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Irregular Migration in Qatar: The Role of Legislation, Policies, and Practices

Ray Jureidini

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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Irregular Migration in Qatar: The Role of Legislation, Policies, and Practices

*Ray Jureidini¹ **

Abstract: Little is understood about the extent and circumstances of irregular migrant workers in Qatar. The system and means of entry into Qatar is highly securitised by land, sea, and air and there is no evidence that foreigners (seeking work or asylum) enter illegally, or are smuggled into the country in surreptitious ways – neither from its shores on the Arabian Sea, nor through Saudi Arabia, its only land border. Although statistics are unavailable, qualitative evidence shows that irregular migration does exist, mainly through visa trading, of so-called “free visas” that originate through the corporate visa quota system. Other forms of irregularity arise from “absconding” from employers, a breach of the Sponsorship Law; being left stranded by an employer/sponsor due to business failure or cancelling of contracts. It is also a violation when there is a mismatch between the job

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specification on the visa and the actual work being undertaken, although this is very common and generally undetected. The chapter provides a brief overview of the laws regarding expatriates and the current policies in policing these laws. It also gives case examples that highlight the various circumstances which migrant workers experience as they reside and work illegally in Qatar. It will be argued that the workers themselves are not always hapless victims of deception, fraud, and exploitation, although this certainly occurs. Others may be well informed but willing to take risks to find work and an income that can support their families at home.

Introduction

The status of migrants as irregular is a function of protectionist policies that restrict entry into a country, administrative requirements that restrict access to residency and employment and the criminalization of those who do not or cannot comply. (Düvell 2012: 78)

In terms of purchasing power parity, Qatari citizens currently have the highest GDP per capita in the world (IMF 2015). At the same time, the population and workforce of Qatar has the largest proportion of foreigners in the GCC and the world. As of 2013, Qatari nationals comprised 9.6% of the population (1.8 million), and this is declining as more and more migrant workers enter the country for the construction and infrastructure projects for the 2022 Football World Cup as well as the social and economic development plans of the Qatar National Vision 2030. According to the Ministry of Development Planning and Statistics, as of May 31, 2015, the population had risen to 2.38 million, with a male-female ratio of 8:1 and the large majority of males alone (IMF 2015), without family members (De Bel-Air 2014). In 2013, Qatari nationals were only 6% of the workforce (1.5 million), with Qatari males at 4% of the total male workforce. Nationals are employed primarily in the public sector and comprise only 1% of the private sector workforce.

The Qatar Statistics Authority Labour Force Survey of 2013 identified the main industry sectors of employment as: Construction (37%), Wholesale & Retail Trades (13%), Household Domestic Work (10%), Manufacturing (8%), Mining & Quarrying (6%), Public Administration & Defence (6%; with 51% Qatari nationals), Administration & Support Services (3%) and Transport & Storage (3%). Low-skill occupational categories such as “Craft & Related Trade Workers” to “Elementary Occupations” account for 72% of non-nationals (De Bel-Air 2014).

There are no official statistics providing a breakdown of nationalities in the workforce. However, from a 2012 survey of low-income (less than \$550 per month) workers in Qatar, the largest numbers came from Nepal (39%), India (29%), Sri Lanka (9%), Bangladesh (9%), Philippines (5%), Pakistan (3%), Egypt (3%), and Others (2%) (Gardner, et al. 2013). From data supplied by embassies, those from India (particularly Kerala) are the most numerous in the overall workforce, followed by Nepal and Philippines. Non-Gulf Arabs are significant in higher income supervisory, managerial, and entrepreneur positions. In 2002-04, the proportion of non-Gulf Arab expatriates was around 19%, down from 33% in 1975 (Kapiszewski 2006).

Since the awarding of the 2022 World Cup, relentless criticism has been directed at Qatar from the United Nations, human rights organizations, and the mass media (see Human Rights Watch 2012; Amnesty International 2013a; Amnesty International 2014a; Amnesty International 2014b; International Labour Organisation 2013; International Trade Union Confederation 2014; Crepeau 2014; DLA Piper 2014; Jureidini 2014; Booth 2013). All of these reports focus upon the abuses of the *kafala* system of sponsorship as well as corruption in migrant labour recruitment, wages, excessive working hours, sub-standard accommodation facilities, health and safety, and call for radical reform. Very little attention is given in these reports to irregular or undocumented workers and none provide estimations of the possible number of irregular workers in Qatar.

Qatar's wealth and reputation as a source of lucrative employment is a major pull factor for people from the poorer countries of Asia, the Middle East, and Africa. According to the IMF and World Bank, in 2014, remittances from Qatar reached \$9.5 billion (AFP 2013; Global Research 2015). This attraction felt by individuals and their states of origin also feeds greed and corruption by middlemen brokering employment opportunities and, coupled with the labour restrictions of private sponsorship, leads to irregular conditions and a culture of fear and trepidation against complaints and legal remedies, although some reforms are underway and more are promised. The stringent restrictions on migrant labour that lead to irregularity are discussed later.

In considering how foreign labour is identified and treated as being in an irregular situation, this chapter begins with the legal framework that focuses primarily on the Law of Sponsorship and, to a lesser extent, the Labour Law. These laws define the conditions of control over the entry, exit, and movement of foreign labour in the country. The second section considers government policies towards irregularity through the government departments dedicated to implement these

laws. In the third section detailing the practices, I identify eight circumstances that lead to irregularity. Not all of these are serious, for some are temporary and some are not of concern to the authorities. Qualitative data and case studies are provided on the more important categories of visa trading and absconding. The main objective in the chapter is to show how migrant workers arrive into Qatar in a regular condition and how they may become irregular once they are in the state.

