

DEALING WITH MIGRATION: THE WEST ASIAN WAY

A look into National Policies on Undocumented and Forced Immigration

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West Asian immigration policies, especially related to the undocumented and forced categories, were presented by Ananya Singh. At the outset, the presenter made it apparent that the region of West Asia does not have a comprehensive and coordinated policy regarding immigration. It was mentioned that most of the countries do not have any laws dedicated to international migrants.

The presenter began by outlining the region of West Asia as documented by various organisations and agencies of the United Nations (UN). There has been no clear consensus on what constitutes “West Asia”. Some agencies like United Nations Industrial Development Organisation (UNIDO) have included Azerbaijan and Armenia to the exclusion of Turkey, while United Nations Statistics Division (UNSD) even considers Cyprus and Georgia as part of the region. However, for the sake of the dialogue, the presenter considered the Organisation for Economic Cooperation and Development (OECD) 2003 report’s, titled “World Economy: Historical Statistics” definition of West Asia, which includes 15 states.

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The presenter noted that pursuant to the regional turmoil, the refugee crisis is a big challenge for the region. She, then, moved on to categorise these states into two groups: one, which had ratified the 1951 Geneva Convention on Status of Refugees and the other which has not. In the first group were countries like Turkey, Yemen, Iraq, Iran, Syria and Lebanon. An exception to this category was Jordan, which, even though has not been party to the 1951 Geneva Convention, allowed United Nations High Commissioner for Refugees (UNHCR) to operate in its territory via a 1998 Memorandum of Understanding between the two parties. Jordan, thus, accepts refugees based on the eligibility criteria for asylum seekers determined by the UNHCR. On the other end were the countries that were not a party to the said convention, including all the Gulf Countries (Saudi Arabia, UAE, Qatar and so on) and Israel.



Source: Author

The presenter explained that for the first group, the significant chunk of international migrants were refugees, while for the other group, the work-seeking economic migrants were the main constituent. This trend was clearly shown in a few graphs from the United Nations Department of Economic and Social Affairs (UNDESA). Continuing with her discussion, the presenter explained that she would be going in-depth about the policies of four countries, namely, Jordan, Saudi Arabia, Qatar and Turkey. These countries, according to her, were representative of the various stages in the evolution of immigration policies in West Asia at large.

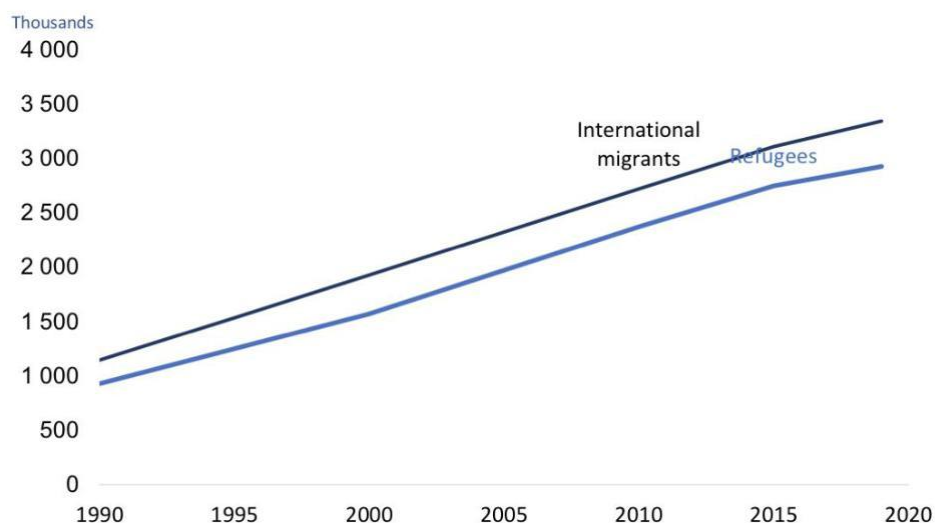
JORDAN

The presenter noted that in Jordan, where about 88% of international migrants are refugees, there has been a massive influx of refugees from Palestine and Syria. Currently, about 2 million Palestinian refugees have been settled in the Kingdom of Jordan, with only about 370,000 of those still residing in the ten recognised Palestinian Camps. Jordan has been proactive in granting them citizenship, so much so that today, almost 50% of the Jordanian population is of Palestinian origin.² The presenter contrasted this with the 658,000 registered Syrian refugees clustered in five refugee camps.³ About 1.3 million more are unregistered and living with the host community without any legitimate source of livelihood. In fact, the Syrian refugee camps are like detention centres, considering that they are not allowed to leave the camp in any circumstance. If they do so, they fear being arrested and deported back to Syria.

