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**Re: “Submission regularization report”**

**February 15, 2023**

**Introduction**

Migrants comprise nearly 50% of the population and 70% of the workforce in the Gulf Cooperation Council Countries (GCC), which comprise the UAE, KSA, Oman, Bahrain, Qatar and Kuwait. Only a small percentage of migrants arrive via irregular routes, without valid work and residence documentation from the start, and they are often victims of trafficking for sex and forced labour. The exception to this case is the Yemen-Saudi border, through which Yemeni and Horn of Africa migrants enter without documentation. Many of these migrants are fleeing war and poverty, and often experience trafficking at some point in their migration journey. These migrants generally are excluded from any ongoing regularisation programmes and are subject to mass detention and deportation. [[1]](#footnote-1)

However, the vast majority of migrants arrive with valid contracts and having gone through requisite pre-departure processes. Those that become irregular post-arrival are often forced into irregularity due to extenuating circumstances beyond their control. These circumstances are largely linked to the sponsorship or kafala system, the rigid employer-tied visa system that governs virtually all migration in each of the Gulf countries. The system places control of migrants’ legal status on their sponsor in a number of ways, with few meaningful penalties in case of negligence or retaliatory behaviour. An otherwise documented migrant worker’s status can become irregular if, for example, their sponsor fails to process or renew their visas; if the worker escapes exploitative working and living conditions to make a living wage or to escape abusive employers, which is particularly frequent for domestic workers in live-in employment arrangements.

The GCC states approach irregularity with a heavy hand, through raids, mass detentions and deportations, and periodic amnesty programmes. None of these measures considers the labour and human rights exploitation endured by migrants forced into irregularity, and does not provide justice to those forced into this status.

**Key questions and types of input/comments sought**

**1. Please indicate how can regularization processes facilitate the enjoyment of human rights by migrants as well as their cultural, social and economic integration into the host communities, taking into account that migrants in an irregular situation live in constant fear of detention or deportation, becoming excluded from the social protection system as a result of a change affecting the regularity of their residence in the country;**

Most migrants who are irregular wish to continue living and working in the destination countries, in order to meet their migration goals. Irregularity, forced or otherwise, has a devastating impact on the individual and their families. At the same time, the skills and experiences of these workers are critical for destination countries. It is important to ensure workers are given pathways to regularisation and to claim compensation for wage theft and justice in case of abuse. Workers being hired locally also saves economies and businesses the cost of overseas recruitment, skilling and training.

Furthermore, as evidenced during the pandemic, irregular workers were fearful of being tested, vaccinated, and accessing healthcare as they did not wish to be deported. The absence of a firewall between migration status and access to health is both risky for individual migrants and creates barriers to the effective management of public health issues.

**2. Please share examples of national and regional solutions to legalize the stay for migrants in irregular situations and indicate whether your country has adopted any bilateral, sub-regional, regional, international mechanisms, agreements, frameworks or programs, including in the context of labor migration;**

 and

**3. Please share examples of promising practices, including ad-hoc programs and permanent regularization mechanisms that your country or region has adopted to promote a human rights-based approach to migration. Please indicate any specific challenges that your country has encountered in regularization processes, with particular attention on how such challenges affect migrant workers, women and girls, children, and other persons and groups;**

Currently, the primary response to irregularity takes the form of periodic amnesty campaigns. While amnesties can be useful when they include regularisation for those who wish to stay back and work, not all amnesty programmes include this option and when it does there is a cost component to regularisation that not all irregular migrants can afford. Furthermore, during moments of crisis, the option for regularisation does not exist, for example, Kuwait’s amnesty during the Covid-19 pandemic and Saudi Arabia’s 2017 amnesty which followed the fall of oil prices and economic downturn.

The amnesty campaigns also do not hold accountable employers who may have contributed to this irregularity and who have been exploitative. Additionally, they are often neither advertised well nor implemented efficiently and often require migrant workers to expend significant time and their limited financial resources in search of the correct paperwork and procedures. Female migrant domestic workers in particular face challenges to accessing these programs, as they are essentially contingent on their escape from their employer’s home, and require paper and identity documentation that has usually been confiscated by their employer. The time it takes to process emergency travel documents can disqualify workers from the amnesty, and is especially an issue for those who do not have embassies in their country of employment.[[2]](#footnote-2)

Amnesty programmes are also frequently followed by or implemented in tandem with raids and mass deportations which not only do not offer migrants an individualised review of their case, but often bar migrants from re-entering the country.[[3]](#footnote-3)

