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Gulf Labour Markets and Migration

Introduction: Skilful Survivals - Irregular Migration to the Gulf

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Chapter in the volume:
Skilful Survivals: Irregular Migration to the Gulf
edited by Philippe Fargues and Nasra M. Shah

BOOK CHAPTER

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The Gulf Labour Markets and Migration (GLMM) programme (<http://gulfmigration.eu>) is an independent, non-partisan, non-profit joint initiative of a major Gulf think tank, the Gulf Research Center (GRC - Jeddah, Geneva, Cambridge), and a globally renowned university, the European University Institute (EUI - Florence). GLMM provides data, analyses, and recommendations contributing to the understanding and management of labour migration in countries of the Gulf Cooperation Council, engaging with all stakeholders.



I

Introduction: Skilful Survivals - Irregular Migration to the Gulf

*Nasra M. Shah**

Introduction

The overall objective of this volume is to advance existing knowledge about irregular migration to the Gulf, a subject about which huge research gaps remain. We focus on the role that legislation, policies and practices play in enabling and sustaining irregular, or undocumented, migration. Case studies highlighting these elements are presented on all the six Gulf Cooperation Council (GCC) countries, namely: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE). In addition, case studies of six major sending countries are included to better understand the entire pathway of irregular migration from a sending to a Gulf country: these countries are Bangladesh, Egypt, Ethiopia, India, Pakistan and the Philippines. The volume also offers an overview of the conceptual dimensions underlying irregular migration and a framework for providing protection to migrants in an irregular situation.

Why is irregular migration to the Gulf such an important topic? There are at least two major reasons. First, this kind of migration, by its very nature, is difficult to detect. It eludes measurement as well as regulation, both of which are essential for

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a complete understanding and management of the labour market. Second, those in an irregular situation are in contravention of some laws and therefore reside in the host country in a permanently vulnerable position. They live in constant fear under the threat of apprehension and deportation. Also, they cannot compete for better jobs due to their illegal situation. Irregular migrants in the Gulf consist primarily of relatively lower-skilled workers and women, mainly in domestic service, as elaborated in a later section.

There is a general consensus among statements and reports by government officials, policy makers, and migration researchers that some foreign residents in the Gulf reside there in an irregular situation. Beyond this general agreement, however, there are questions about the definition of an irregular migrant, the length of time a person typically stays in the Gulf, and the diverse and highly fragmented nature of Gulf migrants, as highlighted in this chapter.

Defining Irregular Migration

Terminology and definition for irregular migration is not universally accepted leading to a certain amount of confusion. Also, irregularity is not a permanent situation. A migrant may move in and out of such a situation, depending on circumstances, changes in labour or other laws, not to mention the degree of compliance with such laws. A migrant may be in a regular situation in some respects but at the same time irregular in others: take freelance workers who may have a legal residence permit but who are employed by someone other than their *kafeel* (sponsor), contrary to Gulf laws. Different terms have been used to describe irregular migration in the Gulf. In newspaper articles, foreign residents apprehended in violation of one law or another are usually referred to as ‘illegal’ residents or simply ‘illegals’. In this volume, we consider that an action or a situation can be illegal or irregular, but that a person cannot be. We, therefore, use the term ‘irregular migration’ but avoid terms such as ‘illegal migrant’ or ‘irregular migrant’. We use, instead, ‘migrant in an irregular situation’ to refer to those persons who are residing in the Gulf and who find themselves in an irregular situation. They are in this state because they have violated a law relating to lawful entry, legal residency status, legal employment status, or any other situation regarded by the host country, or a sending country, as a breach of the existing laws.

One category of residents in an irregular situation that does not fit our definition, and that is, therefore, not included in this volume, is that of stateless persons living in the Gulf. The number of such persons in the region varies across countries and is estimated to stand at around 100,000 in Kuwait. Most stateless

persons are Arabs from neighbouring countries who may have lived there for decades or even generations, but who were not awarded the citizenship of the Gulf state where they live. In this volume we focus on international migrants who left their country of citizenship, legally or illegally, to enter a Gulf country for work, to join a family member, to visit, to study, or to perform pilgrimage.