² Géraldine Chatelard. "Jordan: A Refugee Haven." migrationpolicy.org, August 27, 2021. <https://www.migrationpolicy.org/article/jordan-refugee-haven>

³ "Global Detention Project: Mapping Immigration Detention around the World." Global Detention Project | Mapping immigration detention around the world. Accessed October 3, 2021. <https://www.globaldetentionproject.org/>

Number of international migrants and refugees in Jordan, 1990-2019



Source: UN DESA (2019a), UNHCR (2018) and UNWRA (2019)

Moving on, the presenter mentioned that there is no dedicated law to regulate the detention and deportation and that it is mainly dealt with by Law No. 24 of the 1973 Residence and Foreigners' Affairs Law. Another noteworthy point is that immigration-related detention is framed in law as criminal penalties rather than administrative proceedings. Moreover, there are no specialised detention facilities and police stations, and prisons are used for such purposes.⁴

From the discussion on refugees, she proceeded towards economic migrants. An essential aspect, in this case, is the Kafala Sponsorship system, which is followed in most of the West Asian states (barring Turkey). This system is dubbed modern slavery as traditionally, the migrants need to have a contract with an employer before entering the Kingdom. Upon migrating, all the relevant documents such as passport, work visa, residence permit, etc.,

⁴ Khaled Elgindy and Morad Elsana. "Palestinian Refugees: Myth vs Reality." Middle East Institute, September 24, 2021. <https://www.mei.edu/publications/palestinian-refugees-myth-vs-reality>

shall be held by the employer.⁵ The migrant workers can't change their employers without a No Objection Certificate from the current employer. This has been exploited as a power wielding tool by employers. Further, connected to this is the loss of legal status from legal, economic migrants. Most migrants are detained because their residency permits have expired. The employment contracts of most of the workers in Jordan are for two years, while the residency permit is granted for only one year. It is the employer who is required by law to renew the permit. However, it has been noticed that the employers often choose not to do so for various reasons. Consequently, the workers become illegal, are detained and can continue to be detained for an unlimited period as the law does not stipulate the maximum time limit.

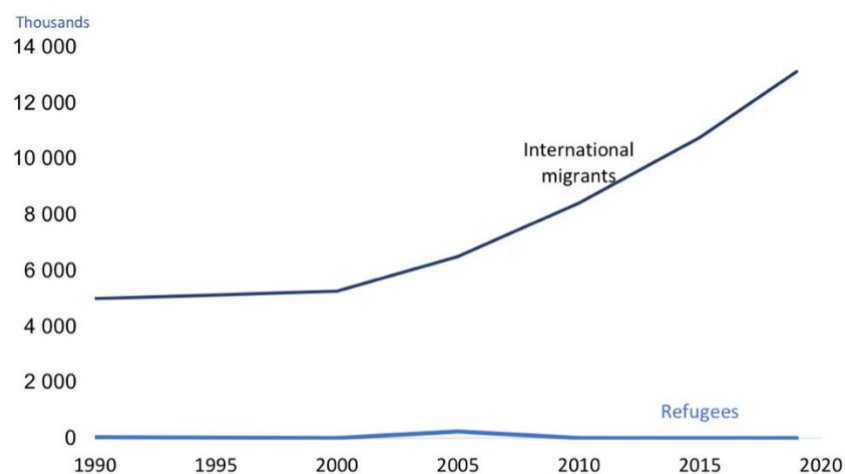
The presenter also brought forth the issue of domestic migrant workers, most of which are women. This category of migrants is expressly excluded from the labour laws and remain incredibly vulnerable to sexual and physical abuse by employers. If a migrant escapes to avoid abuse, she is labelled as 'absconding' and is arrested and deported after due penalties. There is also the issue of these women having childbirth outside of marriage. This is called Zina and is condemned in Islamic Law, even if the offspring results from sexual abuse. The children of these women are not recognised and thus, become stateless. The observers have described the conditions in prisons serving detention facilities as generally poor.

SAUDI ARABIA

The presenter noted the conspicuous absence of refugees and economic migrants being the only immigrants in Saudi Arabia. A graph showing the number of international migrants by countries of origin was presented in which India's vast contribution in numbers was evident, followed by other South Asian countries like Pakistan and Bangladesh.

