



## Migration (In)flux: Impact of Legislation on Patterns and Quantum of Irregular Mobility between India and Saudi Arabia

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**edited by Philippe Fargues and Nasra M. Shah**

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## XIV

### **Migration (In)flux: Impact of Legislation on Patterns and Quantum of Irregular Mobility between India and Saudi Arabia**

*S. Irudaya Rajan and Jolin Joseph\**

**Abstract:** Despite policies of highly regulated entry and recent regularisation drives, Gulf States have a sizeable share of irregular workers who live and work in irregular conditions (RMMS 2014). Rigid sponsorship systems, nationalisation policies, and limited quotas for foreign workers in the receiving countries, coupled with the operation of transnational networks and migration intermediaries in countries of origin and destination, perpetuate a parallel labour market for irregular entrants. Despite their economic and political salience, there are few recent estimates of irregular migration in the region. This chapter delivers new estimates and quantitative information based on field research, analysis of administrative data (arrests and regularisation statistics), expert opinions, and published data sources. Drawing on four Kerala Migration Surveys (KMS) and data made available through the Gulf Labour Markets and Migration (GLMM) programme, the chapter presents estimates and analysis of irregular migratory movements from India to

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Saudi Arabia with a view to elucidate the structural frameworks that create conditions of irregular migration in the region.

## **Introduction**

In the past year, coverage of Europe's "Mediterranean migration crisis" and "Syrian refugee crisis" has catapulted the issue of irregular migration and its human costs to global attention. Despite increasing incidence of irregular migration and its far-reaching implications, there remains much to be learnt about the phenomenon. Put simply, irregular migration can be defined as what it is not – population movements that take place outside the regulatory norms and policies of the sending, transit, and receiving countries. This includes instances of unauthorized entry, residence or work, as well as crossing of international borders without valid documentation or fulfillment of formal administrative requirements. This chapter presents a case study and estimates of irregular migratory movements between India and Saudi Arabia with a view to elucidate the structural frameworks that create conditions of irregular migration in this key migration corridor. In doing so, it challenges conceptions of irregularity as a category of migrants, instead examining irregularity as a socio-political condition produced by social, administrative, legal and political processes (Goldring et al. 2009; Squire 2011).

In the given context, those deemed irregular migrants comprise persons who willingly or unwittingly engage in irregular migration, work and/or residence. In Saudi Arabia, individuals who (a) enter the country unofficially, are trafficked or smuggled; (b) enter the country through official channels and overstay the length of visas and/or work permits [Articles 20, 21- Saudi Arabia Labour Law]; (c) engage in informal employment, work in a profession other than that officially stated on the permit, work for someone other than their official sponsor (*kafeel*) [Article 11- SA LL], work in a Red zone company below Saudisation threshold or run away from the Saudi employer; (d) work on non-work visas such as Haj, Umrah or family visas [Article 12- SA LL]; or (e) are born to or are dependents of undocumented migrants are deemed irregular migrants.

Irregularity is not a fixed status; it is complex, dynamic, and fluid. Many migrants weave in and out of legal and administrative compliance at different points of their migration cycle. In order to develop estimates, it is important to consider pathways into irregularity. Figure 14.1, based on the CLANDESTINO (2012) project definitions of irregular migration, points to the different ways of *becoming* and *being* irregular in the Indo-Saudi Arabian context. Typologies of migrant irregularity are not exhaustive and, indeed, not mutually exclusive. The



shaded areas denote the overlap between irregular migration, work, and residence. Due to its many manifestations and clandestine nature, irregular migration is nearly impossible to quantify accurately, the cells bordered by dotted lines denote the grey areas that generally do not figure in estimates of irregular migrants.

**Figure 14.1: Avenues to irregularity in Saudi Arabia**

Irregular Employment		
Irregular Migration	Migrants with residence status but no work permit in informal employment	
	Migrants with residence status and work permit in informal employment	
	Migrants with valid non-working visas engaged in employment (tourists, pilgrims, dependents)	
	Migrants working for an employer different from sanctioned sponsor	
	Migrants working in professions not listed on work permit	
	Migrants working for Red zone companies	
	Trafficked persons engaged in forms of forced labour.	
	Migrants with falsified documents	
	Tourists with expired visas engaged in employment (overstayers)	
	Pilgrims with expired visas engaged in employment (overstayers)	
	Migrants without valid residence status or work permit in informal employment	
	Migrants without residence status and with work permit in informal employment	
	Migrants workers wrongfully charged with absconding ( <i>huroob</i> )	
	Migrants without residence status engaged in formal employment	
Irregular Residence	Trafficked persons engaged in forms of forced labour	
	Migrants with falsified documents	
	Tourists with expired visas engaged in employment (overstayers)	
	Pilgrims with expired visas engaged in employment (overstayers)	
	Migrants without valid residence status or work permit in informal employment.	
	Migration without residence status and with work permit in informal employment.	
	Migrant workers wrongfully charged with absconding ( <i>huroob</i> ).	
	Migrants without residence status engaged in formal employment	
	Runway Migrants charged with absconding from work ( <i>huroob</i> ).	
	Unemployed Migrants without residence status.	
	Unemployed Migrants whose employer closed operations without repatriation	
	Children and dependents of undocumented migrants.	
	Migrants with fabricated documentation whose residence status appears legal on paper.	