Data on Irregular Migration

Regular data collection systems such as population registration, or the population censuses, do not collect information on those in an irregular situation in the Gulf. Such data are collected by the Ministries of Interior or other security related agencies, since they essentially relate to violations of the law. Absence of this data from routine data collection systems makes it very difficult to map the volume and characteristics of those in an irregular situation, as elaborated in the chapter by De Bel-Air empirical data on undocumented migrants are rarely revealed by the GCC countries. While some countries publish data on infiltrators entering the country illegally, and visa violators who may have overstayed their valid resident permit, any estimation of the number of migrants in other kinds of irregular situations (e.g. freelance workers) is problematic.

Several of the chapters in this volume have relied on qualitative methodologies to locate and interview migrants in an irregular situation. There is obviously no sampling frame that might be used to choose representative samples from the pool of irregular workers. Since many of them live in a perpetual fear of apprehension and arrest, such migrants are naturally reluctant to talk to a researcher unless they have assurances from some network member that they would not be reported to the authorities. Gaining the confidence of such migrants so that they are prepared to talk to an interviewer is a difficult and painstaking job. However, a wealth of data has been collected by the contributors of this volume to get a closer look at many facets of the lives of irregular workers, including: the circumstances that led to their irregular situation; their strategies for earning a livelihood and surviving; the network connections that enable and sustain their survival; and their plans and aspirations for the future.

Types of Irregular Migration

Migrants may be irregular for several different reasons. Jureidini, in his analysis of irregular migration to Qatar, identifies eight different pathways that can lead to an irregular situation for a migrant. Rajan and Jolin's analysis of Indian workers

provides an even more exhaustive list of various situations relating to the migration process, employment conditions, and residency conditions that can lead to a person's irregular status. In order to simplify our understanding of the many types of irregular migrants in the Gulf, at least five different types may be clearly identified, as follows: (i) entering unlawfully into a country; (ii) overstaying a valid residency permit; (iii) being employed by someone who is not the sponsor; (iv) running away from an employer, or absconding; and (v) being born in the Gulf to parents with an irregular status. Each of these types is briefly described below.

First, a person may enter a Gulf country illegally without the requisite papers. While this type of irregular migration is to be found in all GCC countries, it is especially large and problematic in the case of Yemenis entering Saudi Arabia, as described in the chapter by Fahad Alsharif. Of the 3.4 million illegal entrants to the Kingdom during 1978-2008, 98% were Yemeni. They kept returning to Saudi Arabia despite deportation. The story of one irregular migrant who had been deported thrice and came back within the same week exemplifies the relative ease with which this well-established pattern of movement may be negotiated.

The second type of irregular migration, prevalent in all six GCC countries, consists of overstaying a valid residence permit. Published data on the number of such residents is available for some Gulf countries. In their chapter on Kuwait, Shah and Al-Kazi reported that 103,154 visa overstayers were living in the country in 2014. Almost three-quarters of these violators were Asian and about half were domestic workers. In the case of Bahrain, Alhasan reported that some 60,700 non-Bahrainis (11% of non-Bahraini workers) were residing in the country irregularly; about 10% due to expired work visas. Other countries, such as Oman, provide data on the arrests and the deportation of irregular migrants, as shown in the chapter by Safar and Levailant.

The third type of irregular migration is perhaps the most numerous and widespread in all the GCC countries, but it is also the most elusive to accurately measure. It consists of a migrant worker being employed by a person or institution that is not his sponsor or *kafeel*. It is well known that the *kafala* (sponsorship) system mandates that every non-citizen must have a sponsor in order to reside legally in a Gulf country. Working persons are sponsored by the employer while dependents, such as wives and children, are sponsored by the worker in cases where they accompany him. Once a person is hired on a valid work permit, issued by the concerned government authorities, he/she is issued a residency permit, usually for the period of the contract. Work contracts are usually renewable for varying lengths of time. If the regulations for renewal are followed by the employer in a

timely manner, non-citizens may reside in the Gulf for many decades, although in a temporary capacity, depending on the validity of the contract. Failure to issue or renew a work permit or residency permit can result in the worker's illegal status. Thus, as summarized in the chapter by Fargues "Irregularity and illegality are unwanted but unavoidable by-products of regulations and laws," the "*kafala*" system constituting a basic one.

