



Producing Irregular Migration: Living and Labouring under Laws in the United Arab Emirates

Pardis Mahdavi

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

This is a chapter in the volume: Philippe Fargues and Nasra M. Shah (eds.), *Skilful Survivals: Irregular Migration to the Gulf*, Gulf Labour Markets and Migration (GLMM) Programme, Gulf Research Center Cambridge, 2017. For other chapters and the entire volume, please refer to www.gulfmigration.eu.

Terms of use: By using any information from Gulf Labour Markets and Migration programme publications, the user: (a) acknowledges having read the legal notices concerning copyright, terms of use and disclaimers and agrees to comply with them in full; (b) agrees to assure himself/herself whether and to what extent copyrights exist on information published by the GLMM prior to using this information; (c) agrees not to use information published by GLMM in any way that would result in the infringement of existing copyrights; (d) agrees to always follow precisely and fully the citation instructions provided by the GLMM. GLMM publications may be copied and distributed only in their entirety and together with any copyright statements they may contain, as long as they are properly attributed and used for non-commercial, educational, or public policy purposes. Photographs, logos, graphs, tables or any other images from the GLMM publications may not be used separately.

Copyright: © European University Institute (EUI) and Gulf Research Center (GRC), 2017. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of European University Institute and Gulf Research Center.

Disclaimer: The Gulf Labour Markets and Migration (GLMM) programme cannot be held responsible in any way for the correctness and accuracy of the information and data published on its website, on paper and in other forms, including the database and its publications. The GLMM strongly encourages users to verify the correctness and accuracy of the information and data with the source, which is always indicated with the greatest accuracy and detail possible. Any opinions expressed in any GLMM publication are those of the author(s) alone and do not necessarily state or reflect the opinions or position of the Migration Policy Centre, the European University Institute or the Gulf Research Center.

Support: The Gulf Labour Markets and Migration Programme receives support from the International Migration Initiative (IMI) of the Open Society Foundations (OSF); the National Priority Research Program (NPRP) of the Qatar National Research Fund (QNRF); and the Swiss Agency for Development and Cooperation (SDC); and relies on the institutional resources of the GLMM partners.



Gulf Research Center
Knowledge for All

E-mail: info@grc.net

Website: www.grc.net



Gulf Labour Markets and Migration Programme

E-mail: info.glmm@grc.net

Website: gulfmigration.eu

Gulf Research Center

E-mail: info@grc.net

Website: www.grc.net

Jeddah

Gulf Research Center
19 Rayat Al-Itehad St.
P.O. Box 2134
Jeddah 21451
Kingdom of Saudi Arabia

Geneva

Gulf Research Center
Foundation
WMO Building - 2nd Floor
Avenue de la Paix, 7bis
CH-1211 Geneva
Switzerland

Cambridge

Gulf Research Centre
Cambridge
Centre of Islamic Studies
University of Cambridge
Sidgwick Avenue
Cambridge CB3 9DA, UK



First published 2017

Cover Photo: Imco Brouwer

About the Gulf Research Center



The Gulf Research Center (GRC) is an independent research institute founded in July 2000 by Dr. Abdulaziz Sager, a Saudi businessman, who realised, in a world of rapid political, social and economic change, the importance of pursuing politically neutral and academically sound research about the Gulf region and disseminating the knowledge obtained as widely as possible. The Center is a non-partisan think-tank, education service provider and consultancy specializing in the Gulf region. The GRC seeks to provide a better understanding of the challenges and prospects of the Gulf region.

About the Gulf Labour Markets and Migration (GLMM) Programme



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.

X

Producing Irregular Migration: Living and Labouring under Laws in the United Arab Emirates

*Pardis Mahdavi**

Abstract: This chapter focuses on the ways that policies designed to counteract the perils of “human trafficking” as well as the structure of the guest worker (*kafala*) programme in the United Arab Emirates (UAE) has created a situation wherein more migrants to the UAE are relegated to or choosing irregular migratory routes or irregular employment in-country. This research is based on over ten years of ethnographic fieldwork with migrants, survivors, activists, law enforcement officials and employers in the Emirates of Dubai, Abu Dhabi, Sharjah, and Ras Al-Khaimah from 2004 until the present. This chapter juxtaposes the lived experiences of migrants who either migrated or now work irregularly in the UAE with policies about gendered migration, human trafficking, and the guest worker programme. Through a close examination of the guest worker programme and the recent slew of anti-trafficking laws since 2005, it shows how the construct of exclusionary labour laws creates a situation wherein irregular migration becomes the only option and the informal economy is preferable to working under the harsh contours of *kafala*. It argues that the disconnect between migrants’ lived experiences

* Pardis Mahdavi is Dean of Women, Director, Pacific Basin Institute, Associate Professor and Chair, Department of Anthropology, Pomona College.

and policies on trafficking, migration and guest work occur because migrants are typically seen only through the lens of their circumstances or labour. The chapter concludes with an assessment of the challenges and opportunities present in the UAE for the protection of irregular migrants and their families.