One other significant regularisation scheme was implemented in Bahrain between 2017 and 2022. The Flexi Permit allowed workers with irregular status to regularise and to self-sponsor. The Flexi-Permit initiative could have been an opportunity to demonstrate the feasibility of self-sponsorship — essential to any long-term response to irregularity — but the permit’s high cost, lack of labour regulations, and strict conditions made it unappealing or entirely inaccessible for many migrant workers.[[4]](#footnote-4)

**4. Kindly highlight any contribution of migrants, including migrant workers to the economy and society of the host communities;**

As noted in the introduction, GCC economies have a critical dependence on migrant labour across sectors and skill levels. In countries like the UAE and Qatar, they constitute more than 90% of the labour market.

In sectors such as construction, domestic work and agriculture, 100% of the labour is delivered by migrant workers. Domestic work sector is the backbone of care and reproduction of Gulf societies. Individuals are able to recruit and employ domestic workers with ease and little accountability, as the state gives extra leeway to private households in lieu of not investing in facilities for child care and elderly care.

Despite, or because of, this dependency, GCC countries control and marginalise migrant workers, the majority of whom are male (except in the domestic work sector) and from countries in Asia and Africa. They also make it difficult for migrants to live with their families, imposing strict and expensive criteria to sponsor and host families. This results in socio-cultural exclusion from Gulf societies, which values family units and their privacy and treat with suspicion those who live as ‘bachelors’. The state also excludes the majority population from social security provisions made available to citizens.

**5. Engagement with civil society organizations, national human rights institutions, and other stakeholders: Please provide information of concrete initiatives, actions and programs relating to the regularization of migrants in an irregular situation that have been developed, including jointly, by civil society organizations, national human rights institutions, and other stakeholders in your country. Please explain to what extent the work of civil society organizations and other stakeholders is taken into account to inform national policies;**

**6. Please provide information on any specific or additional legislative and policy measures as well as challenges in the context of the COVID-19 pandemic in the implementation of regularization programs;**

Many of the Gulf states implemented amnesty or short-term visa extension programs for migrant workers dismissed by their employers due to pandemic closures and other economic ramifications. However, these programs were often contingent on conditions that not all workers could meet (e.g, that they became irregular only after a certain date and not before the start of the pandemic was recognised).

In the case of Kuwait, the amnesty program was introduced to incentivize migrants to leave without penalty and did not offer opportunities for regularisation. This was particularly problematic for workers who had wages to them, as they could not guarantee they would receive their dues. [[5]](#footnote-5)

Furthermore, workers with irregular status continued to be subject to detention and deportation even while Covid-19 remained a threat. [[6]](#footnote-6) In Saudi[[7]](#footnote-7) and the UAE,[[8]](#footnote-8) detained migrants reported overcrowded conditions with no Covid-19 precautions.

Migrant women face social, economic, and, in some cases, legal barriers in obtaining documentation for their children, particularly if they are unwed or irregular. These obstacles were exacerbated during the Covid-19 pandemic, when migrant women and their newborns were stranded without social provisions due to travel restrictions, particularly for those who were unwed or whose husbands were unable to return to the Gulf.[[9]](#footnote-9)

**7. Please include any other relevant information relating to the regularization of migrants in an irregular situation.**

Across the GCC there are migrant communities who have lived in the countries for generations. Some of them, especially children, are without valid immigration papers. While the state tends to turn a blind eye to these communities, they are still precarious as access to education and healthcare is limited.

The non-recognition of refugees and absence of a formal asylum system, [[10]](#footnote-10) and the lack of any accessible pathways to citizenship or permanent residency put these populations at further risk. For example, Yemenis, Palestinians and Rohingyas have also historically been exempted from some immigration rules in Saudi Arabia. This “de-facto” refugee status is, however, extremely precarious; as the recent deportations of Rohingyas and pushbacks of Yemeni migrants illustrate.[[11]](#footnote-11) The vast majority of those with this status can never obtain citizenship or permanent residency, and nor can their children or successive generations, putting children, especially at risk of statelessness. These vulnerable populations are also subject to deportations and forced returns to countries where they may face human rights violations such as Yemen, Myanmar (Via Bangladesh), and Ethiopia. Such forced returns constitute a violation of the principle of non-refoulement.