Original data was obtained from interviews with individuals in irregular circumstances and with interlocutors who are actively trying to assist them, including members of the NHRC and community representatives. Actual names have not been used as requested by the interviewees.

The term “migrant worker” is used here as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national” (UN Migrant Workers’ Convention, 1990/2003, Art. 2).² However, the terms “migrant worker” or “migrant labour” are considered unacceptable by Qatari authorities because they are perceived to imply permanent migration (immigration). They prefer the term “temporary contract worker.”

The Legal Framework

In Qatar, irregular migrants include:

1. Foreign nationals without residence status, but who are in regular employment – usually when the employers do not renew the residency permit because they do not want to pay, or through negligence. Companies who do this can be blacklisted and banned from further recruitment.
2. Foreign nationals who entered on tourist visas and are employed in unregistered jobs. These are often those who find a job, commence work, but are in the process of regularising their status with a work visa. These will more likely be white-collar, managerial, or technical professionals. Overstay on tourist visas is not thought to be a particularly significant issue in Qatar. Tourist visas are strictly controlled and for most countries require pre-arrangement through an embassy. Nationals from 38 mainly developed countries can obtain a one-month visa on arrival, but require a credit card

2. Note that Qatar as well as the other GCC states and generally migrant destination countries have not ratified this convention and thus are not bound by its coverage, in particular the rights conferred upon irregular migrant workers.

to pay the visa charge (QAR50-100).³ None of the low-skilled labour origin country nationals can obtain a visa on arrival, including Muslim majority countries such as Indonesia, Pakistan, and Bangladesh.

3. Foreign nationals who may have residency status, but are working without permission in unregistered jobs, namely those who are working for an employer who is not their sponsor, or a resident spouse or offspring who does not have a work visa.⁴
4. Foreign nationals who may have residency status and work visa, but are working in unregistered jobs. This may be with informal, unregistered permission from their sponsor (who expects payment in return for renewal) or because they have absconded from the sponsor and are working for another employer, that is, “freelancing.”
5. Foreign nationals who have left their employer without permission (absconded), who may or may not be working, but are still resident.
6. Foreign nationals who may have a work visa but no residency status. This happens usually after the first three months’ probationary period where the employee has not been processed for a residency ID card.
7. A foreign national whose occupation is not commensurate with the classification on the work visa is also going against the law. However, because of a non-transparent quota system based upon nationality and occupation, this is very common, but not recognised in practice as conferring an irregular status, perhaps partly because of the difficulty in monitoring. It is, however, a major means by which recruitment agents and traffickers in origin countries and their collaborators in Qatar are able to deceive prospective workers who expect jobs that are more lucrative and prestigious than what is stated on the visa. The occupation on the work visa is presented as a minor bureaucratic problem that can be ignored. For example, they may promise a position

3. Andorra, Australia, Austria, Belarus, Belgium, Brunei, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland (Rep.), Italy, Japan, Republic of Korea, Liechtenstein, Luxembourg, Malaysia, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, San Marino, Singapore, Spain, Sweden, Switzerland, Turkey, UK, USA, and Vatican City.

4. Penalties for employing workers not under their sponsorship can be “imprisonment not exceeding 3 years and/or a fine of not more than QAR50,000 and in case of repetition an imprisonment for a period not less than 15 days, and not exceeding three years and a fine of not less than QAR20,000 and not more than QAR100,000.”

as a soccer player, but the worker may be asked to accept a work visa for a labourer or security guard (see the case of Togolese workers in Jureidini 2014).

8. There are also those who become irregular if their employing company ceases operations, goes bankrupt, or is blacklisted without making provisions for the employees. Often employees go unpaid and the sponsor is not accessible to return the passports, sign an exit visa, and pay their return airfares.

The multiple differences of these irregular circumstances suggest that we should move away from a binary conceptualisation of regular versus irregular. Although in cases 1, 2, 3 6 & 7, irregularity may be temporary or may not be of immediate concern to the authorities, it is important to identify them as gradations of irregularity in accordance with the law and which may or may not be policed.

The status of non-nationals in Qatar is administered by Law No. 4 of 2009, “Regulating the Entry and Exit of Expatriates in Qatar and their Residence and Sponsorship.” This is the result of a number of amendments since the original Law No. 3 was enacted in 1963. It is generally referred to as the Sponsorship Law and is the legal foundation of the *kafala* system, although there is no mention of *kafala* in the law itself.

Much has been written about the *kafala* system as having honourable, religious-based historical functions for loan guarantees, guardianship of orphans, and security guarantees of strangers, but which has become a means of exploitation of labour in modern times (Frantz 2011). More than a system of administration where responsibility and authority over foreigners is delegated to private citizens, the *kafala* also “cements” the relationship between the state and its citizens as an efficient alternative for the state’s lack of capacity to manage an excessive foreign population. It also acts as a means for government wealth distribution among the citizens in both public and private industry sectors, minimising the competition between elite families and the maintenance of socio-political power structures, to the exclusion of foreigners (Dito 2014). It has been argued that the difference between pre-oil and post-oil employment relations was the conscious exclusion of foreign employees because they could not be trusted, as they had previously trusted members of the same community (Longva 1997).