Introduction

This chapter chronicles the trajectories of migrant women who, in increasing numbers, enter into migratory status and journeys that could be considered “irregular” due to movements and employment outside of the legal sphere. As one of the largest migrant receiving countries in the world, the United Arab Emirates (UAE) currently has a growing number of migrants who either migrate outside of formal channels, work in spheres that would be considered informal (unregulated, untaxed) economies, live as undocumented persons in the UAE, or are a combination of the above. Interestingly, many of these migrants have deliberately chosen to work, stay, or migrate irregularly in response to migration policies that are overly stringent and seek to restrict the movement of certain categories based on gender, race and age. These policies were framed in the last decade with the intention of decreasing the numbers of irregular migrants and increasing migrants’ rights. Paradoxically, the opposite has occurred.

Policies and discourses about migration, particularly gendered migration, in the UAE tend to fall into one of three categories. The first are local policies pertaining to the *kafala* or sponsorship system regulating migration in the Gulf. The *kafala* system, which is widely practiced throughout the Gulf Cooperation Council (GCC) countries, tethers all migrants to a citizen sponsor or *kafeel*, who effectively controls their movements and legality in-country. Most notably, the *kafala* system subjects migrant workers to a long list of responsibilities but does not afford them the necessary protection of rights.¹ This particularly affects domestic workers and agricultural workers who make up a large percentage of migrants in the UAE.² The second set of policies both originates and operates at the local level

-
1. United Arab Emirates, *Federal Law No. 8 for 1980 Regarding the Organization of Labour Relations*, issued on April 20, 1980. English translation available at: http://www.gulftalent.com/repository/ext/UAE_Labour_Law.pdf. See also Human Rights Watch, “UAE: Draft Labor Law Violates International Standards,” *Human Rights Watch*, March 26, 2007, <http://www.hrw.org/news/2007/03/24/uae-draft-labor-law-violates-international-standards/>. For further information on the status of domestic workers in the UAE, please see Mahdavi (2011).
 2. Data on migrant labour is limited, particularly as official records largely do not take into account irregular migration. In addition, countries do not always provide complete statistics.

and includes policies and discourses around the somewhat nebulous category of “human trafficking.” Policies to address human trafficking create some of the largest obstacles facing migrant workers in the Gulf because they seek to place migrants into artificial categories that erase their lived realities. The official definition of trafficking as stated in Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons prepared by the United Nations Office of Drug Control (note the disjuncture in the UN agency designated to monitor human trafficking – an agency dedicated to organised crime and the movement of drugs rather than the human rights arm of the UN) is as follows:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

That this policy has been constructed within a framework of criminalisation (rather than a framework of rights) is just one aspect of the problem. Perhaps one of the most striking issues with the interpretation of the definition of human trafficking has been the exclusive focus on the sex industry, as well as the construction of one archetypal “victim”: a young woman. This narrative eclipses instances of abuse experienced by men or women outside the sex industry. As anthropologist Carole Vance has expertly noted, a moral panic (Cohen 1972) over movement into the sex industry is not new, nor localised to the US. Indeed, panic over the movement of female bodies, particularly into the sex industry, undergirded much of the panic over “white slavery,” which began at the turn of the 18th century in England (Vance 2011). Current political initiatives to fight human trafficking are also markedly focused on sex, while the moral panic about human trafficking remains suffused with racial undertones.

Beyond this reductive focus on sex, the discourse on human trafficking oversimplifies complex decision-making processes. The ideal “victim” cannot (and must not) have had any agency in her circumstances. Either she was forced, and

Based on a report by Martin Baldwin-Edwards, we can estimate that 4% of migrant labourers work in agricultural sector and that about 15% of migrant labourers work in households. See Baldwin-Edwards 2011.

therefore trafficked, or she (or he) chose to migrate and therefore is not trafficked. But this simplification extends further. “Victims” are typically women who have been forced by a particular trafficker. In some forms of legislature, such as the provision of trafficking or t-visas in the United States, the awarding of a t-visa is predicated on the “victim’s” willingness and ability to testify against her trafficker.

The third category of policies originates and operates at both local and global levels and includes laws pertaining to citizenship transfer and familial reunification. Recognising, as policies fail to do, that migrants are not “disembodied individuals (or by default men) but are adults or children traveling with or leaving family members behind,” as Bhaba and Benhabib note, we need to understand that “the mobility of some has consequences for or corresponds to the immobility of others.”³ Many migrants wish to reunite with or form families throughout their migratory journey. However, citizenship and reunification laws in the UAE make this increasingly challenging. Many migrants get caught in the unfortunate crossfire of incongruent local and global laws (on parental citizenship transfer, for example), thus producing irregular migration as the comparatively desirable option.