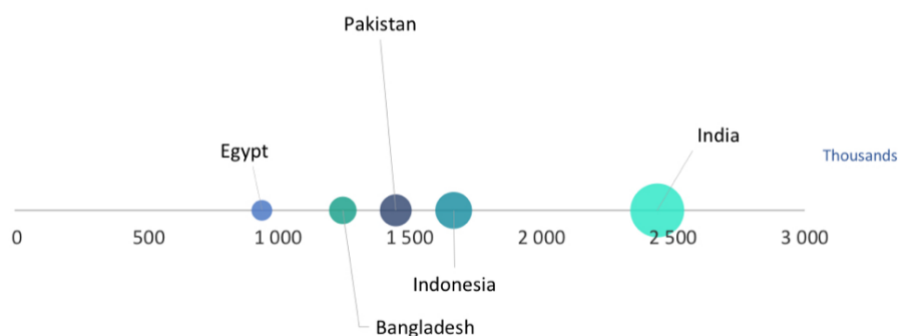
⁵ "Middle East and North Africa." International Organization for Migration, July 10, 2018. <https://www.iom.int/middle-east-and-north-africa>

Number of international migrants and refugees in Saudi Arabia, 1990-2019



Source: UN DESA (2019a), UNHCR (2018) and UNWRA (2019)

Number of international migrants in Saudi Arabia by top countries of origin, 2019



Source: UN DESA (2019a)

It was iterated that the Kafala system is followed in the country too. Though the authorities have banned the retention of passports by employers, the employees still need to get an exit visa from the former to leave the country. Additionally, there are reports of the ban not being followed in its spirit. Like Jordan, there is no comprehensive policy on immigration and the Residence Regulations (No. 17/2/25/1337 of 1952) deal with this aspect; and immigration-

related detention is a criminal matter. Again, labour laws exclude the domestic migrant workers resulting in the same issues as observed in Jordan.

QATAR

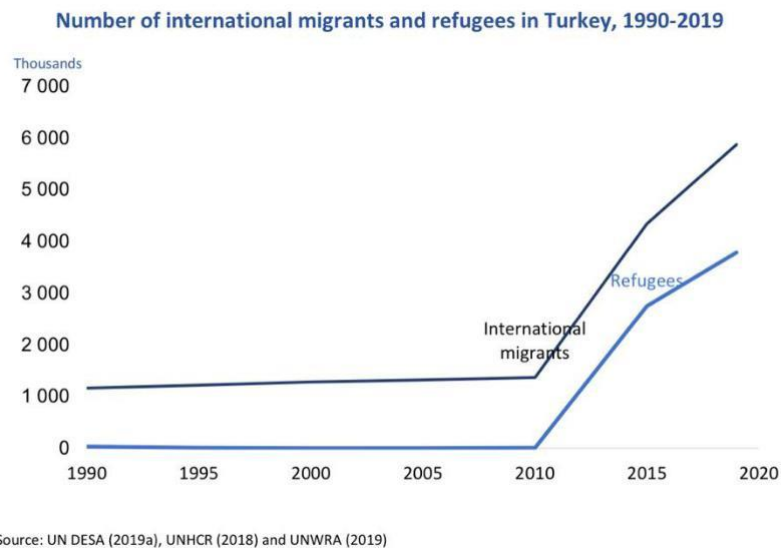
The presenter argued that Qatar was a ray of hope in the region regarding immigration policies. There is a specific regulation (Law No. 21, 2015) that deals with the entry and exit of expatriates (Qatari law doesn't use the term migrants). Although the Kafala system still prevails, several changes have been brought to it, for instance, the migrant worker does not require an NOC to change their employer and exit permits are not required from the employers. Once a worker's residence permit is cancelled, the individual has ninety days to exit (an improvement in contrast to the immediate illegal status in Jordan). There is a dedicated immigration detention facility in Doha called as Model Temporary Detention Centre. Another aspect that makes Qatar slightly better in this respect than other Gulf states is that immigration-related detention includes both criminal and administrative proceedings. There has been a provision of non-custodial measures as an alternative to detention. Where the risk of escape and threat to public order is not imminent, the illegal migrant can be asked to reside in a specific place until deported. Apart from this, the migrant workers who lose their legal status but surrender voluntarily to leave the country are neither arrested nor detained.

However, the presenter remarked that all is not well in the country as:

- The NOC requirement, despite the law, is still in place.
- Employees of public sector organisations are still required to get an exit visa.
- Labour laws do not cover domestic migrant workers.
- Retention of passports by employers is still prevalent.
- There are no procedural guarantees for detainees, and they have limited ability to get a legal representative or contact their families.
- The model detention facility is, in fact, overcrowded and lacks hygiene.

TURKEY

The presenter opined that Turkey is an ‘oasis of refuge’ in entire West Asia. She began by sharing a graph of the number of international migrants in Turkey. The graph showed a sharp rise from zero in 2011, which corresponds to the civil war in Syria and consequently, a significant slab of migrants is that of Syrian refugees. Turkey hosts the largest number of refugees in the world (3.6 million).