One major practice that lies at the core of irregular migration, identified by almost all the authors in this volume, relates to the sale of visas by Gulf sponsors to potential migrants that they fail to employ. This practice is commonly known as 'visa trading'. The demand for work visas among residents of sending countries exceeds the available supply of such visas. Also, the competition for securing a Gulf visa in the sending countries is quite intense, especially among relatively low skilled workers. Such potential migrants are, therefore, willing to buy a work visa, sometimes without the guarantee (or even the existence) of a job. Visas of this kind are commonly referred to as "free" or *azad* visas (*visa maftoohah*), implying that the migrant worker has an implicit permission to find a job on the open market. This practice is, however, unlawful and contrary to the legal framework for regulating the employment of foreign workers in the Gulf. Thus, as soon as a mismatch occurs between the person (or institution) who sponsors an individual and the one who employs him/her, the migrant worker's employment status theoretically becomes illegal. If the sponsor colludes with the worker and tacitly 'allows' the worker to be employed by someone else, finding such persons is nearly impossible. Such workers are legal in as much as they hold a valid residency permit, but they are illegal in terms of employment.

The fourth type of irregular migration results from absconding and running away from employers, accounts of which are provided by several contributors. For example, Safar and Levailant report that of the 21,190 irregular workers arrested in 2014 in Oman, about 85% were runaways or absconders. Absconding was recognised as a serious problem in Oman since, in the first six months of 2015, official data showed "an alarming figure" of 57,420 workers who had absconded from their employer. In the case of Bahrain, absconding workers constituted about 15% of the estimated 60,000 irregular workers in 2014, as reported by Alhasan. Once a worker absconds, or runs away, he/she is immediately faced with an irregular situation since he/she loses connection with the sponsor, an essential 'custodian' in the host country. They are unlikely to have any documents, such as passport, since those documents are usually taken and kept by the *kafeel*.

Running away from the employer is especially common among women, a majority of whom are domestic workers. Shah and Al-Kazi reported that half of all irregular migrants who had overstayed their valid residence permit in Kuwait in 2014 were domestic workers. Among the runaway workers they interviewed, a majority were female domestic workers. Among the Filipino irregular migrants interviewed by Alsharif, almost all had, also, run away from their employer.

Fifth, and perhaps less widely prevalent, is being born in the Gulf to parents in an irregular situation at the time of birth. Alsharif provides examples of this category from Jeddah, Saudi Arabia where children were born to undocumented parents and had no option except to work as beggars on the street. Similarly, Mahdavi provides examples from her field research in Dubai and Abu Dhabi of children who were born to mothers in irregular situations. Fernandez provides an analysis of Ethiopian women who find themselves pregnant as a result either of rape or consensual relationships. They chose to become irregular, often by running away from the employer in order to avoid deportation. The children born under such conditions had no nationality documentation, and, therefore, were often not able to access formal medical services or education.

While I have tried to group irregular migrants into various distinct types, it must be recognised that the above five categories are not mutually exclusive. For example, a person may be a runaway and may have also overstayed his/her valid visa, and thus lack a sponsor. Similarly, overstayers may engage in freelance work for several employers, both situations being illegal. It should also be recognised that an irregular status is not permanent and those in this situation may be regularised, especially during amnesties that are periodically held by all Gulf countries.

Number of Irregular Migrants

In terms of the number of irregular migrants, perhaps the most widely cited estimate is that by Kapiszweski (2001) who concluded, largely on the basis of newspaper reports, that “in recent years, illegal immigrants in each GCC country made up at least 10 percent of the total population or 15 percent of the workforce,” with the number said to be as high as 700,000 in Saudi Arabia. In another frequently cited article, Shah (2009) provided some estimates of irregular migration by looking at departures during amnesty periods declared for the regularisation or exodus of irregular migrants. She reported that, in the case of Saudi Arabia, between 2-2.3 million irregular migrants either left the country or regularised their status during 1997-2000. In the UAE, 176,000 migrants regularised their status and more than 174,000 departed in 2007.

The chapters in the present volume make a major contribution to our knowledge by showing some novel ways of arriving at estimates of irregular migration. For example, Rajan and Jolin use returnee migrant surveys in a sending community, Kerala, to estimate the number of Indians proceeding overseas in a potentially irregular capacity. They report that 20-40% of the returnees had proceeded to the Gulf on a “free” or *azad* visa, and not a work permit. Migration without a work permit implies that the person would work for an employer other than the sponsor, which puts them in an illegal situation. For Bangladeshi irregular migrants in Saudi Arabia, Ullah reports, on the basis of qualitative interviews, that the largest category consisted of persons who had arrived on a pilgrimage visa (for Haj or Umrah), and who overstayed the visa. In case of Filipinos, Batistella and Asis report that about 150,000 of the 2.4 million Filipinos residing in the GCC countries were in some form of irregular situation.