In this chapter, I seek to explore some of these policies in order to highlight their shortcomings in capturing the realities of the lived experiences of migrants’ journeys and intimate lives. By understanding the stark disconnections between policy and lived experience, the route to irregular migration and employment can be better highlighted. In understanding the realities of migrant experiences, we can also see how irregular migration can often be experienced as more lucrative, empowering, and safer for many migrants and their loved ones. Though undesirable from the perspective of the state or international community, it is important that policy makers recognise both their roles in producing irregularity and the comparatively desirable space that irregular migration and employment offer. Policies and discourses are disconnected from lived experiences because they fail to see the migrant in the context of their lives, or as human beings with intimate lives, desires, and subjectivities. Recognising the intimate lives of migrants allows for a foregrounding of the multidimensionality of lived experience, which also highlights decision-making processes, risk calculation, and preferences for types of migration and employment in various industries.

Throughout this chapter, I try to pay special, etymological attention to the use of words and the artificial nature of categories embedded within language. Most importantly, investigating and unpacking falsely dichotomised binaries around the

3. Benhabib and Resnik, 2009: 4.

economies or migratory schemes within which migrants operate leads to a more comprehensive understanding of the structures surrounding migrants and how they negotiate these structures. These binaries, reified as a result of the moral panic that colours conversations about migration and underwrites perceptions of trafficking, have become objects of concern and query. Two frequently used binaries are legal/illegal and formal/informal, neither of which captures the grey areas of lived experience. Many of my interlocutors migrated legally (i.e., through legal visa entry processes), but then worked in the informal (or unregulated, untaxed) economies of care work or sex work. Others came illegally (were smuggled or engaged in the ever popular visa trading) but work for companies in the formal economy. Still others migrated legally but then overstayed their visas or absconded from their employers, thus rendering them illegal in their visa status. What it means to migrate or work legally or illegally, and where the formal economy ends and the informal economy begins encompass many shades of grey. The terms “illegal” and “informal” carry with them some pejorative weight, especially when used to describe real people, and it is for this reason that many scholars – myself included – have used the terms regular and irregular migration, not to dichotomise the two, but in an attempt to find more neutral terminology. When I write about irregular migration or employment, I refer to movement or work that takes place outside the spheres governed by formal legal and economic structures.

This chapter draws on ethnographic research conducted in Dubai and Abu Dhabi between 2008 and 2014. In 2008, I began by conducting fieldwork in the UAE with domestic workers, sex workers, care providers, and service workers. This led me to interviews with state officials and embassy personnel in the UAE and also back home in the United States. Between 2008 and 2014, I made annual extended field trips to the UAE for periods ranging from one to three months. During this time, I interviewed 213 female intimate labourers, 89 state and embassy officials, and 57 male migrant workers. I also interviewed 14 stateless children of varying ages and 33 employers. The fieldwork entailed participant observation at detention centers, hospitals, NGO offices, courtrooms, employment locales, orphanages, shelters, and informal shelters at embassies in addition to my interviews. I conducted participant observation and in-depth interviews with migrant women from several major sending countries including Ethiopia, India, Pakistan, the Philippines, Indonesia, Madagascar, and Nepal. I also conducted media analysis of articles appearing in the UAE and in the US about migrant labour in the Middle East. Finally, a review of policies on human trafficking, domestic work, migration, the *kafala* system in the Gulf, and citizenship transfer laws supplemented the ethnographic fieldwork.

Labour and Law

Current statistical estimates show a dramatic increase in numbers of female migrants in the last three decades.⁴ It is believed that “fifty to seventy-five percent of the legal migrants leaving Indonesia, the Philippines, and Sri Lanka are women, most of them hoping to earn money as domestic workers in the Middle East and other parts of Asia.”⁵ Statistics and numbers about female migrants in particular and the industries into which they migrate suffer from a lack of accuracy and transparency but nevertheless provide evidence for the increasing feminisation of migration.

Migrant labour in Dubai is structured by a *kafala*, or labour sponsorship system. Those migrating into the formal economy must operate on the basis of their contracts and work with a sponsor. This system is unique to the GCC countries and structures the lived experience of migrant work in the formal economy. Under the *kafala* system, each migrant worker is tied to a sponsor, or *kafeel*, who also functions as his/her employer. Residence and legal working papers for the migrant depend on the relationship with the sponsor. In the case of disputes with the sponsor-employer, migrant workers can be left without legal permits to remain in the UAE.⁶

As Andrew Gardner has noted in his thorough study of male migrant workers in Bahrain, and later Qatar, the *kafala* system renders extreme variability in the experiences of workers in that the governance of the individual depends entirely on the sponsor. Migrant workers describe sponsors as ranging from accommodating and vested in protecting their labourers to exploitative and abusive.⁷ Even when tied to sponsors who are sympathetic and take their concerns seriously, migrant workers often report difficulty in communicating with them, particularly as middlemen can present barriers in accessing help from the sponsors. Within the *kafala* system, sponsors often confiscate employees’ passports (though this is now technically against UAE law, my interviews revealed that it is still a common practice), effectively restricting employees’ mobility and their ability to pursue other employment opportunities. Many workers who choose to break employment contracts attempt to stay in the country as illegal aliens – a better option for them than returning home empty-handed. Certain labour laws allow workers to take employers to court for the violation of labour contracts, yet during the proceedings workers become and remain undocumented and are often forced into the informal economy to make