Source: Prepared by authors (2015).

## **Incidence of Irregular Migration Flows between India and Saudi Arabia: Our Estimates**

The Gulf represents a strong magnet for historic and contemporary migration flows. The 1973 oil boom and attendant flurry in the construction sector enhanced the demand for foreign labour. This oil-led infrastructural development was fuelled by large-scale labour importation primarily from South and Southeast Asia. Today, the Gulf countries host the largest share of migrants in proportion to their population. To better understand the scope and scale of irregular Indian migratory movements to Saudi Arabia, it is important to understand the broader context in which these flows occur.

Migrants account for nearly half the total population in the GCC countries, ranging from 32.7% in Saudi Arabia to 88.5 and 85.7% in the United Arab Emirates (UAE) and Qatar, respectively (GLMM 2014a). The proportion of migrants to labour force ranges between 56% in Saudi Arabia to 93.9% in Qatar (GLMM 2014b). South Asians constitute the principal migrant populace across the GCC, constituting over half the total migrant stock in each GCC country (Rajan and Narayana 2011). World Bank estimates (2014) peg the stock of Indian migrants in the Gulf at 6.5 million (Table 14.1). Based on extensive experience working on migration in the Gulf, discussions with Indian ambassadors/labour attaches, media reports, and press releases by Indian missions, this chapter intends to extend current estimates of Indian migrants in the Gulf.

According to our estimates, based on extrapolations from World Bank estimates and current and previous Kerala Migration Surveys, there are currently 9 million Indians in the Gulf, of whom 3 million live in Saudi Arabia and 3.2 million in the UAE. Based on data made available through the Gulf Labour Markets and Migration (GLMM) database, Shah (2014) notes that migrants in the Gulf are currently estimated at between 23-24 million. Correspondingly, it can be inferred from our India-specific estimates that 40% of all migrants in the Gulf are Indians.

**Table 14.1: Estimated Indians in the Gulf, 2015**

Country	Keralites (2014) a	Indians (2013) b	Our Estimates (2015) c
Saudi Arabia	522,282	2,000,000	3,039,681
UAE	898,962	2,268,200	3,164,346
Oman	189,224	644,704	834,478
Kuwait	183,329	739,558	912,978
Qatar	106,107	545,000	650,000
Bahrain	149,729	262,855	413,252
Gulf	2,049,633	6,451,317	9,015,172
Gulf (Total Migrants) quoted in Shah (2014) based on GLMM Database			23,000,000

Sources: (a) The stock of Keralities for 2014 comes from the sixth round of Kerala Migration Survey conducted by the Centre for Development Studies, Thiruvananthapuram, funded by the State Planning Board, Government of Kerala and Ministry of Overseas Indian Affairs, Government of India; (b) The 2013 numbers are from the World Bank estimates of migrant stock; (c) Total number of Indian migrants across the GCC, estimated by the authors.

With respect to Saudi Arabia, Indians are the largest migrant community, and the Kingdom hosts among the biggest concentrations of Indian passport holders globally. According to Saudi Ambassador Saud Mohammed Alsati, the Saudi Embassy in India issued 1.2 million visas in 2014, a global record for Saudi missions.<sup>1</sup> Based on our estimates, a third of Saudi Arabia's 9 million immigrant population is Indian. This 3 million strong Indian contingent (Table 14.1) remits upwards of \$10 billion annually (World Bank 2014). India is the top recipient of Saudi Arabia's foreign remittances, accounting for 25% of total outward flows from the Kingdom. Low-wage workers, deemed unskilled or semi-skilled, constitute a significant element (85%) of Indo-Saudi Arabian labour flows. Daily, approximately 1,000 low-wage Indian migrant workers are provided with emigration clearances to travel to Saudi Arabia (MOIA 2013). In this category, there is a strong observable preference for Saudi Arabia as a destination. Data from the Ministry of Overseas Indian Affairs (MOIA) indicate that over the past five years, roughly 50% of all workers who obtained emigration clearances from India were destined for Saudi Arabia (Table 14.2). A majority of Indian migrants in the Gulf hail from the state of Kerala (Table 14.1). KMS 2014 emigration estimates point to 2.4 million Kerala emigrants, 85% (2 million) of whom reside in the Gulf, with the UAE accommodating nearly 40% (0.9 million) and Saudi Arabia 20% (0.5 million).

1. IANS, *Business Standard*, February 21, 2015.

**Table 14.2: Number of emigration clearances granted, 2011-2015**

	April 2011 - March 2012	April 2012 - March 2013	April 2013 - March 2014	April 2014 - February 2015
Saudi Arabia	299,276	377,494	339,857	299,560
Total	649,794	776,672	820,947	738,327

Source: Lok Sabha Starred Question No. 309 answered on 18/03/2015 by Sushma Swaraj, MOIA.

