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Recent Amnesty Programmes for Irregular Migrants in Kuwait and Saudi Arabia: Some Successes and Failures

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EXPLANATORY NOTE

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Recent Amnesty Programmes for Irregular Migrants in Kuwait and Saudi Arabia: Some Successes and Failures

Nasra M. Shah

Abstract: Hardly any research is available on the patterns of irregular migration in the Gulf countries, home to about 23 million migrant workers and their families. The objective of this paper is to briefly document the volume and types of irregular migration in the region and to evaluate the response of irregular migrants to recent amnesty programmes in Kuwait and Saudi Arabia for regularising their stay or facilitating their departure. Irregular migrants in Kuwait were defined as those overstaying their residence, visit, or other visa. In Saudi Arabia, they were defined as those overstaying their visa, working for someone other than their sponsor, or in an occupation that did not match their work permit. Of the 124,000 irregular migrants in Kuwait in 2011, only 37 percent departed or regularised their stay while the rest remained in the country illegally. Bangladeshis were the largest group among irregular migrants, followed by Egyptians and Indians. In Saudi Arabia in 2013, about one million irregular migrants availed the amnesty to depart while more than 4 million regularised their stay. The scale of regularisation was very large and is likely to have exerted major impact on the structure and functioning of the Saudi labour market. Some reasons for the low compliance with amnesty, especially in Kuwait, are discussed and suggestions are offered for increasing such compliance in future.

Keywords: Irregular Migration, Amnesty, Kuwait, Saudi Arabia

Introduction

Migration is defined to be “irregular” as soon as entry, stay, or employment is unauthorised. It occurs not only when migrants violate regulations on the movement, settlement, and access to labour of their host countries, but also when a change in regulations affects the migrants’ situation, sometimes without them knowing that they are infringing the law.¹ Irregularity is not a stable condition and may reflect a process whereby a person may enter a country legally and is subsequently rendered illegal due to various circumstances.²

Irregular migration is likely to exist in every country that is home to international migrants. There are no firm estimates of the global number of irregular migrants. According to the International Organisation for Migration (IOM), an estimated 10-15 percent of the world’s 214 million (or 21.4 - 32.1

million) international migrants were living in an irregular situation in 2010.³ Koser suggests that there are about 40 million irregular migrants worldwide; of them, about one-third are in the USA, 5 million in Europe, and 3.5-5 million in the Russian Federation.⁴ Another estimate holds that in 2008 more than 11 million irregular migrants resided in the USA compared to 1.9-3.8 million in the European Union (EU) in the same year.⁵ Among the EU countries, the estimated number of irregular migrants in the United Kingdom was highest.⁶

Irregular migration is generally regarded as a problematic dimension of migration flows. A major reason for this is the fact that the irregular status puts the migrant in a legally precarious situation where he/she may be forced to hide and work in low paid and unregistered jobs in the informal sector of the economy. The migrant's situation is likely to be especially vulnerable if the move is facilitated through smugglers and traffickers. Irregular migrants are unlikely to seek redress in case of financial, physical, or other types of abuse due to the fear of being arrested and deported. Furthermore, in cases where irregular migration results in competition for scarce jobs, it can lead to xenophobic sentiments within the host country.⁷

In the six Gulf Cooperation Council (GCC) countries, home to about 23 million migrants comprising roughly 48 percent of their total population,⁸ relatively little is known about the presence and working conditions of irregular migrants. This paper hopes to partially fill that gap and has two objectives: (i) to briefly document the volume and types of irregular migration in the region and (ii) to evaluate the response of irregular migrants in two Gulf countries, Kuwait and Saudi Arabia, to amnesty programmes aimed at regularising their stay, or facilitating their departure. The paper also discusses some reasons for the lack of effectiveness of the last amnesty campaign in Kuwait, and comments on the implications of the volume and types of regularisation in Saudi Arabia. A few suggestions for increasing the effectiveness of amnesty programmes are offered.