By way of summary, under the contemporary *kafala* system of sponsorship, all foreign nationals who wish to work or establish a business require a Qatari citizen, foreign resident or company to sponsor them (Sponsorship Law, Article 19).⁵ In the

5. The Sponsorship Law distinguishes between a “residence sponsor” and an “exit sponsor,”

case of businesses, a Qatari sponsor (*kafeel*) must have 51% controlling partnership of the company (Commercial Companies Law No. 5, 2002; Latham & Watkins, n.d.).⁶ In the case of an employee, the sponsor must also be the employer (Article 15 and Article 25: 3 of the Labour Law). The employee requires the permission of the sponsor to leave the country (Article 18) or to change employers (Article 22). The employee must be engaged in the work as classified on the work permit (Article 48). The work visa and residency ID (*iqama*) contains the name of the sponsor as well as the job classification. Thus, the sponsor/employer (or *kafeel*) controls the entry, exit, and employment transfer of all employees. These provisions have been challenged as constituting violations of international labour conventions and the right of freedom of movement for foreigners in the country.⁷ They are also part of the legal restraints that result in placing migrant workers, willingly or unwillingly, into an irregular status.

The requirement for all foreigners in Qatar to obtain an exit visa from their employer/sponsor to leave the country is a particularly vexed issue. Article 18 of the Sponsorship Law states:

Other than women sponsored by the father and the minors and visitors visiting the state for no longer than 30 days, expatriates may not leave the state temporarily or permanently unless they provide an exit permit issued by the Residence Sponsor.

This has been a highly controversial regulation that is only operative in Qatar and Saudi Arabia and has led to many cases of foreign workers as well as high profile professional expatriates being unable to leave the country (see, for example, Parry 2010; Hope 2009; Amnesty International 2013a).

They are usually the same person or entity, but both roles can be delegated for administrative purposes.

6. See: Commercial Companies Law No. 5, 2002, Article 68; Article 2(1) of the Foreign Investment Law restricts foreign ownership to a maximum of 49% of a company's capital. However, Article 2(2) provides that foreign investors can own up to 100% of the capital if: a. the entity operates in the agriculture, industry, healthcare, education, tourism, exploitation and development of natural resources, and energy or mining sectors; and b. the project contributes to Qatar's development plans. The Minister of Business and Trade is officially responsible for determination of the percentage of foreign ownership. See: Latham & Watkins LLP *Doing Business in Qatar*, n.d. p.3. http://www.lw.com/upload/pubContent/_pdf/pub2782_1.PDF (accessed June 16, 2015).
7. To this it may be added that, contrary to Article 9, it is also common practice for employers to hold the passports of their employees. Employers argue that it is voluntary and for their safekeeping, but it is a violation of the law.

However, there is a clause in Article 47 of the Sponsorship Law that allows selected foreign residents to exit without permission:

A person who has a residence permit may exit from the State during its validity period without obtaining permission or authorisation.

This provision is related to Article 43 and offers an exemption to the exit visa requirement for investors, owners, and benefactors of real estates and any other categories decided by a ruling of the council of ministers.

More importantly, Article 15 of the Sponsorship Law states:

No natural or corporate person may permit expatriates brought to the state for work to be employed by other entities or employ any workers not sponsored by such person.⁸

Thus, foreign nationals must be employed by their sponsor and a person who has absconded from a sponsor cannot be employed by anyone else, unless they have a valid case against the sponsor/employer, in which case, the sponsorship can be transferred by the authorities (Article 12).

However, Article 15 goes on to state:

Notwithstanding the above, the competent authority may authorise a sponsor to lend his Expatriate workers to another employer to work for such employer for no later than six months, which may be renewed for similar terms.

This “lending” provision facilitates the use of outsource labour (or manpower) suppliers, who obtain work visas and employ migrant workers only to hire them out to others. They provide accommodation, food (or food allowances) and pay their wages and are, in turn, paid by contractors or subcontractors who use the workers without having to hire them directly. The contracting of outsource labour suppliers has been increasing but is seen as highly problematic. This is because of a lack of transparency and oversight, creating a “corporate veil” where actual employers do not check or monitor whether the outsourced employees are irregular or have been trafficked (Jureidini 2014). With professional or white-collar expatriates, “lending” is referred to as “secondment” when a contractor, for example, may second an engineer to a subcontractor. In this provision, the law is quite liberal, as long as the sponsor grants approval (Zahra 2014).

8. Violators of this law to receive a jail period “not exceeding 3 years and shall pay a penalty not exceeding QAR50,000 or either one of them.” Repeat violators will be jailed for “a period not less than 15 days and not more than 3 years and shall pay a penalty not less than QAR20,000 and not more than QAR100,000” (Article 51).

The other important legislation relating to irregular status is the Labour Law State of Qatar No. 14 of 2004, administered by the Ministry of Administrative Development and Labour and Social Affairs. Provisions of the Labour Law relate primarily to employment relations in the private sector, covering the rights, obligations, and limitations of employees, employers, and workers' committees; minimum standards on working hours; vacation and public holidays; safety standards; workers' committees; and termination of employment. With regard to issues such as entry and exit, sponsorship, and visas, the Labour Law defers to the Sponsorship Law.