Despite the increasing programmatic, policy, and media attention to irregular migration, there are few firm estimates available on the quantum of irregular migrants in the Gulf countries. Indeed, the most common working estimate for the region goes back to Kapiszewski's 2001 assessment that "illegal immigrants in each GCC country make up at least 10% of the total population or 15% of the workforce" with numbers as high as 700,000 in Saudi Arabia. Based on information from field research, secondary analysis of administrative data (local crime and police detection statistics, border enforcement data, regularisation and deportation data, census data), and expert and official opinions, we now provide an updated rough minimum and maximum range of irregular migration in the region. While data shortcomings and biases may dilute the degree of exactness, it is nevertheless integral to have a reference point of the incidence of irregular migration for policy-making and institutional strengthening and to make more refined and rigorous calculations.

Saudi Arabia hosts the largest number of migrants in the Gulf region, a vast yet unrecorded number of who remain irregular (Fargues 2006, 14-15). According to Shah (2014), a total of 5.3 million regularisation procedures were undertaken during the first four months of the 2013 amnesty in Saudi Arabia. This, however, is not representative of the total number of individuals who corrected their irregular status since persons may have undergone more than one form of regularisation. Reportedly, the final number of regularisation procedures conducted during the April-November 2013 amnesty period was over 11 million (Table 14.3). Based on media reports,<sup>2</sup> De Bel-Air (2014) infers that just 4.7 million workers corrected their status during this period, while another 1 million were either expelled from the country or left voluntarily by availing the amnesty, totaling about 5.7 million as undocumented. Both Shah's (2014) and De Bel-Air's (2014) accounts indirectly put the incidence of irregular migration at between 50-60% of the

2. *Arab News*, November 11, 2012.

non-national workforce. This is in stark contrast to media reports<sup>3</sup> in the wake of the Saudi correction drive that estimated a fringe population of 1.5 million migrants – about 16% of the total 9 million non-Saudi workforce – as having violated residency, work, and visa regulations.

**Table 14.3: Number of work status corrections in Saudi Arabia during Amnesty 2013**

<b>Regularisation operation / document/Worker's final exit</b>	<b>Total no. of corrections April 3-Nov. 3, 2013</b>	<b>No. of corrections among Indian migrants April 3-Nov. 3, 2013</b>
Change of profession	2,423,779	481,233
Recruitment visas granted	935,441	n.a
Labour permits granted	3,890,916	470,000
Workers registered	1,086,593	n.a
Transfer of services	2,615,280	434,667
Final exits	713,524	141,301
<b>Total</b>	<b>11,665,533</b>	<b>1,527,201</b>

Source: Compiled by authors from GLMM Database, Saudi Arabia, IRR 1.1 Table 1 and Lok Sabha Starred Question No. 89 answered on 11/12/2013 by Vayalar Ravi, MOIA.

According to Indian government estimates in 2013, over 1.4 million of the 3 million Indians<sup>4</sup> (and 4.7 million total migrants who corrected their status) in Saudi Arabia regularised their stay over the six month amnesty period by transferring their services to new employers, changing job titles, or renewing job permits (Table 14.3).<sup>5</sup> Another 140,000 were deported and approximately 250–500 Indians were granted exit shortly after the grace period.<sup>6</sup> Accordingly, over 1.5 million Indian migrants in Saudi Arabia were found in some iteration of irregular status during the period under question, while many more continued to live and work invisibly in the country, some choosing not to avail concessions while others were ineligible owing to pending legal cases. Given that half of the 3 million Indian migrants in Saudi Arabia (who constitute a third of the Kingdom's labour force) were affected by the regularisation drive, the total potential pool of irregularised migrants appears to be closer to 4.5 million migrants, or half the total migrant stock of Saudi Arabia.

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3. Al Jazeera America, November 5, 2013.

4. IANS, January 18, 2014.

5. *The Indian Express*, November 4, 2013.

6. Embassy of India Riyadh Press Release, March 3, 2014.

Hence, all available indicators suggest that around 50% of migrants in Saudi Arabia hold irregular status.

With half of the total Indian migrant workers in Saudi Arabia availing amnesty to correct their administrative situation, this reflects an ever-bigger incidence of irregularity among Indians in Saudi Arabia. Taken together, Indian migrants who were identified as irregular during the last amnesty represent over 16% of the Saudi Arabian workforce. From this figure, it is apparent that the regional press and authorities severely underestimated the magnitude of irregular migration in the Kingdom. This can partially be attributed to enumeration difficulties that make it tough to gauge the extent of clandestine flows; however, it was most likely a strategic sleight of hand to dissuade public anxiety over demographic imbalances and persistent unemployment.

To further enumerate the scale of irregular migration in the Gulf, and Saudi Arabia in particular, we utilise results of surveys conducted at various points of time in Kerala. Four surveys were consulted for this purpose: (i) Return Migrant Survey (RMS) conducted in 2007 among 378 persons who worked in the Gulf (ii) Emigrant Households Survey (EHS) carried out in 2007 among 529 emigrant households (iii) RMS 2008 conducted along with Kerala Migration Survey (KMS) 2008 covering 2,037 return migrants from the Gulf (iv) Survey on returnee professionals (RPS 2012) among 1,106 highly skilled professionals who had returned both voluntarily and forcibly from the Gulf to India during the period 2006-2011.