Deportations from Gulf countries also provide a very rough and partial estimate of irregular migration. In the case of Pakistan, Arif and Ishaq report that, during 2009-2014, about 193,000 Pakistanis were deported from the Gulf countries, constituting about 6% of all workers who were placed in the Gulf during that time period. Deportations of Egyptians during the latest amnesty held in Saudi Arabia from April to November 2013 amounted to around 300,000, corresponding to 23% of the total Egyptian workforce in Saudi Arabia, according to Awad and Aziz. For Ethiopians, Fernandez reports that 163,000 were deported from Saudi Arabia after the last amnesty that ended in November 2013. Deportation data provide some idea of the scale of irregular migration in the Gulf. But these figures probably represent only the tip of the iceberg, since the majority of irregular migrants may be able to regularise their status or may decide to continue living in the host country in an irregular situation.

Within the destination countries, records of regularisations and departures during the period of amnesty, when irregular residents may adjust their status without paying any penalties, also provide some idea of the scale of irregular residency in the Gulf. The recent record of regularisations conducted during the six-month amnesty in 2013 in Saudi Arabia indicates that the scale of irregularity was massive (De Bel-Air, in this volume). Records of regularisation and departures following an amnesty in a Gulf country provide a useful but incomplete picture of the total number of irregular residents. During the last amnesty held in Kuwait in 2011, for example, only 37% of the known overstayers regularised their status or departed, while most decided to continue living in an irregular situation (Shah 2014). A similar situation was reported by Safar and Levaillant for Oman (in this volume) where around

50,000 undocumented and overstaying expatriates were expected to apply for the 2015 amnesty, but only 14,254 (28.5%) made use of it.

Groups at Higher Risk of Irregular Migration

Two groups are at higher risk of being in an irregular situation: the relatively lower skilled workers and domestic workers. Some of the root causes of this are centered in migration environment in the sending country. As outlined for India by Rajan (2011: p.134) “Low economic opportunity, lack of information, a culture of migration, transnational migrant networks and the operation of unregulated intermediaries, organized racketeers and trafficking rings are key determinants of irregular migration from India.” Unemployment and underemployment are likely to be higher among the unskilled and lower skilled workers in the countries of origin, leading to a large potential supply of workers eager to find a job in the Gulf. The desire to work in the Gulf is exacerbated by the apparently successful experience of returnees, who often flaunt their wealth and assets when visiting the home country. Some of the low skilled workers pay exorbitant amounts to buy a work visa for a Gulf job that in reality may not exist. The money is frequently borrowed from friends, relatives, or money lenders. This kind of debt bondage is one of the reasons that compels and prolongs irregular residence in the Gulf.

Sending countries differ in terms of whether they encourage the migration of women, especially as domestic workers. Of the six sending countries included in this volume, most migrants from the Philippines and Ethiopia are women, while substantial numbers from India are in this category. However, Pakistani migrants contain almost no such women. The qualitative data presented by various authors provide vivid descriptions of pathways through which female migrants become irregular, even though most enter the Gulf legally. In Kuwait, about half of all overstayers in 2014 were domestic workers, many of whom are likely to have run away from their employer.

Why Irregular Migration is Perceived as Not Being that Bad

Policy makers, security officials, and researchers tend to think of irregular migration as being risky, unfair, and potentially harmful not only for the migrant but also for the sending and host countries. However, the lived experiences of many interviewees described in this volume suggest that several migrants may not see their irregular status as being disastrous. Many, in fact, are willing to perpetuate this situation,

despite their awareness about possible arrest, jail term, and deportation. A theme that re-emerges repeatedly in interviews in several host countries relates to the lack of options open to migrants elsewhere, including their country of origin, and the perception of their current situation as being tolerable. To survive in an irregular status becomes normality for many. They learn to negotiate the formal and informal spaces and systems they encounter. Many have specific goals they want to achieve during their Gulf stay, whatever the cost. Education of their children and building a house in the origin country are paramount among these goals. They are willing to suffer and sacrifice to achieve these goals for a better future. Most irregular migrants seem to share one characteristic: resilience. As their stay in the Gulf prolongs, they gather enough capacity to exercise their agency to achieve a skilful survival in the face of adversity.