While pointing out the positive evolution of immigration policies, the presenter noted that:

- There was no Kafala system in Turkey
- There is a dedicated law regarding immigration, and the reasons for the deportation of foreigners are listed in Article 54 of Law No. 6458 on Foreigners and International Protection.⁶
- In the listed rules, deportation can be made if the person is a member/supporter of a terrorist organisation, has submitted false documents during the entry, or poses a threat to public order and security.

⁶ “10 Years on, Turkey Continues Its Support for an Ever-Growing Number of Syrian Refugees.” World Bank. Accessed October 3, 2021. <https://www.worldbank.org/en/news/feature/2021/06/22/10-years-on-turkey-continues-its-support-for-an-ever-growing-number-of-syrian-refugees>

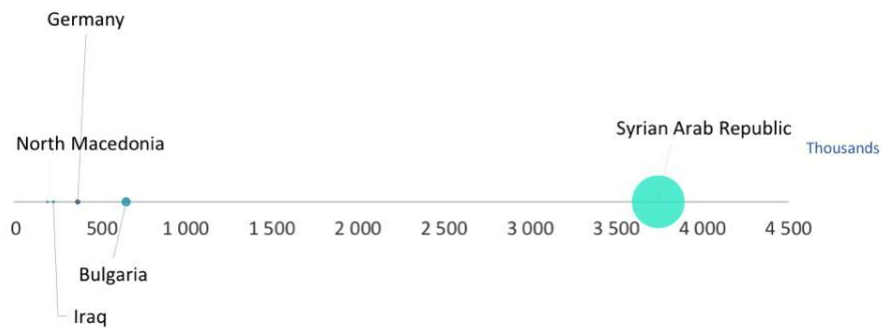
- A rather important rule states that a foreigner can be deported if they have overstayed the visa period for more than ten days **without any acceptable reason**. To the reasonability of overstay, the presenter emphasised, that this provision restricts the arbitrariness of the detention process.
- A foreigner against whom a deportation decision has been made can approach administrative and criminal courts within seven days of the deportation order. The court shall decide within fifteen days, and the foreigner cannot be deported within this period.
- Once a deportation decision has been made, the foreigner can be detained in a removal centre only if they pose a threat to public order and security or poses a risk of escape. Even then, the maximum detention period is of six months.
- There is also a list of foreigners who cannot be deported, such as a foreigner who faces a severe risk to health in case of travel (pregnant women, aged people), or a foreigner who is a victim of human trafficking and is currently being assisted by any program, or a refugee who shall be subjected to the death penalty or torture upon return to the country of origin and so on.
- In association with the EU and the World Bank, Turkey has initiated a Syrians Under Temporary Protection Program (SUTP).⁷ The government has introduced a large number of projects to integrate the Syrian refugees and the host communities, while at the same time increasing their capacities. Various opportunities, in terms of development of business and entrepreneurship, language and skill training, job counselling and placement, education infrastructure, improvement of municipal services, etc., have been provided.

However, the presenter remarked that a few shortcomings need to be addressed. Firstly, there has been a chasm between the opportunities and living conditions of Syrian and non-

⁷ "Refugees and Asylum Seekers in Turkey." UNHCR Turkey. Accessed October 3, 2021. <https://www.unhcr.org/tr/en/refugees-and-asylum-seekers-in-turkey>

Syrian refugees.⁸ The latter face a more stringent work permit regulation, and thus, their participation in the labour market is relatively low.⁹ The same is true for women of both Syrian and non-Syrian refugee categories.

Number of international migrants in Turkey by top countries of origin, 2019



Source: UN DESA (2019a)

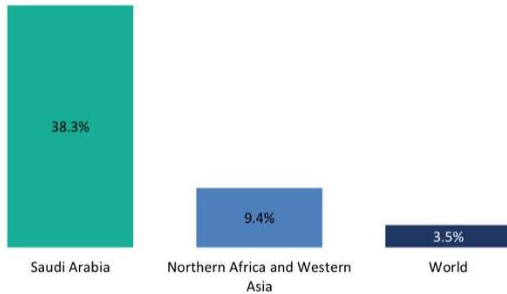
RESISTANCE AGAINST MIGRANTS

The presenter highlighted the various trends in different countries that show resistance against migrants, both economic migrants and refugees. To facilitate her argument, she showed a few graphs which depicted the percentage of international migrants as a share of the total population of various countries in the region. A commonality in all the graphs was a high proportion of foreigners as compared to the native citizens. This has sparked various protests by the citizens who view foreigners as the cause of rising unemployment.

