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Conclusion: Irregular Migration - Has It a Future in the Gulf?

Philippe Fargues

Chapter in the volume:

Skilful Survivals: Irregular Migration to the Gulf

edited by Philippe Fargues and Nasra M. Shah

BOOK CHAPTER

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

XVII

Conclusion: Irregular Migration - Has It a Future in the Gulf?

*Philippe Fargues**

The year 2015 and the few years preceding will be remembered as those of the first global migration crisis. It is not that the number of migrants and refugees has suddenly exploded. Globally, migrants and refugees represent, as usual, a tiny drop compared with the immense waves of back-and-forth travellers who find no obstacles in crossing borders for business or leisure. The real novelty in the 2010s was not the fact of migration so much as its rejection by governments and public opinion. As a result of increased difficulties in obtaining visas or extending expiring permits of stay, irregular migration became one of the top issues on the global agenda. The detection, detention and deportation of migrants in an irregular situation became common practice in the Gulf as elsewhere.

Human beings are intrinsically mobile. Whether they move for issues of survival or prosperity, people find reasons to sustain their quest for safer and better lives when their homelands do not meet their needs or aspirations or when citizens are put at serious risk. Once on the move, people are not easy to deter. States, meanwhile, challenged by globalisation and exploding communication and connectivity between places and people, tend to hang on to sovereignty: borders,

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flags, identity and the containment of otherness. The more the planet shrinks, the more states erect barriers. As these two trends collide — on the one hand, people's need for circulation and, on the other, states' concerns about openness — international migrants, all too often, find themselves in an irregular situation.

The Gulf States are among the most sought-after destinations by global migrants. Migrants in the GCC remitted \$105 billion to their home countries in 2015, representing 18% of the \$581 billion remitted worldwide. From South Asia to East Africa and from the Mediterranean to the Indian Ocean, tens of millions of people are living off money sent by members of their household or their community, who left their homes to work in the Gulf. Labour mobility has been, over the last half a century, the royal avenue by which part of the gigantic oil wealth could spread beyond Gulf citizens and reach the working classes of the developing world. Money earned in the Gulf is essential for scores of Asian, Arab and African families to build houses, to educate their children, and to set up businesses. In brief, migrants have pressing reasons for going to the Gulf and staying there: no matter what hurdles must be overcome, and what risks are taken.

The Gulf States, meanwhile, need migrant workers to address acute imbalances between economy and demography, between enormous incomes and scarce local working population. Migration, however, is subject to policy tensions that are specific to these states. Their oil wealth has grown much faster than their native population, and they have called in massive numbers of foreign workers. At the same time, they have always adamantly kept a strict separation between nationals and non-nationals. They have, in effect, refused a classical immigration process under open markets by which part of the newcomers and their children gradually become full members of the host society. The Gulf States have set up rules to make sure that the foreign nationals they employ will not overstay their work contract and end up settling permanently. They have designed policies for reducing their dependency upon migrant workers by nationalising the workforce.

But facts have resisted policies and the proportion of foreign nationals has continuously grown in the labour force and in the population over the last fifty years. There is a strong feeling in the Gulf that there are too many foreign nationals and that states are helpless to curb the trend. Moreover, the Gulf States have all maintained a traditional sponsorship rule (*kafala*) which delegates to citizens the surveillance of non-citizens and individually binds each foreign national to a national sponsor. But the formal *kafala* rule grates against other, informal rules: those of market economies which require labour mobility, and those of free individuals intent on deciding for themselves and ready to do whatever it takes

to escape exploitative or abusive sponsors. Throughout this volume, evidence was gathered to show how in all six GCC states the *kafala* system is one of the root causes resulting in some migrants falling into an irregular situation, and leaving one's sponsor is in certain cases the best option in terms of agency and income, even though it is contrary to the law. An additional major cause for irregular migration is specific to Saudi Arabia: the pilgrimage to Makkah that brings millions of believers and a number of clandestine migrants who vanish into the country every year.

While the exact magnitude of irregular migration in the Gulf States is difficult to estimate, two facts emerge. First, the proportion of migrants in an irregular situation varies enormously from country to country. Saudi Arabia, in addition to the factors shared by all GCC countries, is exposed to unauthorised entries across a long land border with non-GCC states and to a unique sort of visa overstayers because of the presence of the holiest places of Islam. The country also has the highest numbers of migrants in irregular situation in absolute and relative terms. Second, the GCC states are no exception. They just fall into the wide spectrum of situations observed across the world. In none of them is irregular migration the overwhelming issue it has become in the USA where 27% of the 42.4 million immigrants, i.e., 11.3 million people are believed to live and work with an unlawful status: though it is estimated in this volume that up to one third of the three million Indians in Saudi Arabia would have some kind of irregular status. Moreover, in none of the Gulf States has the detention and deportation system become as large as in the USA.

More than numbers, it is the treatment reserved for migrants in an irregular situation that seems to mark out the Gulf States. Arrest and detention are, in the Gulf, 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. Because domestic workers, most of whom are women, are employed by private households and therefore not protected by labour laws, which in the Gulf apply only to businesses, they are particularly vulnerable to arbitrary sanctions and jail. This is true even when they are the victims (in particular of sexual exploitation) and their sponsors the culprits. It must be noted that the International Labour Organisation's convention of 2011 concerning decent work for domestic workers (ILO Convention No. 189) has been, to date, ratified by only 22 countries, none of them in the region relevant to Gulf migration except the Philippines.