4. See Parreñas (2011), Benhabib and Resnik (2009), and Ehrenreich and Hochschild (2003).

5. See Varia 2007.

6. Longva 1999.

7. Gardner 2010.

ends meet.⁸ Additionally, according to the 1959 Residency Law, an alien can be deported as a result of a judicial or administrative decision if “the alien has been convicted and the court has recommended deportation, if he/she has no means of sustenance, (or) if the Ministry of the Interior objects to his or her presence on national territory for ‘security or moral reasons.’”⁹ Indeed, collapsing employer and sponsor into a single category may be the root of the problem. Migrants have no place to turn to because the law is written to protect the employers rather than migrant workers.

While I argue that the articles of the law outlined previously need serious revision, there are, in fact, a series of articles that in theory protect labourers’ rights; however, these are rarely enforced. Articles 65-73 outline appropriate working hours and the need to give workers time off at regular intervals. Similarly, Articles 80-90 outline a long list of occupational hazards and diseases that the employer must provide treatment for, both in the short and long term. These laws protect migrants’ time and health, but are often not adhered to due to the lack of inspectors. According to a Human Rights Watch Report, “though a decree in 2006 asked for at least 2000 new labor inspectors, the number currently stands at just 48.”¹⁰

Laws pertaining to citizenship transfer and family reunification, yet another set of laws at the national level, can often seduce migrants into work in the informal or irregular economies. It is important to recognise that many migrant women move to the UAE during their most fertile years; however, those women who migrate formally under the *kafala* system are contractually sterilised. These women are banned from any engagement in sexual activities, and evidence of such transgressions in the form of pregnancy (even if it results from rape by an employer or other person) is grounds for termination, incarceration, and deportation – often without the child. Two dozen of my interlocutors had found themselves in such a situation. They had migrated to the UAE and become pregnant; eighteen of them had engaged in consensual sex and were involved in long term relationships, while the remaining six were raped (four by employers, two by policemen). They had all been incarcerated for a period of time, and all but one deported without their babies. Unfortunately, incongruences between citizenship laws in sending countries and the UAE both confined their children to the UAE and left them stateless, unable to migrate to join their mothers. With glaring fatefulness, these children

8. Ibid., 22.

9. See Nagy (1998), Longva (1999), Sabban (2004), Garnder (2010), Mahdavi (2011), and Ahmad (2012).

10. Human Rights Watch, Human Rights Watch 2007.

will be working irregularly because they do not and will never have access to formal working papers. And so labour systems that are particularly restrictive of women, incarceration, and incongruent citizenship laws actually contribute to the irregular labour force.

Citizenship laws define the rights and obligations of citizens and the manner in which citizenship is acquired and lost. Typically, citizenship can be attained through *jus sanguinis* (blood-based transfer) wherein the parent – and sometimes the gender of the parent is significant here – can transfer their citizenship to their offspring, or *jus solis* (soil-based transfer) which refers to acquiring birthright citizenship by being born in a particular country, or naturalisation. The UAE does not allow *jus solis*, and naturalisation is very difficult. *Jus sanguinis*, the primary mode of citizenship transfer, was typically passed only through the father in the UAE, which had led to much controversy. Today, however, children of citizen mothers are allowed to obtain citizenship as of 2011.¹¹

In the UAE, citizenship laws are based upon Federal Law No. 17 for 1972 and amendments made by Federal Law No. 10 for 1975. Citizenship can be gained by residing in the Emirates from 1925 or before, by being born to a male or female citizen whether abroad or in the country, or by being born in the country to unknown parents. Citizenship by naturalisation requires migrant labourers from non-Arab states to reside in the country for at least thirty years, with at least twenty of those years after the citizenship law of 1972 entered into force. Migrants are able to become citizens through the extension of marriage and naturalisation according to the laws stated under the first chapter of the citizenship law. Children, regardless of their country of birth, are able to gain citizenship given they are born to a father citizen, or, as of 2011, born to a mother citizen. Anyone born in-country to unknown parents is also able to gain Emirati citizenship, but it must be established, legally, that neither parent is known.