First, we focus on the visa category under which respondents migrated to the GCC (see Table 14.4). All four surveys included a common question: “With what type of visa have you gone to the Gulf?”<sup>7</sup> The answer options were as follows: (a) employment visa (b) visit visa (c) tourist visa (d) pilgrimage visa and (e) “free visa.” While it is true that individuals who hold valid visas and enter the country legally can become irregular through multiple avenues, Shah (2014) notes that it is primarily those persons who migrate without valid employment visas that are most susceptible to irregularisation.

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7. With the exception of the EHS 2007, all the surveys were answered by migrants themselves with respect to their visa position when they left to the Gulf.

**Table 14.4: Percentage of Kerala emigrants who travelled to the Gulf without valid employment visa, 2006–2011**

Country	EHS 2007	RMS 2007	RMS 2008	RPS 2012
Saudi Arabia	21.7	27.2	17.4	31.6
UAE	21.5	38.7	22.0	47.4
Oman	33.3	24.2	23.5	37.1
Kuwait	30.2	14.3	17.0	25.0
Qatar	23.8	21.1	21.8	22.9
Bahrain	5.6	20.7	20.6	32.3
Gulf	23.1	29.8	19.9	39.3

Source: Special tabulations by the authors from Emigrant Household Survey 2007, Return Migrant Survey 2007, Return Migration Survey 2008 and Return Professional Survey 2012.

According to the four surveys, between 20 to 40% of Kerala migrants travel to the Gulf without an official employment visa (see Table 14.4). Non-work visit visas and “free visa” function as informal gateways that are misused in the countries of destination. The “free visa” is an unauthorised category of informal visa that purportedly allows migrants to freely seek employment without being tied to a sponsor – leaving them outside the legal employment relationship. The burgeoning black markets of visa trading agents ensnare potential migrants seeking to bypass the stringent sponsorship system in Saudi Arabia, resulting in steady streams of irregular and precarious migrant workers. Furthermore, RPS 2012 reported that about 22% of return migrants came back to Kerala due to expiration of contracts and at least 10% of these migrants became irregular in the Gulf due to overstaying.

Based on this analysis of workers who migrate without adequate papers and permits, we conclude that a conservative estimate of irregular migration in the Gulf ranges from 20 to 40% of the total migrants in the region. For countries with a relatively lower stock of migrants (Oman, Kuwait, Qatar, and Bahrain) our estimate ranges from about 20% to 30%. However, in the leading regional migrant destinations, the UAE and Saudi Arabia, our lowest estimate is about 30% and the higher estimate is about 40%. From our calculations, based on recent population figures from the GLMM database, Saudi Arabia is the primary destination for irregular migrants in the GCC, hosting between 3 million and 4 million of them. The UAE also hosts a large number of irregular migrants ranging from 2.2 million

to 3 million. We estimate that irregular migrants in the Gulf range between 6.5 million to 9 million, i.e., approximately a third (and potentially half) of all migrants in the GCC are irregular.

**Table14.5: Irregular migrants in the Gulf, 2015**

Country	IM-lower range (Indians)	IM-upper range (Indians)	IM-lower range (Keralites)	IM-upper range (Keralites)	IM-lower range (Total Mig)*	IM- upper Range (Total Mig)*
Saudi Arabia	913,471	1,217,962	104,456	130,571	3,020,352	4,027,136
UAE	949,304	1,265,738	179,792	224,741	2,194,822	2,926,429
Oman	166,896	250,343	37,845	47,306	365,118	547,677
Kuwait	182,596	279,894	36,666	45,832	575,536	863,303
Qatar	109,078	163,617	21,221	26,527	291,283	436,925
Bahrain	82,650	123,976	29,946	37,432	136,764	205,145
Gulf	2,403,995	3,295,530	409,927	512,408	6,583,875	9,006,615

Source: Estimated by the authors based on EHS 2007, RMS 2007, RMS 2008, RPS 2012 and

\*GLMM, GCC, POP 1.1

Accordingly, the rolling stock of irregular Indian migrants in the Gulf can be pegged between 2.4 and 3.3 million. Our estimates for Saudi Arabia range between 0.9 and 1.2 million (Table 14.5), reflecting a moderate decline that can be traced to the Kingdom's ongoing efforts to curb irregular migration. These estimates indicate that over a third of Indians in the Gulf remain irregular with the numbers approaching close to half the Indian populations in some GCC countries.

