There is scope and, we would argue, an urgent need for this new agenda to deal with a wide range of questions and issues. For example, at a most basic level, what do we know about the extent to which migrant workers are involved in the production of essential goods imported by rich countries? Our study has focused on rubber gloves but there are many other essential products with global supply chains about which we know relatively little. There are also opportunities for comparative analyses: why have some global supply chains for essential products performed better than others and to what extent, if at all, is this linked to their differential uses of migrant labour? How and why do the politics of immigration differ from the politics of migrant labour in global supply chains? What have been the effects of COVID-19 on employment conditions and labour immigration policies of lower-income countries part of global supply chains, and how does this compare to the impacts of migrants working in essential jobs in high-income countries? What are the implications of the ‘pressure points’ in global supply chains that involve migrant labour for national and trans-national governance? Our paper suggests that an analysis of the resilience of societal systems must attend to the intersections both of multiple systems and of different scales (firm/national/transnational).

Notes

2. See https://www.ethicaltrade.org/eti-base-code
3. Less frequently used types include those made from neoprene or polyisoprene.
7. See https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide

Disclosure statement

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