The Labour Law (Article 25) on "absconding," a major cause of irregular status, states that a work permit may be cancelled "[i]f the worker discontinues the employment for a cause related to him without acceptable excuse for more than three months." However, Article 51 allows, among other conditions, that if the employer breaches the obligations of the contract or the Labour Law, or if the employer or his representative has misled the worker, the worker may terminate the contract "and retains his full right to obtain the end of service gratuity." However, Article 49 requires that notice of termination must be given, which varies from one week to two months, depending on the duration of the contract. The dilemma that employees face in terminating their contracts is that they may not be able to prove the employer's violation of the contract or have access to the courts to do so (see Gardner, et al. 2014) and they may not be in a financial position to be repatriated home and may want to remain in the country to work. Thus, "absconding" and becoming irregular, rather than resigning may be seen as the only option.

Major Policies

With the extraordinary demographic imbalance between nationals and non-nationals in the state, a major burden on the authorities is the management and control of foreigners.

There is a clear policy that permanent immigration for citizenship is not an option. Foreigners are to remain temporary. The Qatar National Vision 2030 makes it clear that the country's objective is to develop a knowledge-based economy, "highly qualified persons and specialists," and reduce the dependency on low-skilled foreign nationals (Permanent Population Committee 2011).

In reality, with the development plans, particularly for the 2022 World Cup, the dependence on strictly temporary foreign labour, both highly skilled and low skilled, will be maintained (Babar 2013).

The administration of the Sponsorship Law is overseen and policed by the Search and Follow Up Department (SFUD) under the General Directorate of Border Passports and Expatriates Affairs at the Ministry of Interior. According to its website, the functions of SFUD include:

- To follow up violators of the laws and decisions that organise the entry and exit of expatriates and the regulations of their sponsorship and residence
- To search and investigate in the cases and complaints related to violation of laws and decisions regulating the entry and exit of expatriates and the regulations of their sponsorship and residence and to take legal action on violators and offer reconciliation in the crimes that allow reconciliation legally
- To carry out inspection campaigns with the aim of enforcing the laws, regulations and decisions that organise the entry and exit of expatriates and the regulations of their sponsorship and residence in coordination with concerned authorities
- To take necessary procedures to implement the legal decisions of deportation for expatriates and the decisions issued for cancellation of residence permit and deporting from the country in coordination with concerned authorities
- To manage the deportation reserve and supervise it
- To organise and keep the data of those sentenced for deportation and leaving the country and to take necessary measures to ensure they are not entering the country violating the law and systems followed
- To take executive procedures for temporary and permanent sponsorship transfer decisions in case of abuse or public interest in accordance with concerned law and in coordination with involved authorities.

The SFUD also maintains a detention centre for the custody of irregular workers and others who have been sentenced to deportation. The number of foreign nationals detained in the deportation centre is not an indicator of the number of apprehended irregular workers in the country. Most are not detained, but are required to report to the Criminal Investigation Department (CID) on a daily basis. At any one time, the deportation centre may contain 1,000-1,600 men and 300-500 women who may be there under a thirty-day deportation order that is renewable under the Sponsorship Law (Article 38). The women are mainly domestic workers

who have absconded from abusive employers. Some can remain there for a year or more when they are unable to pay fines, or acquire their passport, exit permit and airfare, the latter being required from their sponsor. The Sponsorship Law (Article 24) states that the sponsor must pay all deportation expenses of the absconded worker, unless they cannot be found after a month following official notification. If someone other than the sponsor employs a foreign national, that employer must pay the deportation expenses. The SFUD facilitates these payments, but if the sponsor cannot be found, or if there are long delays, the department may obtain a ticket for them. Despite claims by the SFUD that the detention facilities are hospitable and humane, a UN investigation found otherwise (Crepeau 2014). However, in 2014, the SFUD did provide air tickets to more than 5,000 expatriates who were in detention but whose financial arrangements could not be finalised with their sponsors (Qatar Ministry of Interior 2015a).

Migrant Domestic Workers

As in most other Arab states, migrant domestic workers are excluded from the protection of the Labour Law (along with drivers, nurses, cooks, and gardeners of the household).⁹ With an estimated 132,000 migrant domestic workers, the Qatari Advisory Council approved legislation in 2010 specifically to cover domestic work, but it was never implemented (Human Rights Watch 2012a). The exclusion of migrant domestic workers from the Labour Law means that they are unable to seek assistance from the Ministry of Labour and Social Affairs (Amnesty International 2014b).

Article 12 of the Sponsorship Law allows the Ministry of Interior to transfer sponsorship if domestic workers are abused (for workers who are not governed by the Labour Law). This is rarely used, for victims are more likely to abscond and seek illegal freelance work or attempt to return home, depending upon the severity of the abuse. The detention of absconding domestic workers has added dimensions compared with other migrant workers. For example:

Too often, instead, domestic workers are treated as the offenders themselves, detained for “absconding” or otherwise breaching the Sponsorship Law. In March 2013 over 90% of the women detained by the authorities awaiting deportation were former domestic workers. And when domestic workers report rape or sexual assault, they risk being charged, instead, with consensual

9. Exclusions also include employees of Qatar Petroleum and its subsidiaries, ministries, public institutions such as the armed forces and police, workers at sea, casual workers and members of the employer’s family (Labour Law No. 14 2004, Article 3.)

sex, under the charge of “illicit relations” [under Law no. 11 of 2004, the Penal Code, Article 281]. (Amnesty International 2014b: 8)

In 2009, the Qatari Population Policy sought to reduce non-national employment in manufacturing to 50% by 2020. One of the sub-objectives of “Qatarization” (giving preference to Qatari employees)¹⁰ was to “dispose of surplus labour, particularly household labour, and work to change some of the habits that require increased numbers of domestic workers and personal services” (Permanent Population Committee 2011: 19). However, as evidence of the continuing dependency, the government has been continually engaged in negotiating increased supplies of migrant domestic workers. In November 2012, negotiations with the Philippines to supply domestic workers broke down when Qatar refused to accept their mandatory minimum \$400 monthly salary. Consequently, in April 2013, they reached out to Bangladesh, coming to an agreement for the supply 30,000 Bangladeshi women for domestic work and other services (Jureidini 2014: 15, 20).