**Table 14.6: Irregular Migrants in the Gulf as a percentage of GCC labour force and total population**

Country	Labour Force*	IM-lower range (% of labour force)	IM-upper range (% of labour force)	Total Population**	IM-lower range (% of population)	IM-upper range (% of population)
Saudi Arabia	11,232,277	26.9	35.9	30,770,375	9.8	13.1
UAE	6,325,502	34.71	46.3	8,264,070	26.6	35.4
Oman	1,809,462	20.2	30.3	4,161,404	13.8	20.7
Kuwait	1,733,184	33.2	49.8	4,161,404	13.8	20.7
Qatar	1,624,057	17.9	26.9	1,699,435	17.1	25.7
Bahrain	738,890	18.5	27.8	1,314,562	10.4	15.6
Total	23,463,372	28.1	38.4	50,359,763	13.1	18

Source: Estimated by authors based on \*World Bank Labour Force database (2010-2014) and

\*\* GLMM, GCC, POP 1.1



With respect to the share of irregular migrants in GCC populations and labour force, Kapiszewski (2001) estimates that irregular migrants comprise, at a minimum, 10% of the total population or 15% of the workforce in GCC countries, with numbers as high as 700,000 in Saudi Arabia. Correspondingly, our estimates indicate that irregular migrants comprise between 20–40% of the labour force in the GCC countries, and up to 50% in some countries (UAE, Kuwait). The proportion of irregular migrants in the total population of GCC countries lies between 10–20%, constituting up to 25–35% of UAE’s population, with numbers as high as 4 million in Saudi Arabia.

### **Social and Structural Determinants of Irregular Migration**

There are a host of policies and practices that induce irregular migration from India. Acknowledging the systemic production of irregularity (Goldring et al. 2009, 241) shifts the responsibility of irregularity from individual migrants towards structural processes that situate persons in positions of precariousness, irregularity, or illegality (Bauder 2014). Gosh (1998) suggests that irregular migration principally results from a mismatch between the number of people who aspire to leave the country and opportunities for safe, legal migration. Low economic opportunity, lack of information, a culture of migration, transnational migrant networks and the operation of unregulated intermediaries, organised racketeers and trafficking rings are among the key determinants of irregular migration from India (Rajan et al. 2011:134).

The institutional framework of emigration governance in India includes the Emigration Act of 1983 and offices of the Protector of Emigrants (PoE). Critics of the Act allege that it is one-sided, outdated and largely ineffective (Sasikumar and Hussain 2008). Currently in its thirty-second year of operation, and having seen several amendments, the archaic Act has yet to provide a comprehensive legal framework to manage the emigration of Indian nationals. Tellingly, Kumar and Rajan (2014) quip that the framework managing 21st century migration from India is a vestige of a 19th century mindset imbued in 20th century law. Under its purview, the key instrument of emigration management is the designation of “emigration clearance required” (ECR) status based on educational status. ECR passport holders seeking to migrate to any of the 17 ECR countries must obtain clearance from PoE offices.<sup>8</sup> Low and semi-skilled workers (who constitute the bulk of GCC migrants) seeking to work/move legally are forced to navigate mounting formalities that disincentivise formal registration.

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8. MOIA Press Information Bureau, August 9, 2012.

Specific gender-based regulatory controls on Indian women migrants are a compelling illustration of the paradoxical effects of protective legislation. The Emigration Act provides that “no [unmarried/unskilled] female below the age of thirty years shall be granted Emigration Clearance.” State-imposed minimum age requirements are wielded as protections for women’s welfare and safeguards against trafficking (Oishi 2005). However, in practice, they restrict women’s right to mobility (Kodoth and Varghese 2012) and drive potential migrants to illegal conduits that render them especially vulnerable to trafficking and conditions of forced labour. Furthermore, restrictive regulations in this context are in direct violation of the terms of the MoU on Labour Cooperation for Domestic Service Workers Recruitment signed between India and Saudi Arabia in 2014 outlining that India will “[e]ndeavour to put in place procedures/mechanism[s] to allow and ease departure of prospective Indian Domestic Service Workers for Kingdom of Saudi Arabia” (Article 5: vi).

In the face of bolstered bureaucratic burdens, some migrants resort to the “informed informality” (Rajan et al. 2011, 133) of facilitated irregular migration through organised smuggling rings, while others are trafficked into Saudi Arabia and coerced into exploitation (Occhipinti 2014, 436). Imperfect regulation of migration intermediaries perpetuates a network of fraudulent recruitment agents operating with virtual impunity. A 2012 CARIM-India report outlines the modus operandi of duplicitous agents including passport and photo tampering, contract substitution, forging and stealing visas and work permits, switching of boarding cards and encouraging overstay on tourist visas, resulting in deception and entrapment of migrant workers. Government officials are not exempt from recruitment fraud, and some are even involved in facilitating the unfettered flow of irregular migrants.<sup>9</sup> The Kochi Protector of Emigrants (PoE), a top emigration official, was arrested in June 2015 for collusion with unlicensed, fraudulent recruitment agencies and abetting the extortion of money from nursing recruits.<sup>10</sup> The arrest came only months after an Amnesty International (2014, 12) report called out the PoE Kochi office for its lack of institutional and regulatory capacities. In light of the arrest, it is evident that the exploitation and deception of emigrants is not only an informal practice of rogue recruiters but an implicitly institutionalised feature of the Indian emigration regime.

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9. Minister of External Affairs Smt. Sushma Swaraj’s answer to parts (c) & (d) of question in Indian Parliament (Lok Sabha Unstarred Question No. 1558 on July 29, 2015).