Irregular Migration in the GCC Countries

Within the Gulf region, there is no firm estimate of the number of irregular migrants. Based largely on newspaper reports, Kapiszewski estimated that “in recent years, illegal immigrants in each GCC country made up at least 10 percent of the total population or 15 percent of the workforce,” with the number said to be as high as 700,000 in Saudi Arabia.⁹

Irregular migration is by definition not recorded and eludes statistical coverage. The law defines immigration status in a binary way as either legal or illegal, but in practice irregular immigration status can involve a wide spectrum of violations of immigration and other laws. There are many pathways to irregular migration status. Previous research identified four main types of irregular migration in the Gulf, resulting from the following: trafficking and smuggling; overstaying a work, tourist, dependent, or specific purpose (e.g., Haj or Umrah pilgrimage) visa; irregular employment situation emerging from visa trading or other factors; and running away from employer.¹⁰

Trafficking may occur when migrants are helped to move to a Gulf country by an intermediary under fraudulent circumstances including misstatement about the prospective occupation. Examples of this may be found among women who were told that they would work as domestic workers or salespersons

and find that they have in fact been brought in as sex workers.¹¹ While data on illegal entry of migrants are not easily available for Gulf countries, Saudi Arabia has been reporting some data. Records on smuggled persons published by the Ministry of Interior in Saudi Arabia showed, for example, that a total of 609,332 infiltrators were arrested from January to December in 2012.¹² Smuggled entrants remain in the country as irregular migrants, often participating in the informal sector in marginal occupations.

Overstaying a valid residence permit or a visit visa (or specific purpose visit such as Haj or Umrah pilgrimage) is one of the most common forms of irregular stay in the Gulf. With electronic databases now available in the Gulf countries, the relevant Ministries have the capability of counting the number of persons who are in violation of their legal residency duration. Residency permits are issued for specific time periods and must be renewed before the expiry of that period, as the rules permit. In case of non-compliance, a person becomes an “illegal” or irregular resident. Tourist (or visit) visas are usually issued for a maximum of three months. Dependent visas have fixed time limits and are issued to eligible workers fulfilling certain requirements such as a minimum salary level to bring in family members under their sponsorship.

Another common type of irregular migrant status occurs in the case of workers who are not employed by their sponsor, a situation that is an illegal byproduct of the *Kafala* system in the Gulf. *Kafala* produces irregularity through visa trading, and rigidity that may lead a worker to abscond into irregularity in case of a conflict with the employer, and the inability to transfer easily to another employer. Since every worker must have a sponsor, such sponsorship is sometimes bought (by workers or their relatives) from companies or nationals who in reality are not the employers of the migrant worker but act as facilitators for his/her entry and stay in the country. Large sums of money are usually paid by the migrant worker for procuring a visa and residency permit through such sponsors. In theory the holder of a valid residence permit is a legal resident. However, if it is found that the worker is employed by someone other than his/her sponsor, he/she is defined as illegal. If caught, the migrant worker may be jailed and deported.

The fourth main type of irregular situation may arise when a worker “runs away” or absconds from the employer. The most common complaints for running away include non-payment of wages, long working hours, and various kinds of mistreatment and abuse. This type of irregular situation has become typical for female domestic workers, although it is not limited to them. Runaway domestic workers usually seek refuge at their embassies or shelters that have been established in several Gulf countries. By running away the domestic worker is no longer residing in the sponsor’s house and is unlikely to have any documents proving his/her identity such as a passport.

Regularisation through Amnesty Campaigns

One mechanism through which an irregular migrant may change his/her status is the declaration of an amnesty programme by the host country during which the migrant may return to the home country or regularise his/her status while remaining in the host country, without paying any fines or being jailed. Amnesty programmes to allow the return, or regularisation, of irregular migrants have been launched periodically by each of the GCC countries since the mid-1990s. Newspaper reports showing the out-

comes of the amnesty programmes have enabled some analysis of the regularisation or departure of irregular residents, thus providing some idea of the scale of this phenomenon. Shah reported, for example, that between 2-2.3 million irregular migrants either left Saudi Arabia or regularised their status during 1997-2000. In the United Arab Emirates (UAE), 176,000 migrants regularised their status and more than 174,000 departed in 2007.¹³

Recent Amnesty Data for Kuwait and Saudi Arabia

Kuwait held an amnesty for a four month period from March 1 to June 30, 2011, while Saudi Arabia held a six month amnesty from April 3 to November 3 in 2013. Data on the outcomes of the amnesty programmes in Kuwait and Saudi Arabia provide a glimpse into the prevalence of irregular migration and response to efforts aimed at reducing the number of migrants in an irregular situation. Data for Kuwait were obtained from the Ministry of Interior and enable an analysis by country of origin. From its residency permit (*iqama*) database, the Ministry of Interior is able to ascertain the number of persons who are in violation of their visa status, i.e., have overstayed their valid visa period. Data for Saudi Arabia are based primarily on reports from the Ministry of Interior website. The data for Kuwait are available according to country of origin in the GLMM database in table IRR 1.2. For Saudi Arabia data are available in table IRR 1.1, according to the type of regularisation.