While some migrants sought out irregular journeys or employment in order to circumvent punishment or contractual sterilisation, others migrated irregularly to join family members and loved ones who could not afford to formally bring family members from home. In the UAE, family reunification laws vary depending on the relation between the migrant worker and the family member accompanying them. When it comes to family sponsorship, a migrant worker must either be a spouse or a first affinity relative to the person accompanying them in order to qualify as a sponsor. For example, if a child, son-in-law, or daughter-in-law meets a

11. Issa 2011; also see, US Department of State, Bureau of Democracy 2012.

minimum salary requirement, holds a valid residency visa, and can provide sufficient accommodation supported by appropriate documentation, they are able to sponsor their parents and parents-in-law.¹² Sponsors must receive a monthly salary of at least Dh3,000 plus accommodation allowances or a monthly salary of Dh4,000 without any accommodation allowances.¹³

Children born in the UAE to foreigners do not have rights of local citizenship and automatically assume the nationality of the parents. Up until 2011, according to the Ministry of Interior, Emirati mothers married to non-UAE citizens were not able to obtain citizenship for their children if the children were born before the fathers became citizens. However, in a new law passed in 2011, an Emirati citizen – regardless of gender – married to a non-Emirati may obtain citizenship for her child, and this has been successfully implemented since the passage of this law.

At the global level, a number of policies and legal categories created to address and combat what is loosely defined as “trafficking” have rendered the term opaque and led many to question the utility of the category or term as a whole. For migrants and labourers, not only is the discourse perpetuated about trafficking problematic, but so too are the overwhelmingly negative effects of migration policies and the resulting response strategies that take a “raid and rescue” approach. Several of my interlocutors had become irregular migrants or employees specifically because they were trying to circumvent anti-trafficking legislature and outreach. Paradoxically, laws instated to help migrants are actually placing increasing numbers of them in situations of precariousness.

The UAE is a member of the International Labour Organisation and the Arab Labour Organisation and has ratified the Convention of the Rights of the Child, CEDAW, and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. While the UAE is working towards improved labour standards, human trafficking, with a focus on sex work, has taken centre stage. In a statement responding to the 2009 *Trafficking in Persons (TIP) Report*, Minister Anwar Gargash, who is the head of the UAE’s National Committee to Combat Human Trafficking (NCCHT) formed in 2007, said “it is incongruous to equate alleged labour rights violations, which are critical but a separate issue, to the coercive and unacceptable sexual exploitation of women for profit. This report lumps all of these issues together in a manner that is generalized

12. Immigration Specialist 2012.

13. Suter 2005.

and unconstructive.”¹⁴ One official within this NCCHT task force emphasised that anti-prostitution activists from the US had played a large role in re-focusing the UAE’s efforts on sex trafficking. Responses to the TIP have included the establishment of the NCCHT (which is made up primarily of public prosecutors and law enforcement officials) as well as a human rights task force within the police sector whose mandate is to arrest people deemed as trafficked persons. In addition, the NCCHT has worked to create the Dubai Foundation for Women and Children, which has admitted 43 cases of trafficking (all women), and a shelter in Abu Dhabi which has admitted 15 women since its inception in 2009. In 2009, there were 20 registered cases of trafficking (all related to the sex industry), up from 10 in 2008, and in 2008, six persons were convicted. While these are important and impressive measures of progress, one activist who has been working to reform the *kafala* system expressed frustration and felt that some officials were using the hyperscrutiny on women in the sex industry to get away from the larger issue of labour laws in need of reform.

Lived Experiences – Between Labour and the Law

“I used to see my cousins and girlfriends come back to Ethiopia with lots of money, and nice magazines and nicer clothes,” Dorna said, reflecting on her decision to migrate to Dubai to work as a domestic worker. When I met her, she was working illegally as a nanny for three different families and occasionally engaged in sex work on the side. She had been in Dubai for almost five years and, in that time, had borne a son from an Emirati man with whom she lived for two years. She was very eager to return to Ethiopia to reunite with her family but was afraid of the heavy fines she would incur upon her departure. Migrants who overstay their visas or work illegally must pay heavy fines (\$25) for each day they remain beyond their assigned departure date. The trouble for Dorna was that she did not have her passport or visa. Her previous employers had retained her documents and refused to return them to her.

Dorna’s trajectory from migrating to work in the formal sphere of domestic work to working in the informal economy of the sex industry and living as an “illegal alien” in Dubai was similar to at least seven other women with whom I spoke. After her father died, Dorna’s mother and siblings were left in high debt. Worried about her family’s future, she decided to ask her friends about possible

14. http://www.wam.ae/servlet/Satellite?c=WamLocEnews&cid=1241072976464&pagename=WAM/WAM_E_Layout.

avenues of migration to the Gulf. In recent years, the Ethiopian government – in response to moral panic about human trafficking – has passed a series of measures designed to regulate the flow of Ethiopians migrating for work, particularly to the Middle East.¹⁵ The state has imposed rules on licensing for recruiters and has been working towards a system of employee training (similar to that in the Philippines) and contract monitoring. This increased bureaucracy has resulted in many women looking for other ways to leave Ethiopia, ways that are seen as simpler and faster routes for securing transnational employment.

Dorna's friend put her in touch with an illegal recruiter who asked for a high fee, equivalent to \$2,000, for securing her passage to Dubai (via boat through Yemen) and for drawing up a contract for her to work as a domestic worker. Dorna never saw the contract, but was told she would be met by another recruiter upon her arrival in Dubai.