10. <http://www.thehindu.com/news/cities/Kochi/cbi-arrests-protector-of-emigrants/article7320459.ece>.

Aside from the web of recruitment agents and brokers, networked communities of Indians also operate as informal intermediaries supporting the movement of irregular migrants. While legal channels are perceived as cumbersome and non-transparent, the use of personal linkages incorporates elements of intimacy and trust (Rajan et al. 2010). Activating transnational social capital is a key strategy employed by irregular migrants to migrate, secure employment, and avoid detection. Additionally, Rajan et al. (2011) note that migrants embarking on informal chain migration report observably lower overheads and fees. The results of their Kerala survey among intending migrants, emigrant households, and return emigrants indicate that over 70% of emigrants utilise networks of friends and relatives as their preferred emigration channel, and most of these flows fall outside the purview of legal stipulations.

Among the defining dynamics of GCC economies is the proliferation of irregular or non-standard employment. In the Saudi Arabian context, pervasive irregular migration is an outgrowth of restrictive migration policies and labour practices aimed at reducing reliance on foreign workers. According to economist and journalist Hassan al-Sobhi,<sup>11</sup> “red tape, the expensive process to get expatriates, the limited quotas of visas for foreign workers that are largely secured by well-connected companies” combined with the operation of informal economies and ineffective monitoring allows irregular flows of migration to Saudi Arabia to continue relatively unhindered.

The labour migration system to Saudi Arabia is designed exclusively for temporary migration, with built-in controls on residency and duration of stay. Saudi Arabia shares with other GCC countries a strong reluctance to use terms such as “immigrant” or “migration” preferring “temporary labour mobility” (Thiollet 2011). The overarching policy focus is on import of “short-term contract workers” to ensure turnover of the labour force. Since the early 1990s, Saudi government initiatives toward labour nationalisation, such as Saudization and Nitaqat, have had some degree of success while simultaneously generating irregularity (Alsheikh 2015). Continued private sector dependence on foreign workers ultimately outweighs bureaucratic controls on visa procurement that drive thousands of migrant workers underground. Despite (or perhaps owing to) labour localisation initiatives and the rigid sponsorship system (*kafala*), there exists a robust black market for visa trade and irregular work. Mismanagement of the sponsorship system is rife, with fraudulent sponsors peddling visas or setting up illegal cover-up businesses (*tasattur*). An

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11. BBC News Middle East, November 29, 2013.

established nexus between manpower companies and visa merchants organises this informal trade in visas, enabling migrants to subvert the mounting costs of formal migration. Agents broker the employment of freelance migrants to other employers or extract payments to release them to informal self-employment (Hertog 2014), leaving them outside formal sponsorship and vulnerable to arrest and deportation. The visa trade industry is so widespread that in 2004 the Saudi Minister of Labour reported that 70 % of the visas issued by the government were sold on the black market.<sup>12</sup> The latest battery of measures is unlikely to staunch irregular migration from India as long as demand exists in Saudi Arabia's shadow economy, owing to expansive underground networks and the acute shortage of Saudi nationals willing and able to carry out a number of private sector jobs.

### **Saudi Arabia's Efforts to Curb Irregular Migration**

The proliferation of irregular migration to Saudi Arabia has been linked to an escalation of socio-political anxieties and heightened security concerns.<sup>13</sup> The Saudi government places irregular migration high on its political agenda, deploying deeply politicised rhetoric<sup>14</sup> that criminalises and stigmatises irregular workers as threats to state sovereignty, autonomy, and cultural identity (Longva 1999, 22). This framing of irregular migration as a socio-political and security concern has resulted in increased societal securitisation, criminalisation and reinforcement of the nation's borders. According to the GLMM database, 0.6 million "infiltrators" were apprehended by authorities as they attempted to unlawfully enter Saudi Arabia (GLMM 2014c). The expansion of border controls and adoption of multiple deterrents (biometric, detention, police coercion) further amplifies the risks and costs associated with irregular border crossing.

The Gulf States enact periodic amnesties to flush out irregular migrants, convicted criminals, and other "undesirables." The Saudi government in 2013 declared an amnesty to encourage the departure/regularisation of irregular migrants during which migrants would be absolved of any fines. The Kingdom intensified efforts to issue identity documents and permits to all migrants and ensure that all migrants were accounted for on a public database. This grace period offered a "path to legality" but due to bureaucratic delays many were unable to regularise their status. According to 2013 government estimates, 4.7 million migrants (of

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12. *Ibid.*

13. *Arab News*, September 11, 2012.

14. *Al Jazeera*, November 5, 2013.

whom 1.4 million were Indians)<sup>15</sup> regularised their status over the amnesty period by transferring their services to new employers, correcting job titles, or renewing permits.