Support by large networks of friends and relatives is a key enabler and sustainer of the skilful survival of irregular migrants. Not only do such networks initiate and finance the migration of their kin and friends, they also provide shelter and sustenance when necessary. As Rajan and Jolin report from the results of their Kerala survey among intending migrants, emigrant households and returned emigrants, over 70% of emigrants utilise networks of friends and relatives as their preferred emigration channel, with many of these flows falling outside the purview of legal stipulations.

In the case of some workers on “free visas” this situation may in fact be regarded as the preferred option rather than being tied down to one employer for a fixed sum of money, regardless of their irregular status. The financial and personal gains outweigh the risks in the migrant’s calculus. As Mahdavi points out for her interviewees in Dubai and Abu Dhabi “irregular migration can often be experienced as more lucrative, empowering, and safer for many migrants and their loved ones. Migrants often make decisions that are best for themselves and their loved ones, not necessarily in accordance with laws or formal migratory and labour trajectories. It is often the case that migrating or working irregularly is the more desirable option due to financial opportunities and available avenues for increased mobility—be that physical, economic, or emotional.”

In several respects, irregular migration may be beneficial not only for the migrant but also for several actors who indirectly profit from this situation. As pointed out in the case of Kuwait by Shah and Al-Kazi: “Sponsors gain by selling visas; apartment dwellers by sub-letting rental space; intermediaries by charging recruitment assistance fees; employers by a reduced cost in hiring workers etc. At the same time, social and familial benefits are gained by aiding the migration of

kin and countrymen, and the accumulation of social capital. Thus, a wide-ranging system of mutual benefits, constituting win-win situations exists.”

What Does the Future Hold?

The picture that emerges from the analysis in this volume illustrates that irregular migration is a complex, multifaceted, and deep-rooted phenomenon that will not be eliminated by simple policy changes. Many legal frameworks aimed at curtailing it already exist in sending as well as host countries, but migrants continue to evade these rules. Irregular migration will remain difficult to control as long as migrants are willing to maintain their irregular status and those who help them to maintain this status gain from the current situation.

Instead of looking the other way and ignoring the existence of irregular migration, Gulf countries have become increasingly proactive in the last two decades. They have become so both in terms of making efforts to curb and contain irregular migration, but also in terms of reforming some regulations and practices that may help in reducing migration to a minimum. Qatar has probably been most active in this respect, followed by the UAE and Bahrain. At the same time, sending countries are trying to improve their efforts at discouraging irregular migration through awareness campaigns, better pre-departure orientation of migrant workers and better regulation of the work of private recruitment agents. The chapter by Frantz advocates that additional concerted efforts are needed in safeguarding the rights of migrants in an irregular situation, such as a ‘firewalling strategy’ where people can pursue legal claims against abuses by employers without being subject to arrest and expulsion. Finally, in the concluding chapter of this volume, Fargues addresses the broader global and regional contexts that will impact irregular migration in the Gulf and in the wider world.

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SKILFUL SURVIVALS: IRREGULAR MIGRATION TO THE GULF

The Gulf States are among the most sought-after destinations by global migrants. Part of this migration is irregular, due to five main causes: entering without a proper visa; overstaying after a visa or residence permit has expired; being employed by someone who is not the sponsor; absconding from a sponsor; and being born in the Gulf to parents with an irregular status. The treatment reserved for migrants in an irregular situation marks out the Gulf States. Arrest and detention are widespread practices in spite of constitutional guarantees against arbitrary imprisonment. Staying without a proper visa or absconding from a sponsor is regarded as a criminal act, and foreign nationals who commit such acts are detained in the same prisons as common law criminals with no clear right of recourse. Domestic workers, most of whom are women employed by private households and, therefore, not protected by labour laws which in the Gulf apply only to businesses, are particularly subject to arbitrary sanctions and jail.

Lived experiences suggest that migrants may not see their irregular status as being disastrous. Many, in fact, are willing to perpetuate this situation, despite their awareness about possible arrest, jail term, and deportation. A theme that emerges repeatedly in interviews indicates the lack of options open to migrants elsewhere, including their country of origin. Migrants in an irregular situation learn to negotiate the formal and informal spaces and systems they encounter. Most irregular migrants seem to share one characteristic: resilience. As their stay in the Gulf lengthens, they gather enough capacity to exercise their agency to achieve a skilful survival in the face of adversity. A wide-ranging system of mutual benefits constituting win-win situations for varied actors enables and perpetuates irregular migration.