Residency Law Violators and Success of the Amnesty Programme: Kuwait

Analysis in the current paper focuses on the top ten countries with the largest number of violators in Kuwait. Of all the violators (124,142), 109,326 (88.1 percent) were citizens of the ten countries shown in Table 1. Bangladeshis constituted the largest number of visa violators (26,019) in Kuwait, followed by Egyptians (24,433), and Indians (16,267). Surprisingly, Americans were also in this list and constituted the tenth nationality with the largest number of violators (3,442).

The 2011 amnesty was only marginally successful in reducing the number of irregular migrants in Kuwait. Of the total irregular migrants from the ten countries included in Table 1, 27.6 percent departed while 10.5 percent regularised their status; the remaining 61.9 percent were still in the country at the end of amnesty period. The percentage of visa violators from each country who did not avail the amnesty is shown in the last column of Table 1. Almost 95 percent of the visa violators from Sri Lanka remained in the country at the end of the amnesty, compared to 76.3 percent of those from Bangladesh. The preponderance of Bangladeshis in the irregular category may to some degree be linked to the fact that Kuwait imposed a ban on the entry of Bangladeshi nationals in 2007. From that point onwards, Bangladeshis who had come to the country before 2007 have been able to remain in the country and renew their work or dependent visa but hardly any new workers or their families have been admitted. Thus, in case of a worker who was in the country before 2007 but was in an irregular visa situation and is determined to stay, the only option is to continue to stay in an irregular status, despite the fear of apprehension, detention, and deportation. At the same time, a person who may have had valid residency before 2007 but may have lost the job (and *iqama*) after that, and is determined to stay in the country, would continue to do

so in an irregular capacity. At the end of 2012, a total of 185,434 Bangladeshis holding valid residency permits were residing in Kuwait. They comprised the third largest category of non-Kuwaitis following Indians and Egyptians.

Table 1: Residency law violators from the top ten countries in Kuwait according to the number who departed, regularised their status, or remained in the country as of July 1, 2011

Nationality	Residency law violators as of February 28, 2011	Regularised cases		Remaining irregular persons as of July 1, 2011 %
		Departure Number (%)	Regularisation of status Number (%)	
Bangladesh	26,019	4,891 (18.8)	1,271 (4.9)	19,857 (76.3)
Egypt	24,433	9,585 (39.2)	2,664 (10.9)	12,184 (49.9)
India	16,267	4,969 (30.5)	916 (5.6)	10,382 (63.8)
Indonesia	9,338	2,532 (27.2)	2,740 (29.3)	4,066 (43.5)
Nepal	9,199	2,116 (23.0)	399 (4.3)	6,684 (72.7)
Pakistan	7,498	2,055 (27.4)	1,006 (13.4)	4,437 (59.2)
Philippines	5,225	1,366 (26.1)	1,051 (20.1)	2,808 (53.8)
Sri Lanka	4,117	131 (3.2)	72 (1.7)	3914 (95.1)
Syria	3,788	2,035 (53.7)	487 (12.9)	1,266 (33.4)
USA	3,442	477 (13.8)	873 (25.4)	2,092 (60.8)
TOTAL (Number from top 10 countries)	109,326	30,157 (27.6)	11,479 (10.5)	67,690 (61.9)
Total number from all countries	124,142	32,036 (25.8)	13,653 (11.0)	78,453 (63.2)

Source: GLMM database, Kuwait, Table IRR 1.2

The presence of American irregular migrants in Kuwait certainly seems anomalous. Upon enquiry, we were informed by the Ministry of Interior officials that the most likely explanation for this is the entry of US military personnel who may have entered on short term (one month) visit visas granted on arrival at the airport. Such personnel may have later gone on duty to Iraq or another station without their visa being cancelled at an immigration check point, thus appearing as irregular residents in the database. Another reason may be the lack of renewal of the visit visa beyond the one month period. However, these data warrant further inquiry.

Irregular Residents and Success of the Amnesty Programme: Saudi Arabia

The amnesty programme in Saudi Arabia covered a distinctly wider range of residency law violations than the one in Kuwait. The campaign targeted foreigners with no residency or work permits, those working for an employer other than their sponsor, and those engaged in a trade other than that described on their *iqama*.¹⁴

A total of 5.3 million regularisation procedures occurred during the first four months of the amnesty, as shown in Table 2. The 5.3 million may, however, not translate to an equal number of persons since an individual may have undergone more than one form of regularisation at the same time. It is estimated by De Bel-air that during the six month period from April 3 to November 3, 2013 an estimated 4.7 million foreign workers corrected their status, and another 1 million were either expelled from the country or left voluntarily by availing the amnesty.¹⁵ Thus, very large numbers of foreign workers in Saudi Arabia were affected by the amnesty, either through regularisation of status or departure/expulsion. The massive scale of the persons affected by the amnesty provides one clear message: the state of irregular employment in Saudi Arabia was indeed phenomenal, and the amnesty is likely to have brought about major changes in the structure and functioning of the labour market. About 1.5 million non-Saudis changed their sponsor during the amnesty.