Over 2 million immigrants have since been deported, after failing to legalise their status during the amnesty. In contrast to previous incentive-based approaches, the government in 2013 launched a sweeping national campaign to detect, detain, and deport migrants working and residing in the country illegally, and to dismantle the structures or networks supporting and/or exploiting them. Enforcement measures intended to repatriate irregular migrants include indiscriminate and indefinite detention and “voluntary” [assisted] returns. According to the Ministry of Interior, there were 675,952 deportations from Saudi Arabia in 2013, averaging 2,000 daily deportations (HRW 2015), and a cumulative total of 2.2 million between the years 2011 and 2014. One million migrants were either forcibly expelled or allowed to avail amnesty (RMMS 2014) with an additional one million slated for deportation in 2014.<sup>16</sup>

**Table 14.7: Preliminary figures of Indian workers arrested and deported by Saudi authorities for residency and visa violations and issued Emergency Certificates by the Indian Consulate (2014)**

Year	ECs issued
2011	10,456
2012	11,769
2013	4,030

Source: Lok Sabha, Unstarred Question No. 1625 answered on 03/12/2014 by V.K. Singh, MOIA.

The Saudi government crackdown on irregular migrants included arbitrary police inspections, raids on companies, residences and labour camps, and a special Ministry of Labour taskforce to conduct identity checks to determine migrants’ legal status.<sup>17</sup> This included the hiring of 1,000 inspectors in early 2013 and an additional 1,000 later.<sup>18</sup> In November 2013, a total of 20,703 inspection raids were conducted across the Kingdom.<sup>19</sup> These internal checks and controls pushed scores of irregular migrants into hiding against the constant pursuit of the state,

15. IANS, NDTV, January 18, 2014.

16. *The Guardian*, November 29, 2013.

17. Al Jazeera, November 5, 2013.

18. *Gulf News*, April 17, 2013.

19. *Arab News*, December 11, 2013.

culminating in commercial disruptions and work stoppages in sectors manned primarily by migrants. It also compelled migrants to take up sponsored jobs with lower salaries to avoid hefty fines and deportation. The resultant undercutting of migrants' reservation wages saved local businesses an estimated \$4 billion in the first three months of the amnesty alone.<sup>20</sup> In a move to comprehensively curb opportunities for informal, unregistered work, Saudi Arabia has extended the imposition of fines and jail time from migrant workers to employers, recruitment agencies, and anyone found sheltering, aiding, or abetting irregular migrants. The new clause ensures that the crackdown on irregular workers does not unintentionally generate profits for local companies. In November 2013, the Saudi Labour Ministry penalised 5,640 firms for violating labour and residency laws and failing to provide proper addresses for all employees ensuring that employers and recruitment agents remain accountable.

Saudi Arabia recently announced the rollout of the third phase of the Nitaqat programme.<sup>21</sup> Although the implementation slated for April 2015 has been postponed, the adjusted programme ostensibly outlines a system to identify those authorised to work in Saudi Arabia, prevent identity theft/spurious visas, and address structural factors that sustain irregular migration. More recently, a specific Nitaqat programme for recruitment firms was announced on June 15, 2015.<sup>22</sup> The enhanced programme aspires to set recruitment standards such as a cost-ceilings and turnaround times and has the potential to introduce much-needed adjustments to enhance the efficiency of Saudi Arabia's labour brokerage system.

## **India's Efforts to Curb Irregular Migration**

Until recently, policies, legislation, and institutional architecture governing Indian emigration at federal and state levels did little to ensure swift, safe, and secure legal migration from the country. The establishment of a dedicated Ministry of Overseas Indian Affairs in May 2004 was the first step towards recognising the needs of overseas Indians. Since then, a number of targeted measures intending to impede irregular migration and promote formal emigration have been implemented.<sup>23</sup>

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20. Quartz, June 24, 2013.

21. *Gulf Business*, April 9, 2015.

22. *Migration News*, June 15, 2015.

23. These measures are detailed in the Minister of Overseas Indian Affairs' answer to a question in the Indian Parliament (Lok Sabha Starred Question No. 309) on March 18, 2015.

A number of MoUs and bilateral Labour Agreements have been signed with key destination countries to organise safe, legal recruitment of workers and Joint Working Groups (JWGs) have been constituted to ensure their effective implementation. Although India had inked labour MoUs with other GCC countries, the signing of the Agreement on Labour Cooperation for Domestic Service Worker Recruitment in September 2014 marked the first time that India entered into a labour agreement with Saudi Arabia. The agreement is widely considered the first step towards a comprehensive labour agreement covering the wide spectrum of Indian workers in the Kingdom.

In 2009, the MOIA constituted a high-level Inter-ministerial Core Group (IMCG) to combat “illegal” migration from India and coordinate state government strategies (Arokkiaraj 2015). The MOIA launched the Overseas Workers Resource Centre (OWRC) in 2014, which operates a toll-free 24x7 helpline in 11 languages to provide information and assistance to prospective emigrants and enable emigrants to file complaints against recruiters and foreign employers.<sup>24</sup> However, to date, the international helpline is only made available for calls from the UAE. Three Migrant Resources Centres (MRCs) have been established for information dissemination and counselling of potential migrants. The government of Kerala, through the Department of Non-Resident Keralites Affairs, has launched awareness campaigns and job portals for prospective migrants. National and state publicity campaigns are also periodically undertaken to create wider awareness on the risks associated with irregular migration and unauthorised intermediaries.

