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## **Nitaqat Law & Years of Human Rights Abuses in the Gulf Cooperation Council (GCC) Member States.**

Since the beginning of 2013, several Gulf Cooperation Council (GCC) member states launched intensive raids against undocumented migrant workers as part of Nitaqat Law (Nationalization). As per official estimate, nearly five million Indian migrants are currently living in the Gulf region. The distress and uncertainty facing migrants is extremely concerning; media reports and evidences shows that migrant workers are subject to indefinite detainment in squalid living conditions, treated like dirt, that guest workers have no rights, and receive minimal support from state representatives or diplomatic institutions. Due to non-availability of proper assistance, agents are flourishing and making profits over the pain and sufferings of these expatriate workers promising them things they cannot deliver.

Saudi Media estimates that over 200,000 migrants have been deported since the Saudization (Saudi Arabia's Nitaqat Law) program's implementation earlier this year. There has been widespread perception that the new policy will lead to denial of job opportunities for a large number of Indians working there.

Currently, according to Indian Mission, thousands of stranded migrant workers are languishing throughout Saudi Arabia; about 15,000 passports of stranded Indian workers, surrendered by Saudi sponsors, has handed over to the Indian embassy in Riyadh, in a bid to resolve cases of immigration law violations. "Most passports, surrendered by sponsors to the Saudi authorities, belong to stranded Indian workers, including those languishing in jails on 'Huroob' (Absconder) charges or on charges of violation of Saudi residency laws."

The GCC states must adopt all precautions to ensure the dignity and rights of migrant workers are respected. Migrants must have access to attorneys, translators, and to expedient repatriation mechanisms. GCC governments must work in close coordination with sending nations to ensure essential services, including payment resolution and legal provisions, are rendered to migrants. Migrants should be allowed to redress any negative employment conditions which may have prompted them to seek employment with an entity other than their original sponsor.

Deportations disproportionately criminalize and penalize migrant workers and mass deportations fails to review individual cases violate article 26(2) of Arab Charter on Human Rights. GCC governments have not made public or accessible standard procedures of raids or deportations, nor have they stipulated the rights or obligation to the rights of undocumented workers in such cases.

According to Article 22(4) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), migrants have the right to contest expulsion under the review of the competent authority. Sending nation embassies must also monitor the treatment of detained citizens and provide free, accessible legal support where possible.

Articles 22(6) and 22(9) of the ICRMW proscribe the interference of deportation in “any wages or entitlements due to a migrants.” Sending-nation embassies and consulates should provide staff and services to aid migrants in reconciling issues with nonpayment prior to eminent deportations.

### **The following descriptions will substantiate the above report**

#### **“Nitaqat Law” (Nationalization).**

Saudi Arabia's Nitaqat Law is a Saudization program initially developed in 2011 that prescribes national employment quotas and penalties for non compliant firms. The 'Nitaqat' law makes it mandatory for local firms to hire one Saudi national for every 10 migrant workers. According to unnamed official sources cited in the Saudi media, “there are 340,000 businesses in the market with zero Saudization.” The program's recent reinforcement has led to a massive crackdown on undocumented migrant workers, including those who no longer work for their original sponsor and have failed to transfer sponsorship. However, undocumented migrant workers who have absconded from their employers or overstayed their visas and now reside in Saudi illegally are inevitably targeted in labor camp raids or office inspections.

#### **“Kafala system” (Sponsorship)**

The core migration policy is sponsorship or “Kafala system” in the GCC states that requires foreigners to have local citizen sponsors known as Kafeel. The UN International Labour Organisation's (ILO) Report 2013 pinpointed the “kafala”, or sponsorship system, as a cause of exploitation and said there was a lack of laws and governance. “An estimated 600,000 migrant workers are tricked and trapped into forced labour across the Middle East”, the United Nations International Labour Organization (ILO) on 9th April 2013 reported at the first regional conference on human trafficking, highlighting in particular the visa sponsorship system between in-country employers and workers. The kafala system ties the employer to the employee and this system is also the cause of the many abuses that the expatriate workers suffer in the Middle East. The ILO report urged GCC nations to amplify regulation of scrupulous recruitment agencies, to implement monitoring schemes of households to ensure the protection of domestic workers, and to reform the sponsorship by empowering the role of labour ministries a more central role in the migration system.

#### **“Huroob” (Absconder/Escapee)**

Huroob is an Arabic term, a kind of termination of work contract in a special situation. According to the labor law a Kafeel (Sponsor) has to report his expatriate employee's absence for a specified period of time to the passport authorities to declare him as Huroob in order to escape liability of illegal activities of the employee during his absence. A large number of migrants have been blackmailed and have faced extortion from their Kafeel (sponsor) who fraudulently use “Huroob” card as a weapon to curb complaints. The distress and uncertainty facing migrants is extremely concerning. In

contrast, migrants are severely criminalized, forced to pay high fees, potential detainment and to face imminent deportation. A significant portion of Arab sponsors illegally charge workers employed with another entity to renew Iqamas (residency permits) or circumvent quota policies by falsely registering their current employees as “huroob”.

If a person becomes “Huroob”, which warranted his or her detainment and deportation. He cannot apply for exit or re-entry visas and contend with frozen bank accounts. His family will also affect especially if there are school-going children; his residency permit in the country will be cancelled and his stay will be illegal. In this circumstance, his all rights and benefits as a legal employee will be cancelled and the only way out of the country is through “Tharheel” (Deportation centers). Additionally, the psychological impact on migrants uncertain conditions are highlighted in the press report (List of deaths in detention centers)

Saudi sponsors, to avoid Nitaqat-monitoring, tend to deport expat workers working under them “Huroob”. Saudi officials recently announced that sponsors can no longer register such cases and that all current cases will be canceled. Saudi officials have not announced a timeline for these reforms. This uncertainty is concerning as in the past the GCC countries have failed to implement similar commitments meant to provide migrants workers. It is for the sending states to ensure adequate protection to its citizens working abroad.

GCC countries must uphold its obligations to protect migrant workers from further exploitation by ensuring both regular and irregular migrants have access to legal recourse to equitably settle issues with employers. In accordance with international norms, the GCC countries should also provide an opportunity for undocumented migrants to appeal illegal residency status and to avoid mass deportation programmes. A legal mechanism between the GCC countries and sending-states is critical to curb the unlawful practice of the law such as “Huroob” and the transgressions of migrants.

### **References:**

The UN Protocol against Human Trafficking  
The ILO against Migrant Smuggling and Human Trafficking.  
Reports by Human Rights Watch (HRW)  
Amnesty International Recommendations  
Manorama News from Gulf & Middle East Region  
The Saudi Gazette on Migrant Workers.

### **Return to:**

**The second (important) reminder notice to the Secretary, Ministry of External Affairs, New Delhi**

<http://www.lawyersindia.com/outsourcing/indo-gulf-reparation-mechanisms-timeline-highlighting-submissions-responses.html>