Absconding Workers

If an employee, whether a construction worker or domestic worker, leaves employment without permission from his sponsor/employer, he or she is deemed to have “absconded,” and he or she after three months becomes a criminal offender as an irregular, unauthorised resident. When an employee leaves without permission, the sponsor is obliged to report the case to the SFUD and the employee can be arrested, detained, fined, and deported.

The absconded employee has a further restriction in that s/he is unable to leave the country without an exit visa signed by the sponsor or someone authorised by the sponsor to sign on his/her behalf (exit sponsor).

Absconding workers are a major concern for the Qatari authorities who emphasise not only the illegality of absconding, but also the illegality of those who employ them. Both face prosecution and workers face deportation. This provision in the Sponsorship as well as the Labour Law (Article 25) is often used as a threat against employees, and particularly irregular workers, who are being employed illegally. While there are provisions for workers who have absconded to provide valid reasons for leaving their employer without permission, there are no public reports that detail how many have had their complaints accepted and

10. The Labour Law (Article 23) states that a work permit is subject to: “The non-availability of a qualified Qatari worker registered in the registers of the [Labour] Department and to carry out the work in respect of which the work permit is applied for.”

been allowed to remain in the country. In 2013, there were 1,046 complaints by workers of human rights abuses by their sponsors. In the first four months of 2014, there were 877 complaints (Walker 2014). According to the embassies in Qatar, the main complaints by workers concern non-payment, under-payment, and delayed payment of wages, as well as excessive working hours and lack of freedom of movement (Human Rights Watch 2014; Jureidini 2014). Curiously, it may be noted that the Ministry of Interior considers that preventing employees from changing employers without permission is a means to deter trafficking (Qatar Ministry of Interior 2015b), but it is more likely that it prevents “poaching” of employees, rather than “trafficking.”

There is no doubt that the law and policy that accepts the notion of “absconding” or “runaway” workers has undertones of forced labour. Instead of acceptance of an employee “resigning” without permission from the employer/sponsor, the law facilitates workers becoming irregular and thus criminalised. Night patrols check identification papers of suspected irregular workers.

We conduct the inspection campaign in a very secret manner all over Qatar, and round the clock. We advise expatriates to always carry the necessary documents with them, not necessarily the original, but at least a copy. Now we are using a handheld device during the inspections. Using fingerprints, the device can give all data about a person in 20 seconds and we can know if he has a valid RP or he has run away from his sponsor. (*Doha News*, April 3, 2013)

It has been argued that the CID is rarely sympathetic to the reasons a worker may have absconded or is in the country without a valid visa or residency permit (Crepeau 2014).

Major Practices

Non-renewal of Residency

Employers are required to renew residency and work permits within 90 days of expiry. Administrative data from the Qatar authorities could show the number of non-renewals of employees who have not left the country, which would indicate the number of irregular workers in this category. Unfortunately, this data has not been made available. However, in 2013, 2,442 companies were blacklisted for various violations, including the failure to renew residence permits of their employees, employing absconding workers, non-payment of salaries, and other violations of the

labour and residency laws. At the same time, 1,263 individuals who allowed their employees to work for others were banned from being able to recruit or sponsor workers for a period of one year (Qatar Ministry of Interior 2013a).

According to the embassy of Nepal in Qatar, in 2014, out of a migrant worker population of around 400,000, approximately 5,000 Nepalese workers were “stranded” or in distress. In an interview with the author in March 2015, the labour attaché at the embassy explained that their problems included non-payment of salary, no ID card, no exit visa, or no proper jobs. Embassy data, however, is usually only indicative and not always reliable, for many cases may not be heard or a file opened. Thus, the number may be higher. In one recorded case, six Nepalese construction workers arrived in February 2011 with five-year work visas, but by September 2012 they were stranded because their company, a sub-contractor, had gone out of business. The employees’ telephone calls to their sponsor went unanswered and they were left sleeping in the street because they were evicted from their labour camp in the industrial area. Money was raised to assist them, and their case was given to the National Human Rights Committee (NHRC) at the end of December 2012 which threatened legal action against the sponsor. Within a few days, the sponsor provided tickets for them to return to Nepal. However, three months’ unpaid salaries owed prior to the company closing down were still not paid. Once out of the country, it was unlikely that their salary claims could be followed up.

Visa Trading

Visa trading of “free visas,” mainly by small and medium sized companies, is a major source of irregularity in Qatar. “Free visas” are well known in the labour origin countries. They are not free in the monetary sense, but free of an employer or job. Many migrant workers pay exorbitant amounts of money to obtain the “free visas.” However, where “normal” recruitment charges can vary from \$600-5,000, “free visas” may sometimes cost less because there is no job on arrival. The critical question is whether the migrant worker knows there is no actual job before departure. Irregular workers under these circumstances may or may not be victims of deception, fraud, and, possibly, trafficking.