The Emigration Act, 1983 (Section 10) stipulates mandatory registration of all Recruiting Agents (RA) with the PoE. The Emigration (Amendment) Rules 2009 stipulate further conditions on recruitment agents including a Bachelor’s degree requirement and a bank guarantee of \$30,000 valid for thirteen years.<sup>25</sup> The amendment also mandates that RAs must provide details of employment conditions to the intending emigrant before recruitment and ensure proper reception of the emigrant, timely renewal of documents and emigrants’ custody of travel and employment documents. Complaints of exploitation against registered and unregistered Recruiting Agents are investigated at the national level and state level, respectively, and if found valid, penal action initiated to suspend or cancel RA registration. Complaints received from overseas workers are handled by the concerned Indian mission, which contacts the foreign employer/RA for grievance

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24. MOIA Press Information Bureau, January 5, 2015.

25. *The Times of India*, June 17, 2011.



redressal. If resolution is unviable, proceedings for blacklisting of the RA/employer are initiated, and they are placed on the Prior Approval Category (PAC) and not allowed to recruit new workers.

**Table 14.8: Complaints received and legal action taken against Unregistered Recruitment Agents at State level**

Year	No. of complaints	Cases referred to State Government/ PoE for action	Prosecution sanction sought	Prosecution sanction issued
2012	254	254	16	16
2013	272	272	05	05
2014	198	175	12	11

Source: Compiled from annexure in reply to part (c) of Lok Sabha Starred Question No. 309 on 18/03/2015 and parts (a) and (b) of Unstarred Question No. 430 on 22/07/2015.

Central and state governments and Indian missions have implemented several initiatives to extend logistical and financial support to Indian migrants in distress, including food, accommodation, and shelters for runaway and irregular workers besides the establishment of the Indian Community Welfare Fund (ICWF). For migrants in the ECR category, the employment contract is required to be signed by the foreign employer and intending emigrant and produced before the PoE before emigration clearance is granted. Attestation of work contracts by Indian missions has been made mandatory in all cases of women workers holding ECR passports migrating to ECR countries. Further, to ensure timely assistance and grievance redressal, the Indian Embassy in Riyadh, Saudi Arabia reportedly operates on an open house policy and deploys its Arabic speaking officials to detention centres (*tarheel*) and Passport Offices (*jawazat*). The embassy issues air tickets to deserving cases.

Despite multi-pronged control and containment efforts, irregular Indian migration to Saudi Arabia persists. This is not unexpected, given the complexity and ubiquity of the issue and the socio-political tensions it generates. We hope that our estimates encourage other alternative estimates to emerge, so as to build a more robust assessment of the scope, scale, and solutions to irregular migration in the region.

## Conclusion

At the turn of the century, Kapiszewski (2001) estimated that irregular workers across the GCC countries accounted for about 10 % of the total population or 15% of



the workforce with numbers as high as 700,000 in Saudi Arabia. Our estimates peg the labour force share of irregular migrants between 20-40% in the GCC countries, and up to 50% in UAE and Kuwait. The proportion of irregular migrants to the total population of GCC countries lies between 10-20%, constituting up to 25-35% of UAE's population, with numbers as high as 4 million in Saudi Arabia. In terms of irregular migrants as a proportion of the total non-national population, we ascertain that in Saudi Arabia and across the Gulf region, this ranges between 20-40% of total migrants. From our assessments, Saudi Arabia is the primary destination for irregular migrants in the GCC, hosting between 3-4 million irregular migrants. We estimate that the numbers of irregular migrants in the Gulf range between 6.5-9 million, i.e., approximately a third (and potentially half) of all migrants in the GCC. The number of irregular Indian migrants in the GCC can be pegged between 2.4-3.3 million with 0.9-1.2 million in Saudi Arabia alone. Given their vast numbers, the position of the irregular Indian migrant is of strategic importance to understanding state processes and structures in Saudi Arabia.

The 2013 announcement of renewed initiatives to stem the influx of irregular migrants and reduce foreign workers in Saudi Arabia sparked fear of a massive exodus; however, the projected departures did not occur. Thousands of workers were able to validate their visas and Saudi estimates suggest the number of Indians has, in fact, expanded by about 100,000 during this period.<sup>26</sup> The Indian embassy in Saudi Arabia noted that augmentation of the Indian community during the grace period was indicative of the resilience of Indians in the Gulf and the broader benefits reaped from regularisation processes.

Overall, Nitaqat labour reforms and allied measures of expulsion/regularisation resulted in the decline of irregular migrants from several source countries. In the case of India, however, these curtailment measures led to an increase of migrants in the Kingdom to the tune of 100,000.<sup>27</sup> Several thousand workers were able to validate their visas, while thousands were simultaneously expelled. The unwavering persistence of irregular migratory movements adds a potentially destabilising dimension to the interdependencies that have long bound Saudi Arabia to India. Nevertheless, current trends indicate that the India-Saudi Arabia migration corridor will remain a vital component of South Asia-Gulf strategic relations for the foreseeable future. Within this context, the fraught politics of irregular migration is likely to remain a potent political issue.

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26. *The Indian Express*, November 4, 2013.

27. *Ibid.*

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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.