Five main causes of irregular migration were identified in this volume, acting in isolation or in combination: entering without a proper visa; overstaying once a visa or residence permit has expired; being employed by someone who is not the sponsor; absconding from a sponsor; and less significant in statistical than in ethical terms, being born in the Gulf to parents with an irregular status. How could foreseeable developments in the Gulf, in migrants' origin countries and at international level affect these various causes and what do future trends of irregular migration to the Gulf States look like?

The current oil crisis – with Brent oil price falling from over \$100 per barrel in the early 2010s to below \$50 since mid-2014 – sets the stage for deep changes in the political economy of the region and consequently both regular and irregular migration. Oil revenues are likely to play a decisive role in triggering long-awaited economic transitions across the region. At the time of writing, falling oil prices are driving governments in the Gulf to overhaul economic policies and to speed up the move towards diversified post-oil activities. Large construction companies have already started to drastically cut their workforces, and it is likely that a number of labour-intensive projects will be cancelled. Because the vast majority of workers in private firms are foreign nationals, project cancellations will translate into job losses for migrant workers. Low-skilled activities, which are those with the highest prevalence of irregular status, will likely be the most affected, and depleting demand in labour-intensive sectors may eventually curb job opportunities that support informal employment and irregular migration.

Moreover, making better use of the enormous investment that states and households have made on education and fully employing their natives' skills is a priority in all the Gulf States. Falling oil revenues will be seized upon by governments as an opportunity for stepping up the nationalisation of labour force policies. Fewer and fewer are able to rely on governments for finding jobs in the public sector: young generations of nationals will, meanwhile, turn to the private sector, something their fathers (and mothers) avoided. Substituting nationals for foreign nationals in private firms will mostly happen at mid- or highly-skilled levels where irregularity is uncommon. Nationalisation policies can, then, be expected to have little impact on irregular migration. Conversely, irregular migration does not create unfair competition with citizens and, therefore, is not a matter of concern for them.

However, other responses to the current economic setbacks could go in the opposite direction. Non-oil dependent options that might make Gulf economies more competitive at the world level include the establishment of free trade zones and

incentives for direct foreign investment. If the newly-created industries follow the pattern of current industries and mostly hire migrant workers, then the remarkable dependency on a foreign workforce will not fall off. In either case – if fewer migrants are brought in or if reliance on migration continues – irregular migration will likely rise. This would be, first, because of the resilience of workers deprived of their jobs and, second, from the already noted contradiction that migrants might be unwelcome to governments, but they are sought after by employers.

Additional responses to persistently falling oil revenues include fiscal adjustments and reform of the *kafala*. Taxing labour incomes (of migrants only or of nationals as well?), taxing migrant workers' remittances and raising fees on residence permits are among the many measures currently under discussion. They would all make migration to the Gulf less attractive and possibly deter some migrants from staying irregularly in spite of the risks this entails. Abolishing or reforming the *kafala* – a critical change, long-discussed but never really begun – could also be part of a package to move away from migration-driven economies. By the same token, it would remove one of the main causes for migrants falling into irregularity in the Gulf. Indeed, if the obligation of a sponsor was lifted, the widespread, lucrative practice of sponsoring foreign workers without employing them (visa trading) would become irrelevant, and labour mobility would no longer be impeded by a rigid bond between a worker and a sponsor. The shift from a private to a public sponsor as contemplated in Qatar would produce a comparable result. In brief, the Gulf States may be on the verge of great changes brought about by the oil crisis. Novelties such as nationals' full employment, including in the private sector, income taxation or amendment of the *kafala* would all mean that a shift in political culture, from a rentier to a productive model, was underway in the Gulf.

Irregular migration was also found in this volume to be linked with migrants' origin countries. First, failures in the homeland's labour market can be drivers of irregular migration. In a number of countries, prevailing informal employment with no contract has developed a culture of unregistered and volatile work which predisposes the migrant to leave a job and a sponsor once they are abused and exploited, no matter what the consequences are for their contract and legal status. Moreover, the unavailability of jobs in the origin country discourages the workers whose visa expires from returning to their homeland, thereby encouraging them to overstay in the Gulf. Second, failures in the institutional framework of emigration at origin can trigger irregular situations at destination. It might be that institutions in charge of placing their citizens on foreign labour markets lack the means to monitor their actual terms of employment, or, indeed, the bargaining power to

defend their workers abroad. It can also work the other way around when states of origin have set minimum standards to allow migration (in terms of age, salary and benefits at destination, etc.) that the migrants did not respect thereby losing their state's protection. There is a growing tendency among migrant-sending countries to "lay claim" to their expatriates: encouraging migrant ties with the homeland and defending their position in the host country are common policies today. Promoting bilateralism in the governance of migration, and closer cooperation between the Gulf States and migrant workers' origin countries in matters related to migration and employment, could indirectly help in curbing irregular migration.¹

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1. Philippe Fargues, Françoise De Bel-Air, Nasra M. Shah "Addressing Irregular Migration in the Gulf States," GLMM Policy Brief No. 1/2015, Gulf Labour Market and Migration (GLMM) Programme of the Migration Policy Center (MPC) and the Gulf Research Center (GRC) - <http://gulfmigration.eu/media/pubs/briefs/GLMM%20Policy%20Brief%20-%20No.%201%20-%202015%20-%20Gulf%20Irregular%20Migration%20-%20Final.pdf>.

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.