When she arrived in Dubai after a long journey she was met by a recruiter and then taken to the home of her new employers, a Lebanese family who had moved to Dubai a few years earlier. The family took Dorna's passport and few personal belongings that she had brought with her, and she never saw them again. The family made Dorna work up to 18-hour days, often locked her in the house when they left, and did not provide her dinner on a majority of weeknights. "But I don't know where to go. I'm illegal lady, coming illegally, so I'm not going to embassy or police. But where to go?" she asked rhetorically. When she complained, she was beaten, and the male head of household would make further advances toward her, making sexual threats that he would rape her one night while she was asleep. She was very afraid of these threats, so one afternoon she ran away from the apartment where she had been sequestered for the last six months without pay.

That day, Dorna jumped from the window of her room on the third story of an apartment building. When she jumped, she injured her right leg badly, but instead of going to the hospital or police, Dorna decided to go to the church that she had been permitted to attend once a month. "I know other Ethiopians at the church, I know if I can get there, I can get help," she said. However, she did not know her way around town, and her injured leg severely restricted her mobility. After a few days of living on the street she met a young Emirati man who wanted to help her. After a few weeks, Dorna became romantically involved with this man and eventually became pregnant. The man was very happy to hear that she was pregnant and showered her with gifts and attention. He also promised her to get her a legal

15. de Regt 2010.

visa and be her sponsor and potentially her husband. Dorna was overjoyed. During this period, she converted to Islam and became very involved at the local mosque that her Emirati boyfriend attended. After their son was born, however, things changed. The young man, who had not yet succeeded in retrieving her working papers or passport, suddenly became agitated with Dorna and ordered her to leave the house with the baby. He told her his family had heard about their situation and did not approve of his decision to live with Dorna for those two years. He gave her some money for the child and sent her away. Though Dorna did not know it at the time, her son was undocumented because the boy's father had never acknowledged paternity. If caught, Dorna would likely be deported, but her son would remain, stateless, in the UAE, according to UAE law. Technically, Dorna might be able to seek out Ethiopian citizenship for the young boy; however, even a suspicion that the child may have Emirati paternity would be enough to hold the child in-country until paternity could be established.

When she faced troubles with her boyfriend, Dorna and her son moved in with some of her friends from the mosque while she tried to look for any possible type of work to earn enough money to pay off the fines she incurred having overstayed her visa and to procure an outpass to return to Ethiopia with her son. Limited by not having legal working papers, Dorna began by working in a restaurant in the Ethiopian neighbourhood in town. After a few months working at this job, however, she was not getting paid. One evening, she met a group of women at the restaurant who worked as sex workers in a bar called Fantasia. They told her what her earning potential could be and she decided to join them that evening. This marked the beginning of Dorna's work in the informal economy of sex work. After a few months working at Fantasia, Dorna was arrested one night in a raid. She was put in jail for three weeks and not permitted to see her son, who was still at the home of her friends with whom she had been living.

Elham was born in a local hospital in Ras Al-Khaimah, UAE. Now twenty years old, Elham has returned to work as a volunteer in the same hospital in which she was born. She has never left the tiny Emirate of Ras Al-Khaimah, not even to visit Dubai. From the little that Elham knows, her mother was a Nepali woman who had a "love case," according to the prison wardens who narrated her story to Elham. Her mother had migrated to Dubai initially to work as a domestic worker. There she had met another Nepali young man working as a security guard at a local business. When he was transferred to Ras Al-Khaimah, he persuaded Elham's mother to join him, which she did, absconding from her sponsor in Dubai, thus rendering her illegal. Elham's father and mother had moved in with each other

in Ras Al-Khaimah and before long, Elham's mother became pregnant. At some point, her mother was arrested, but Elham was not clear on this aspect of the story, as different jail wardens, including the one who informally adopted her and had raised her thus far, had told her different versions.

Elham's mother was arrested and tried for the crime of *zina*, like many other women who become pregnant outside of wedlock.¹⁶ The wardens were unclear about whether her mother had been initially picked up because she was without working papers or whether someone had seen her swollen belly and brought her in. Either way, she was arrested and sent to jail after giving birth to Elham in a hospital. As soon as she was born, Elham was sent to live in the prison with her mother, who remained staunchly by her side for two years, refusing to go back to Nepal without her.

When Elham was just over two years old, her mother was informed that she was going to be deported, but that the child could not come with her. Distraught, she begged Amira, one of the prison guards with whom she had grown close, to take Elham in and to take good care of her. Amira had grown quite close to Elham; she had been working tirelessly to get her travel documents in order so that she could return with her mother. Many of the wardens were able to successfully help the women in their charge, and Amira noted that she alone had seen over a dozen babies return home with their mothers.