Many sponsors in Qatar, whether nationals or non-national residents, use the *kafala* system as a business by using multiple visas as an easy means of generating an income, initially from recruitment agents who, in turn, charge the migrant workers and, subsequently, through annual rent for residency renewal while in an irregular situation (Migrant Rights.Org. 2015). For example, Halli (not her real name), an Asian woman in her early forties, who came to Qatar seven years ago to work in a

hairdressing salon, went into debt to pay the recruitment agent before departure. On arrival, her passport was taken from her and she was told there was no job for her. They placed her in an accommodation with a number of other women and told her to pay a rent of QAR17,000 (\$4,650) per year for her visa renewal. She was threatened that if she did not pay, she would be reported to the police as having absconded. She was not well educated and ended up in prostitution in order to be able to pay such a large amount. After seven years, her passport has still not been returned, but she has found someone who is willing to regularise her residency and provide her with legitimate employment.

All companies that register in Qatar are given a quota for work and residency visas, based upon their stated needs for managers, supervisors, drivers, construction workers, clerks, shop assistants, cleaners, etc. These can sometimes be “fake” companies designed specifically to trade in visas. A company may apply for its quota of visas, even if there are no positions available. Once the visas are obtained, the company can sell them to other companies, including outsource labour suppliers. The company (or personnel within the company) can offer the visa freely to a friend or relative who has to merely pay the government charge for the visa (QAR250, approx. \$68), pay for his passage to Qatar, stay with the relative or friend, and try to find a job with another company. On the other hand, the company (or an individual within the company) may sell the visa, which typically would bring in QAR2,500-3,000 (\$685-822) but could be more if there are other intermediaries involved, such as a recruitment agent/s.

Acknowledging the sale of visas where there may be no actual employment on arrival in Qatar, the Director of the SFUD, Col. Nasser Muhammad Al Syed, argued that the “large presence” of victims of visa trading “poses a serious threat to social security in the country” (Walker 2014). To address this, in 2013, 51 companies were prosecuted by the SFUD for illegal visa trading.

More than 40 executives of private companies, including Qataris, were given prison terms for fraudulent visa trade. A total of 50 companies were referred to the Public Prosecution and 84 cases were registered for their alleged involvement in ‘visa trading’. The Qatari and expatriate executives will undergo jail terms of one year to three years. The individuals and companies were charged a total of QAR4.27 million [\$1.17 million] in fines. (*The Peninsula*, April 3, 2014)

A company selling “free visas” must offer guarantees to the purchaser who falls into an irregular condition, because he or she does not have an employer. The

company must guarantee that when an employer is found, which must be in the first three months after arrival (probation period), it will provide an NOC (No Objection Certificate) to allow the transfer to another employer. If no employer is found within the first three months, there are only two alternatives. The first is that the company will proceed to obtain an ID and residency permit for the irregular worker, but the migrant worker will have to pay for the charges of approximately QAR1,200 (\$330). This allows the worker to continue to search for an employer, at his/her own expense. Thus, the worker must arrive with some financial resources to cope with such exigencies. Second, if the worker cannot pay for the residency permit and ID, he must borrow from friends or relatives, or must return home – again, at his own expense. In such cases the effort may result in a devastating financial loss. The level of difficulty will also depend upon whether the loan/s was taken from friends, relatives, recruitment agent, bank or a loan shark. The inability to pay may elicit threats or retaliation against the person and his family.

Visa trading and deception of prospective migrant workers who arrive without jobs is not necessarily “trafficking.” Although there is exploitation in the form of exorbitant payments required by brokers in the origin country, there may not be ongoing involvement or exploitation after they arrive, so it is unclear. Brigadier Nasser Mohammed Al Sayed, Director of the MOI’s SFUD argued, “The trading of illegal workers’ visas in Qatar is at the heart of the country’s problem with human trafficking” (Walker 2014). At the same time, Ibrahim Abdullah al-Qubaisi, Solicitor General in the Public Prosecution Office, explained:

Based on the legal definition of human trafficking crimes, no such offences were recorded in Qatar in 2013. Crimes such as visa trade could be considered as fraud, deception, and greed rather than human trafficking. The crime usually happens outside the borders of Qatar, where the victim pays money for people to get them into the country. Our local legislation applies only to the country. (ibid)

It is a curious assumption that the crime is perpetrated outside Qatar, because the visa and its sale originate from Qatar.

In many countries, particularly those with precarious employment and insecurity, Qatar is viewed as a wealthy labour destination that promises high salaries, not only for low skilled workers in construction, services, and domestic work, but also for skilled professionals and white-collar workers. As people search for circumstances to better their lives, Qatar is characterised (in the media, on the Internet and through word of mouth) as a strong emerging economy with many

opportunities for those looking for more lucrative employment and a means to utilise and enhance their skills and work experience. Since Qatar was awarded the soccer World Cup for 2022, many young men, particularly from African countries, have been deceived by promises that they could come to Qatar to play professional soccer, only to arrive and find some demeaning position waiting for them with much less salary than expected or no job at all. Thousands of educated irregular African migrants –from Nigeria, Cameroon, Uganda, Kenya, Senegal, Togo and elsewhere– with university degrees in building technology, civil and mechanical engineering, geology, accounting, and other professions have arrived in Qatar to face similar situations. From 2011, over 5,000 Nigerians (almost all Christians) came to Qatar having paid up to \$15,000 to an agency at home for a work visa, but there was no job waiting for them on arrival.