Why did such a large number of workers, comprising a major portion of the non-Saudi workforce, need to change their sponsor, if the sponsor had in fact employed the migrant workers in the same business/company for which he/she had procured the work visas from the government? The most likely answer may be found in the practice of visa trading which has been acknowledged to be rampant in the Gulf countries, including Saudi Arabia.¹⁶ Saudi citizens are likely to have procured licenses for businesses or companies entitling them to a specific number of work visas. The businesses or companies may have existed only on paper and the work visas may have been sold to workers willing to buy them. We do not know the degree to which the current regularisation programme may have ameliorated the problem

Table 2: Cumulated number of regularisations of non-Saudi residents in Saudi Arabia in terms of transfer of sponsorship, change in profession, or issuance/renewal of work permit, June-September 2013

Date of record	23/06/2013		06/07/2013		01/09/2013	
	Number	%	Number	%	Number	%
Transfer of sponsorship	329,468	23.6	1,183,022	30.2	1,500,000	28.3
Change of profession	141,000	10.1	1,122,125	28.6	1,300,000	24.5
Issuance or renewal of work permits	926,330	66.3	1,617,779	41.2	2,500,000	47.2
Total of correction	1,396,798	100.0	3,922,926	100.0	5,300,000	100.0

Source: GLMM database, Saudi Arabia, Table IRR 1.1

of sponsor-employer mismatch; nor can we judge the degree to which the regularisation involved additional costs to the worker to regularise his/her status.

Despite the large scale of the amnesty departures/expulsions, Saudi Arabia continues to host an unknown number of irregular workers without valid residency papers. As early as mid-January 2014, about two and a half months after the expiry of the amnesty programme, *Arab News* reporters saw many expatriates on the streets selling fruit and vegetables and washing cars. Ali Abdul Qader, a Somali car cleaner in Bawadi district, said, “Yes, we’ve been hearing about arrests and deportation for months now but none of us has seen this happen. We are not bothered about being arrested and deported. All of us clean cars on the busy King Fahd Street in Bawadi.” On April 15, 2014, Saudi Arabia announced tough punishment for expats violating the country’s residency, labour, and business regulations. Punishments include fines up to SR100,000, a jail term of up to two years, a recruitment ban, and deportation. According to the Interior Ministry, the move targets foreigners who came to the Kingdom on work, visit, Haj and Umrah visas, and have overstayed their visas. “The punishments issued by the ministry show that they are very serious on the issue. The punishment covers not only expats, but also companies and individual employers. Now, employers will think twice before hiring or sheltering an illegal expat.”¹⁷

One of the main reasons for the very serious effort at regulating the labour market through the latest amnesty programme is the high level of unemployment among Saudi nationals. The government claims that the amnesty programme has succeeded in relieving unemployment to some degree. Labour Minister Adel Fakeih announced at a meeting to discuss the latest developments in the Saudi labour market that more than 254,000 Saudi men and women had been employed in the aftermath of the status correction phase for foreign workers.¹⁸

Probable Reasons for Failure to Avail the Amnesty

Authorities within the GCC countries are fully aware of high number of irregular residents/workers, especially overstayers, and the announcement of an amnesty every four to five years is designed to provide an opportunity for such persons to depart or regularise their status. Without these amnesty programmes it would be impossible for the migrants to ever leave the country, since almost everybody who leaves the country needs an exit visa issued by the employing authorities.¹⁹ The Ministry of Social Affairs and Labour in Kuwait has made repeated statements during the last year aimed at curtailing the number of illegal and “marginal” workers. The Ministry is investigating cases where a fabricated increase in the number of workers registered for some companies has been discovered. It is also investigating whether excess permits have been sold to workers recruited from abroad.²⁰ If the experience of Kuwait during its last amnesty period is reflective of the usual response of irregular migrants in other GCC countries, the amnesty programmes have been only partially successful in facilitating the regularisation of irregular workers. A majority of them were still in the country at the end of the last amnesty period in Kuwait. However, the latest amnesty in Saudi Arabia appears to have been relatively more successful, although irregular workers are still found on the streets.