For the first few years that Elham lived with Amira, the latter continued to work to procure travel documents, citizenship papers, or some type of documentation for Elham. Frustrated at the seemingly never-ending series of closing doors, Amira finally accepted that Elham was likely to live with her, stateless, in Ras Al-Khaimah for many years to come. Elham and Amira grew closer as time passed, and Amira was able to talk with friends of hers at a local school to allow Elham to enroll in classes, despite her undocumented status. After graduating from high school, Elham began volunteering at the hospital in which she was born. Elham is now twenty years old and has never left the borders of the UAE. She remains, stateless, for the foreseeable future, in Ras-Al-Khaimah.

As these stories show, migrants may end up moving, working, or living outside of the formal contours of the "legal" or "regular" economy for a variety of reasons. For many of my interlocutors, a combination of having to be creative in the face

16. *Zina* is the act of unlawful sex outside of marriage. Within secular law in the UAE, *zina* appears in the Federal Penal Code (FPC, Law No. 3 of 1987). The Penal Code includes Sharia Law.

of ever-changing and harsh laws about migration, employment (through *kafala*), and citizenship, as well as a desire to mobilise their intimate lives led them to the irregular economy. Someone like Dorna chose (from among a series of limited options) to migrate irregularly because formal migratory routes were not available to her due to anti-trafficking legislature seeking to restrict the out migration of women in particular. Having begun the journey in an irregular fashion, it became increasingly preferable for her to choose not just irregular migration but also irregular employment. For people like Dorna, they chose the space of the irregular economy because it afforded them more freedoms, rights, and empowerment and also allowed them to fulfill their intimate lives. They do, however, experience some vulnerability in the spaces of the irregular economy, and this vulnerability also plays out in their intimate lives. Children of migrants, such as Elham or Dorna's son are, in a sense, born into a situation of irregularity. Produced by laws about gendered employment as well as citizenship laws, these children's situations and lives seem somewhat bleak. Though Elham – and at least seventeen other young people in similar situations with whom I spoke – was able to mobilise through her irregular status and work informally, her situation in the UAE remains precarious. Thus, it is important to recognise at least three aspects of irregular migration, employment, or status, which are eclipsed by policies that do not take into account lived experience. The first is that irregularity is most often produced by policies seeking to curb (gendered) migration and citizenship as can be seen in the cases of all three women introduced previously. The second is that irregular migration or working status can be seen and experienced as a more lucrative and empowering strategy and one that can afford migrants with limited mobility and many options for economic, social, class, physical, and intimate mobility.¹⁷ Finally, it is also important to highlight that while living, moving, and working irregularly may be attributed to weak laws and policies and may be seen as the comparatively desirable option, migrants encounter vulnerabilities when living and moving in these spaces. These include the possibilities for arrest or deportation – what Nicholas DeGenova has termed “deportability”¹⁸ – as well as precarious living and working situations wherein migrants are regularly abused, not paid their wages, and subject to difficult working conditions.

17. For an in-depth discussion of what I mean by “intimate mobility,” please see Mahdavi (forthcoming).

18. De Genova 2002.

Irregularity and Intimacy – Intimate Migrations and Their Contents

Some migrants prefer the space of irregular migration and employment and are emphatic that they do not desire the opportunity to change their status. Several of my interlocutors indicated that it was only because their work was outside the sphere of the formal economy that it was lucrative, and they would not want their industries regulated by state laws. Other interviewees said that they did not “trust” their home countries or receiving countries and instead preferred to seek out irregular migratory routes (which seemed more expedient with less bureaucracy) or employment rather than having to “entangle” with the “state.”

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. Policies designed to address gendered migration do not take into account the lived realities of migrants and, in so doing, eclipse the multidimensionality of migrant subjectivities. A focus on the intimate lives of migrant labourers allows for a more robust understanding of irregular migration and employment while also foregrounding migrant subjectivity and the needs of their loved ones. Current policies, including those contouring the *kafala* system, citizenship, and reunification laws, and anti-trafficking legislature need to be assessed from the perspectives of migrant experiences, allowing migrants themselves to have a voice in policies that most affect their lives. In re-thinking these policies, migrants and their experiences can be foregrounded in such a way that narratives which demonise those in situations of irregularity will celebrate the creativity and outlaw inventiveness that migrants employ in their quests for vertical and horizontal mobility.