The Qatar authorities claim they are well aware of visa trading and its consequences (*Doha News*, April 3, 2013), but the fear of being reported to the authorities and deportation is strong because the victim still has a large debt to repay and does not want to return home with the shame of failure. At the same time, and perhaps unknown to most, the NHRC argues that if the sponsor's date of notification of absconding is later than the complaint by a worker, the sponsor can be prosecuted for false accusation (NHRC community representatives meeting, May 2015).

The *kafala* system prevents a local domestic labour market from operating because of the stringent control and restrictions in changing employers and exiting the country as well as on the formation of trade unions and strike action. However, if victims in an irregular situation are looking for work, it means there is an “underground” informal labour market operating for irregular workers who are unwilling or unable to leave because they need to earn enough money before returning home. One of these is located in an area of the furniture market. Here, day labourers wait in the hope of being picked up in cars, trucks, or vans to get work. Several irregular African men reported sexual harassment when picked up by men who promised them a job. Quite often, because of the clandestine nature of such operations, the migrant may not be paid and is not in a position to complain. One frightened worker has not left his room for a year after he was beaten and threatened by a gang of his countrymen when he dared to complain. Another interviewee, an African engineer in his mid-forties, finally found work, but after six months the company laid him off and refused to pay his salary. After several months agitating for the money, he was given a cheque for the full amount, but there were no funds in the bank account. He presented the cheque through a friend's bank account and

reported the case to the NHRC. Their lawyers retrieved the money. However, the long ordeal and humiliation affected his mental health and he has returned home, as one respondent put it, “a broken man.”

Irregular migration with “free visas” also operates through social networks between workers in Qatar and may not always be sinister. For example, PJ, a young Bangladeshi man (27 years) has been working in Qatar for three years. Under pressure from his family, he decided to find a way to bring his brother (25 years, with accounting qualifications) to Qatar as he had been out of work for over six months in Dhaka. Having made friends with a Bangladesh civil engineer working in middle management for a trading company (established by an Indian entrepreneur from Kerala), PJ asked him for a work visa (he refused to call it a “free visa”) for his brother. The engineer dutifully arranged a visa for a clerical officer through his company’s quota arrangement. A bogus job offer was drawn up, sent to the Ministry of Labour and passed through the Chamber of Commerce and the Bangladesh embassy. According to PJ, he only paid the government charges for procuring the work visa (\$80), the pre-departure medical examination (\$25), a welfare fund (\$10) that will pay for repatriation of the body if he dies abroad, and a death insurance policy (\$20). The airfare was approximately \$330. In all the cost to PJ was \$485. When he arrived, PJ fed and sheltered his brother and tried to help him find a job within three months. When a position is found, he will readily obtain an NOC from the trading company and his brother’s stay will be regularised.

Regularisation

Article 12 of the Sponsorship Law makes provision for the SFUD in conjunction with the MLSA to transfer sponsorship of a worker to another employer without permission of the original sponsor, including on a temporary basis if there is a lawsuit between the employee and employer. Regularisation of migrant workers with a work visa but no employer is usually at the discretion of the CID in conjunction with the SFUD and Ministry of Immigration. In early 2014, during a crackdown on irregular migrant workers, the SFUD announced it had transferred the sponsorship of over 1,000 workers to other sponsors (*Marhaba*, April 23, 2014). The Nigerian and other African cases suggest it was a much larger number than this between 2013-2014.

A prospective employer who is willing to take over sponsorship can process this independently, or through the NHRC. One philanthropic company has undertaken many such “rescues” of stranded workers, either providing them with work, or

helping to regularise their residency while they look for a job, and providing an NOC when they find one.

If the original sponsor cannot be found, the CID is approached with a request for sponsorship transfer. The CID checks the passport and visa number in its database to determine if the worker is in the country legally. For example, they can immediately determine if the sponsor (whether Qatari or non-Qatari) is blacklisted or inoperative. If the CID is able to contact the sponsor, arrangements are made to obtain an NOC to transfer sponsorship. Depending upon the difficulty of the case, the CID may immediately detain the worker and a decision could be made for deportation. However, if the CID is sympathetic, particularly if the foreign worker has an advocate in the company willing to employ him/her, it is more likely to be approved. The original visa is cancelled and through the Department of Immigration an application is made for a new visa with the new sponsor with a labour demand letter from the company.

At this point, there are fines to pay for overstay (QAR200 per day: \$55), in addition to QAR2,100 (\$575) for the application and another QAR1,200 (\$330) for the new ID card. There is a mutual interest here in that the company does not have to pay middlemen for recruitment costs as the worker has already paid these. Paying the above transfer costs and fines may well be considerably less than recruitment costs.

Employees who have been blacklisted because they have absconded are required to pay QAR6,500 to expunge their name from the list, as long as there is no criminal or sordid issue behind the blacklisting. Those who have absconded and turned themselves in to the authorities giving a valid reason for having left their employer must still pay the fine, but their ban will be lifted for a period of time to allow them to apply for a new work visa under a new sponsor.