**ABOUT MIGRANT-RIGHTS.ORG**

Migrant-Rights.org is a Gulf Cooperation Council (GCC)-based advocacy platform working to advance the rights of migrant workers. It aims to change perspectives towards migrant workers by improving access to information on migration in the Gulf region and its migration corridors and promoting informed, local discussion on migration issues. Both off and online, Migrant-Rights.org engages residents, local businesses, and employers to challenge perspectives towards migrants and improve working conditions for some of the region’s most vulnerable workers.

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1. "A Group of Migrants' Bodies Found Near an Informal Detention ...." 20 Sep. 2022, <https://reliefweb.int/report/yemen/group-migrants-bodies-found-near-informal-detention-facility-saudi-territory>. Accessed 14 Feb. 2023. [↑](#footnote-ref-1)
2. "Migrant Rights on Twitter: "#Oman's amnesty ends this month, but ...." 25 Mar. 2021, <https://mobile.twitter.com/MigrantRights/status/1375038026850648065>. Accessed 13 Feb. 2023. [↑](#footnote-ref-2)
3. "Faulty Fixes: A Review of Recent Amnesties and Recommendations ...." 29 Mar. 2019, <https://www.migrant-rights.org/2019/03/faulty-fixes-a-review-of-recent-amnesties-and-recommendations-for-improvement/>. Accessed 13 Feb. 2023. [↑](#footnote-ref-3)
4. "Bahrain ends its Flexi-Permit programme and announces labour ...." 16 Oct. 2022, <https://www.migrant-rights.org/2022/10/bahrain-ends-its-flexi-permit-program-and-announces-labour-reforms/>. Accessed 13 Feb. 2023. [↑](#footnote-ref-4)
5. "Kuwait's amnesty provides a risky reprieve for some migrant workers." 10 Apr. 2020, <https://www.migrant-rights.org/2020/04/kuwaits-amnesty-provides-a-risky-reprieve-for-some-migrant-workers/>. Accessed 13 Feb. 2023. [↑](#footnote-ref-5)
6. "Gulf states ramping up deportation campaigns despite rising Covid ...." 23 Jan. 2022, <https://www.migrant-rights.org/2022/01/gulf-states-ramping-up-deportation-campaigns-despite-rising-covid-19-cases/>. Accessed 13 Feb. 2023. [↑](#footnote-ref-6)
7. "Over 80000 undocumented migrants in Saudi arrested in recent raids." 3 Sep. 2021, <https://www.migrant-rights.org/2021/09/over-80000-undocumented-migrants-in-saudi-arrested-in-recent-raids/>. Accessed 13 Feb. 2023. [↑](#footnote-ref-7)
8. "“We cried and begged” - Migrant Rights." 22 Sep. 2021, <https://www.migrant-rights.org/2021/09/we-cried-and-begged/>. Accessed 13 Feb. 2023. [↑](#footnote-ref-8)
9. "Born into uncertainty: Pandemic aggravates the woes of migrant mothers and their newborns." 16 August 2020. <https://www.migrant-rights.org/2020/08/born-into-uncertainty-pandemic-aggravates-the-woes-of-migrant-mothers-and-their-newborns/.> Accessed 13 Feb. 2023 [↑](#footnote-ref-9)
10. Qatar is the only Gulf country with an asylum law that falls short of its international obligations. "Qatar: Gulf's First Refugee Asylum Law - Human Rights Watch." 30 Oct. 2018, <https://www.hrw.org/news/2018/10/30/qatar-gulfs-first-refugee-asylum-law>. Accessed 14 Feb. 2023. [↑](#footnote-ref-10)
11. Thousands of Rohingya refugees were accepted into Saudi Arabia nearly 40 years ago. They and their descendents remain stateless, as the Kingdom [only provided a few dozen with citizenship.](https://www.dw.com/en/saudi-arabia-wants-bangladesh-to-accept-rohingya/a-55187748) Other Rohiynga have entered Saudi with ‘false’ Bangaldeshi passports or overstayed Hajj visas. While many were [regularised in 2005](http://refugeehistory.org/blog/2020/11/12/a-recent-history-of-refugees-in-saudi-arabia) (but not given refugee status), the Kingdom is now seeking to deport 54,000 of them. Rohingya have been [subjected to indefinite detention](https://www.adhrb.org/2019/04/saudi-mistreatment-of-rohingya-refugees-in-detention/) in conditions akin to torture since the Kingdom’s decision to deport those who reportedly entered the country irregularly or overstayed their visas. [↑](#footnote-ref-11)