⁸ Dilara Esen. "Cases of Deportation of Foreigners - Immigration - Turkey." Welcome to Mondaq. Neziroglu Law Firm, July 8, 2021. <https://www.mondaq.com/turkey/work-visas/1089012/cases-of-deportat305on-of-foreigners>

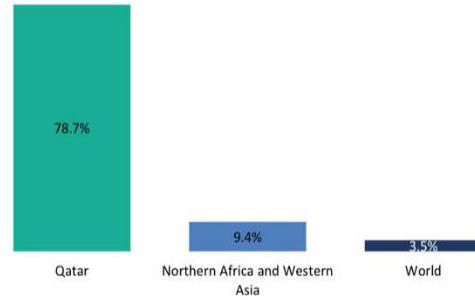
⁹ Izza Leghtas. "Insecure Future: Deportations and Lack of Legal Work for Refugees in Turkey." Refugees International. Refugees International, December 16, 2019. <https://www.refugeesinternational.org/reports/2019/9/18/insecure-future-deportations-and-lack-of-legal-work-for-refugees-in-turkey>

International migrants as a share of total population in Saudi Arabia, in Northern Africa and Western Asia and in the world, 2019 (percentage)



Source: UN DESA (2019a)

International migrants as a share of total population in Qatar, in Northern Africa and Western Asia and in the world, 2019 (percentage)



Source: UN DESA (2019a)

She presented examples of Jordan and Saudi Arabia. In Jordan, the authorities have announced that they would prioritise the employment of Jordanian citizens. In May 2020, they ruled that at least 75% of the employees, in any business wishing to reopen, has to be Jordanian. A similar trend is noted in Saudi Arabia, where the authorities have been implementing vigorous policies to reduce the dependence on foreign workers. This has been termed as the policy of '*Saudisation*'. A series of deportation campaigns aimed at removing "illegal workers" has been pursued under the 2017 campaign "A Homeland with No Illegals".¹⁰

The presenter also argued that this high proportion of foreigners is one of the reasons why the gulf countries have been quite reluctant to accept refugees who will further dilute the citizen's proportion.¹¹ However, there seems to be a dilemma for these countries as because of the high numbers of migrants, the states have reaped the economic benefits without providing a consequent political right or freedom. The native population, thus, wield

¹⁰ Divya Pakkiasamy. "Saudi Arabia's Plan for Changing Its Workforce." migrationpolicy.org, September 21, 2021. <https://www.migrationpolicy.org/article/saudi-arabias-plan-changing-its-workforce>

¹¹ Valentine Ouaki, Translated by Kitty Bartlett. "Syrian Refugees: Why Won't the Oil-Rich Gulf States Take Them in?" Le Journal International - Archives. Accessed October 3, 2021. https://www.lejournalinternational.fr/Syrian-refugees-why-won-t-the-oil-rich-Gulf-States-take-them-in_a3477.html

considerable power over these migrants by being on the receiving end of benefits arising from the migrants' labour. Reducing the number of migrants will also alter this type of social contract between the state and the citizens.¹²

NEED FOR POLICY INTERVENTION

Finally, the presenter suggested a few areas of reforms such as,

- Reforming the Kafala system
- Affording migrant domestic workers full protection of labour law
- Ensuring timely renewal of work and residency visas
- Regular official visits to detention facilities
- Allowing consular access to the detained migrants

Towards the end, she presented a few pictures of detention facilities, refugee camps and education infrastructure for refugees in various countries of West Asia.

QUESTIONS RAISED

1. With reference to the recent attacks on Israel by Hamas, what was the effect on Palestinians?

Answer: *The Palestinians have been continually taking refuge in Jordan, which has been quite pro-active in settling the Palestinian refugees. The problems are not that of refuge for Palestinians, but that of the right to return.*

¹² Mustafa Qadri. "The UAE's Kafala System: Harmless or Human Trafficking? - Dubai's Role in Facilitating Corruption and Global Illicit Financial Flows." Carnegie Endowment for International Peace, July 7, 2020. <https://carnegieendowment.org/2020/07/07/uae-s-kafala-system-harmless-or-human-trafficking-pub-82188>

2. What has been the effect of the civil war in Yemen on the Yemeni population with regard to their status as refugee?

Answer: *The Yemeni civil war has resulted mostly in internal displacement rather than international migration as such. In fact, Yemen has been one of the destinations for refugees coming from Ethiopia and Sudan. However, a few Yemenis have sought refuge internationally, but they have to migrate to Jordan as their neighbouring countries (Saudi Arabia, Oman, etc.) do not accept refugees. Most of them use Jordan as a transit passage to reach Europe.*

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