Bibliography

- Ahmad, Attiya. *Migrant Labor in the Persian Gulf*. London: Hurst, 2012.
- Baldwin-Edwards, Martin. "Labour Immigration and Labour Markets in the GCC Countries: National Patterns and Trends." LSE Research Online Documents on Economics 55239, London School of Economics and Political Science, LSE Library, 2011. Available at: <http://eprints.lse.ac.uk/55239/>.
- Benhabib, Seyla, and Judith Resnik (eds.). *Migrations and Mobilities: Citizenship, Borders, and Gender*. New York: New York University Press, 2009.
- Cohen, Stanley. *Folk Devils and Moral Panics: The Creation of the Mods and the Rockers*. London: MacGibbon and Kee Ltd., 1972.
- De Genova, Nicholas. "Migrant 'Illegality' and Deportability in Everyday Life." In *Annual Review of Anthropology* 31 (2002): 419-447. doi: 10.1146/annurev.anthro.31.040402.085432.
- De Regt, Marina. "Ways to Come, Ways to Leave: Gender, Mobility and Il/Legality among Ethiopian Domestic Workers in Yemen." In *Gender and Society* 24, no. 2 (2010): 237-260. doi: 10.1177/0891243209360358.
- Ehrenreich, Barbara, and Arlie Russell Hochschild (eds.). *Global Woman: Nannies, Maids, and Sex Workers in the New Economy*. New York: Metropolitan Books, 2003.
- Gamburd, Michele R. "Milk Teeth and Jet Planes: Kin Relations in Families of Sri Lanka's Transnational Domestic Servants." *City & Society* 20 (2008): 5-31. doi: 10.1111/j.1548-744X.2008.00003.x.
- Gardner, Andrew M. *City of Strangers: Gulf Migration and the Indian Community in Bahrain*. Ithaca, NY: Cornell University Press, 2010.
- Human Rights Watch. "UAE: Draft Labor Law Violates International Standards." *Human Rights Watch*, March 26, 2007. Available at: <http://www.hrw.org/news/2007/03/24/uae-draft-labor-law-violates-international-standards>.
- International Labour Organization. "C181 – Private Employment Agencies Convention." 85th International Labour Conference session, Geneva, June 19, 1997. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326.

- Immigration Specialist. "Relocating With Dependents: Immigration Challenges in Family Reunification." *Move One Inc*, June 21, 2012. <http://www.moveoneinc.com/blog/moveone-news/enrelocating-dependents-immigration-challenges-family-reunification>.
- Issa, Wafa. "Children of Emirati Mothers, Expatriate Fathers Offered Citizenship." *The National*, November 30, 2011, sec. UAE. <http://www.thenational.ae/news/uae-news/children-of-emirati-mothers-expatriate-fathers-offered-citizenship>.
- Jureidini, Ray. "Trafficking and Contract Migrant Workers in the Middle East." In *International Migration* 48 (2010): 142–163. doi: 10.1111/j.1468-2435.2010.00614.x.
- Longva, Anh Nga. 1999. "Keeping Migrant Workers in Check: The *Kafala* System in the Gulf." *Middle East Report* 211 (1999): 20–22. <http://www.merip.org/mer/mer211/keeping-migrant-workers-check>.
- Mahdavi, Pardis. *Crossing the Gulf: Love and Family in Migrant Lives*. Stanford, CA: Stanford University Press, 2016.
- . *Gridlock: Labor, Migration, and Human Trafficking in Dubai*. Stanford, CA: Stanford University Press, 2011.
- Nagy, Sharon. "'This Time I Think I'll Try a Filipina': Global and Local Influences on Relations between Foreign Household Workers and Their Employers in Doha, Qatar." In *City and Society* 10, no. 1 (1998): 83–103. doi: 10.1525/city.1998.10.1.83.
- Parreñas, Rhacel Salazar. *Illicit Flirtations: Labor, Migration, and Sex Trafficking in Tokyo*. Stanford, CA: Stanford University Press, 2011.
- Sabban, Rima. "Women Migrant Domestic Workers in the United Arab Emirates." In *Gender and Migration in Arab States: The Case of Domestic Workers*, edited by Simel Esim and Monica Smith, 85–107. Beirut: International Labour Organisation, 2004.
- Soderlund, Gretchen. "Running from the Rescuers: New U.S. Crusades Against Sex Trafficking and the Rhetoric of Abolition." *NWSA Journal* 17, no. 3 (2005): 64–87. doi: 10.1353/nwsa.2005.0071.
- Suter, Brigitte. "Labour Migration in the United Arab Emirates. Field Study on Regular and Irregular Migration in Dubai." Master's Thesis in International Migration and Ethnic Relations (IMER), Malmö University, Sweden, 2005.

- US Department of State, Bureau of Democracy, Human Rights, and Labor. 2011 *Human Rights Reports: United Arab Emirates*. May 24, 2012. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186453>.
- United Arab Emirates. *Federal Law No. 8 for 1980 Regarding the Organization of Labour Relations*. Issued on April 20, 1980. English translation available at: http://www.gulftalent.com/repository/ext/UAE_Labour_Law.pdf.
- Varia, Nisha. "Globalization Comes Home: Protecting Migrant Domestic Workers' Rights." *Human Rights Watch World Report, 2007*. Available at: <http://www.hrw.org/legacy/wr2k7/essays/globalization/>.
- Vance, Carole S. "Thinking Trafficking, Thinking Sex." *GLQ: A Journal of Lesbian and Gay Studies* 17, no. 1 (2011): 135-143. doi: 10.1215/10642684-2010-024.

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.