The general question pertaining to the low response to amnesty programmes, especially in Kuwait is: Why do irregular workers not avail the opportunity to regularise their status? In-depth interviews with five irregular workers in Kuwait provide the following insights to explain such behavior. First, ir-

regular workers had specific goals that they wanted to achieve as rewards from their migration, in terms of ensuring that they established a sound financial base in the home country before their return, or ensuring that the education of their children had been completed. In order to achieve these goals, they were willing to risk being apprehended or jailed. Second, they did not perceive the opportunities in the country of origin to be good enough to enable them to achieve the goals they had set for themselves. Third, they had a network of support and social relations in Kuwait that enabled them to sustain themselves and feel comfortable. Participation in religious activities at church or mosques aided such experience. Fourth, most of the interviewees had been in Kuwait for ten or more years. With the long duration of stay most had learned the Arabic language and could find their way around, although they avoided public places where they could be apprehended by the police during spot checking. Finally, those who did not regularise their stay during the last amnesty believed that once they had achieved their goals and were ready to leave, the procedure was not that cumbersome. They could go to the police, turn themselves in as irregular workers desirous of returning to their home country, spend one or two months in jail and then leave. They knew that deportees may not be able to re-enter the country but were prepared to face this consequence.

How Can Amnesty Programmes Be Implemented More Effectively?

In order to enhance the success of future amnesty programmes the following suggestions may be considered by the concerned authorities.

- 1) The recent experience of Saudi Arabia suggests that a higher degree of success in terms of regulating the labour market is perhaps possible if programmes have multi-pronged goals rather than focusing only on the overstayers.
- 2) In addition, vigorous and widespread surveillance is necessary to achieve the greatest impact. However, such surveillance must be done in a humane and just manner. The authorities must ensure that they do not punish irregular residents on the basis of incomplete or biased information.
- 3) The success of such programmes is highly dependent on the cooperation of employers as well as those sponsors who are not the employers. If employers decide to hire only those workers who are under their own sponsorship, the volume of irregular workers is likely to reduce. Such a move would benefit the employers as well as employees by bringing them in line with labour laws and removing the threat of deportation and punishment. However, the market for visa-trading may persist and defeat the regularisation policy in the long run. Sponsors have had a relatively high degree of freedom to bring in foreign workers in the past, including the ones not needed for their own work. Strict regulation of such freedom will be a challenge for the government since it may not be politically and socially popular.
- 4) Shortage of requisite staff and facilities to process the huge volume of foreign workers who respond to amnesty has frequently been reported by the media for the embassies of several countries. Adequate preparations to handle the workload in a rational and timely manner are necessary for the success of such programmes.

Conclusion

The various pathways to irregular status have resulted in large numbers of people who are not compliant with the laws in Kuwait or Saudi Arabia and are therefore illegal residents of these countries. The regularisation of 4.7 million non-Saudis illustrates the massive scale of this phenomenon. Periodic amnesty programmes to regularise the status of irregular workers have been offered by various Gulf countries. Kuwait launched its last amnesty programme in 2011 and Saudi Arabia in 2013. Kuwait's programme focused only on overstayers while the latter was much broader. The Kuwait programme resulted in limited success, with less than 40 percent either regularising their status or leaving. The Saudi programme appeared to be more successful with the departure of at least one million and the regularisation of more than 4 million. The most important questions raised by these findings relate to the need for understanding the dynamics that lead to the very high levels of irregularity in the labour markets of these countries and to understand why amnesty programmes are only marginally successful in some countries.

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About the Author



Nasra M. Shah is Professor of Demography at the Department of Community Medicine and Behavioral Sciences at the Faculty of Medicine, Kuwait University. Professor Shah's research has focused on several different demographic issues in the context of health and societal development. She has conducted extensive research on the Asian region, especially Pakistan and the major South Asian countries and, since almost 30 years, on Kuwait. Labor migration, especially from Asian countries to the oil-rich Gulf countries, has been one of the consistent themes in Dr. Shah's research for more than 35 years. During the mid 1990s, she was part of a UNFPA funded global project that examined emigration dynamics in four major sending regions. She was Chairperson of the South Asia region. She serves as a referee for most leading migration journals and is on the Editorial Board of the Asia and Pacific Migration Journal, International Family Planning Perspectives, and Migration and Development. Her many publications include books on Asian Labor Migration: Pipeline to the Middle East; Pakistani Women; Basic Needs, Women and Development; and Population of Kuwait: Structure and Dynamics.

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