Reforms

There has been some effort to facilitate complaints about sponsors that include opportunities for irregular workers to seek assistance. For example, hotlines have been established by the Qatar Foundation for Combating Human Trafficking (QFCHT), the NHRC, and the Qatar Foundation (still in its inception), but historically these have not been particularly effective. The Ministry of Labour is also planning a special hotline for domestic workers. At a new government website (Hukoomi e-Government Services), there is a distinction between employment-relations complaints (workplace disputes) and human rights complaints. For rights

complaints, the website transfers to the NHRC website where it explains that complaints must be submitted by fax, telephone, email, or personal attendance. The Human Rights Department of the Ministry of Interior is mentioned on the website portal “Qatar Living,” but there is no reference to it at the e-government website (Hukoomi).

Under the “Karama” (dignity) initiative, the Qatar Foundation Mandatory Standards for Worker Welfare for contractors and sub-contractors was launched in April 2013, introducing comprehensive ethical and legal standards to be followed in labour recruitment, accommodation, transport, health and safety, and contracts. The standards include the principle of ethical recruitment where migrant workers are not to pay any recruitment charges. The Labour Law (Article 33) prohibits workers being charged for recruitment, but the standards made it clear that this should be applied whether in Qatar or in their countries of origin. These standards were also adopted by the Supreme Committee for the 2022 World Cup in January 2014 and adopted by other clients of the state, including Q-Rail, Rasgas, and other major construction contractors. All corporate tenders for projects are required to adopt these standards, and various organisational welfare teams have been established to monitor and evaluate compliance, including in the Ministry of Labour and Social Affairs. These reforms were designed without any demands for legislative change, but to be implemented at a commercial level.

Following from the standards, in 2014, seven main legislative changes were promised for early 2015 but have been postponed to late 2015. They include: reform of the *kafala* system from private to public sponsorship; a bank transfer wage protection scheme; abolition of the exit visa; abolition of the need for the employer’s permission to change employers on the completion of a work contract; reduction from 2 years to 6 months for former migrant workers wanting to return to Qatar with another employer; stricter standards for worker transportation; and significantly increased fines for withholding employee passports. The reform legislation has been passed by the Shura Council and is waiting for the Amir’s signature. A one-year grace period will be given for compliance with the changes.

While these proposals did not meet the standards recommended by various international rights organisations, they have been seen as a major step forward.

The implementation of the reforms may increase the liberalisation of workers in the country and reduce the incidence of irregularity through visa trading and absconding, but this remains to be seen. The move to allow transfer of employers after the completion of a contract will more likely prompt employers to increase the contractual period.

Conclusion

The several different types of irregularity that exist mean that there cannot be one undifferentiated category of irregular migration. The nuances are important because they can have different repercussions for the individuals affected. Irregularity, as we have seen, may or may not be a condition imposed upon the recipients by a situation beyond their control. Many may be fully aware of the risks they are taking, but are undeterred by the promise of higher incomes than they would receive at home.

The two main sources of irregular migrant labour in Qatar result from trading of “free visas” besides employees’ absconding from their sponsors. An additional aspect to this is the payment made by workers for the visas, whether resulting in irregular status or not. Those who are irregular from absconding because of abusive treatment may still need to remain in the country and work to pay off debts and support their families back home. With some evidence presented in this chapter, there are indications that the Qatari authorities are more sympathetic to the regularisation of visas, if an alternative employer can be found. The “free visas” are themselves a function of the labour quota arrangements provided to registered companies that can be manipulated by sponsors or their representatives and treated as a business in itself. When workers pay large amounts for work visas, they become trapped in a form of forced labour until they can recoup the money by working under whatever regular or irregular conditions they find themselves in. In this sense, the risks of migration do not always register with people in poorer countries desperate for work, particularly for those who are blinded by the promise of riches by unscrupulous labour brokers, even if they read about it (Gardner 2012).

While reform is underway in Qatar at the commercial level, serious reform in the current labour recruitment system can be achieved only by international bilateral or multilateral agreements. Simultaneously, there is a need to establish an accreditation programme for “ethical” labour recruitment agencies as preferred or exclusive labour suppliers throughout the labour supply chains of all organisations doing business in Qatar. Ethical recruitment agents will not take money from workers. This will assist with corporate due diligence requirements both within Qatar and abroad. For example, following a meeting of the ministers of labour of Nepal and Qatar in Kathmandu, it was stated unequivocally that future Nepalese workers deployed to Qatar would not pay fees and charges. These statements, however, were met by considerable scepticism by the Nepalese press where it was argued that such promises had been articulated many times over the past decade (*The Peninsula*, April 6, 2015; Khatri 2015; Rai 2015; Editorial 2015; Sehail 2015). Indeed, largely

because of pressure from the Nepal Association of Foreign Employment Agencies (NAFEA), the agreement between the two countries was never signed.

Despite the delays in the reform of the Sponsorship and Labour Laws, the NHRC and other philanthropic individuals and organisations have been working for the cause of irregular workers and seeking to have their cases brought to the courts, avoiding further victimisation, which gives cause for some optimism. In the past year or so, there continues to be improvement in terms of job availability and how CID and SFUD are processing people if they are found to have defective documentation. There is evidence of more flexibility toward regularisation via an administrative “repair” of work visas. This is important for “free visa” recipients who may have found themselves with blacklisted sponsors or with no sponsorship at all and perhaps also for those who have absconded from their employers for valid reasons.

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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.

