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Foreign Labor in the Arab Gulf: Challenges to Nationalization

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The leaders of the Gulf Cooperation Council (GCC) states have much on their plates these days. Relations between the United States and Iran continue to deteriorate. As oil prices climb and local currencies remain pegged to a depreciating US Dollar, inflation within GCC countries has increased. This period of regional economic and diplomatic unease also coincides with the recent launch of the GCC Common Market. Yet, with so many pressing issues on the agenda, one of the hottest topics in Gulf media these past months involves a legal question of a somewhat technical nature: should GCC members limit residency visas for non-skilled foreign workers to six years?

Labor market regulation, particularly foreign labor, is a crucial economic and political concern for GCC countries. It inevitably relates to tensions between economic and political development and between financial surpluses and human capital shortages. This paper explores the nature of this concern, the factors behind it as well as past and present attempts to address foreign labor regulation. It focuses on the four Small Gulf Countries (SGCs): The Kingdom of Bahrain, The United Arab Emirates, Kuwait and Qatar. The common traits of the SGCs—their traditions, their size of territory and population and the origins of their political systems and economic growth—have created similar labor market trends. However, it is their differences that offer insight into the effect of certain political and economic factors on the regulation of those markets and on their prospects for development.

Nationals and Expatriates: Segmented Labor Markets

Until the 1950s, the indigenous Arab populations in the Gulf were small—consisting of nomadic Bedouins, peasants, fishermen and sailors. The only foreigners present in the region were merchants from neighboring states. This situation changed dramatically with the Gulf's transformation into a global energy hub. By the early 1970s, oil became the main source of income for all of the region's producing states, including the SGCs. Due to lack of local expertise in the field, development of the oil sector relied heavily on foreign knowledge and labor.

The processes of urbanization and industrialization that followed the Oil Boom of the 1970s were also accompanied by influx of foreign labor to other sectors—namely construction, production and trade.[1] 1965 to 1975 marked a period of accelerated growth in SGC foreign labor populations which, over time, exceeded the local population. The growth rate of the migrant worker population continues to exceed that of the local population.[2]

To grasp the extent and significance of this phenomenon, we need to look at the percentage of foreigners not only in the population as a whole but also in the work force—particularly the private sector (See Figure 1).

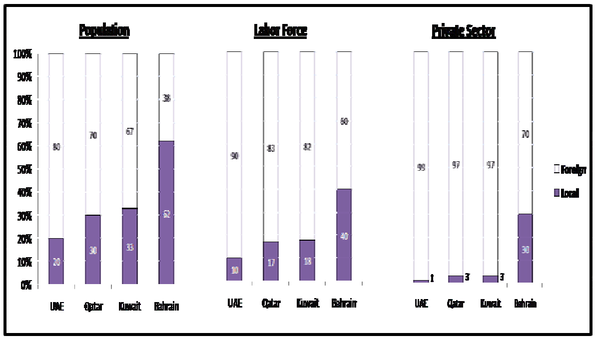

Figure 1
Source: EIU, Gulf Yearbook

As the 2003 data above reveals, the local labor force in the SGCs has limited access to the private sector. This employment dichotomy is best explained by distinguishing between the job markets for skilled and non-skilled workers and examining the different barriers that local workers face when seeking employment.

With regards to the *skill-based job market*, a majority of local workers lack the required technical skills to perform at those positions, for reasons that mostly trace back to the local education system. Educational curricula and methods have barely changed over past few decades, maintaining traditionalist religious doctrines.[3] And despite high rates of university graduates, few attain skills demanded by the private sector.[4] Most local populations within SGCs value academic learning—emphasizing the humanities and social sciences—over a technical education, which they traditionally associate with the lower classes.[5] As the *Arab Human Development Report* explains, there is a strong correlation between the economic dependence on oil and the poor condition of knowledge acquisition:

> This rentier economic pattern entices societies to import expertise from outside because this is a quick and easy resort that however ends up weakening local demand for knowledge and forfeiting opportunities to produce it locally and employ it effectively in economic activity.[6]

The entry barriers to *the non-skilled labor market* are equally rigid but for different reasons. Cheap and accessible non-skilled labor has been an imperative condition for the economic growth of the SGCs. A combination of official policies and lax enforcement allows private sector employers much leeway in determining salaries and working conditions. Accompanied by a high supply of low-skilled labor from developing countries, these factors depress wages and bring labor conditions to the verge of, and occasionally beyond, exploitation.[7] Local non-skilled workers wishing to work in the private sector must therefore compete in a race-to-the-bottom for salaries that leads to wage levels well below local living standards.[8]

Cultural perceptions also act as barriers for entry of locals into the non-skilled labor market. Many occupations in the services sector, such as taxi drivers, food service clerks, and particularly household workers (including cooks, nannies and cleaners) are considered the terrain of less-respected foreigners and are therefore unattractive for nationals. While the private sector increasingly became the domain of foreign labor, SGCs traditionally supplied nationals with unlimited work opportunities in the public sector—accommodating up to 90% of the local workforce.[9] As bloated public wage bills consume an unsustainable portion of GDP[10] and governments have begun privatizing public sector holdings, this policy has nearly reached its capacity limit.[11]

The inability of the public sector to absorb local labor supply is closely linked to demographic trends. The SGCs went through a period of rapid population growth between the 1940's and the 1980's. Since then, fertility rates have steadily declined, but the wide-based age pyramid created in that population boom produced 'population momentum' in which absolute numbers of population growth will stay persistently high during the next decades.[12] Currently, forty-two per cent of the population in the Gulf area is under the age of 15.[13] This data indicates a fast growing workforce in which the number of entrants grossly outweighs the number of retirees. Social reforms involving the educational advancement of women, who have traditionally been excluded from the labor market, have further increased the workforce growth rate.[14] The mismatch between the growing national workforce and the number of work opportunities available manifests itself in steadily increasing unemployment rates, reaching 15% in the UAE by 2003 and 12% in Qatar by 2001.[15]

COMPLEX POLICY CHALLENGES

The increasing pressure on the labor market poses economic, social and political challenges for the governments of the SGCs. On the macroeconomic front, the challenge is three-fold. First, the segmented labor market is inefficient and displays decreasing productivity. Because it has been cheaper for private sector companies to import workers rather than invest in capital and technology-intensive industry, productivity declined by 25-30% over the past decade. Additionally, the tendency of both local and foreign national workers to gravitate toward short-term employment in the private sector has contributed to this trend.[16] Second, with the political economies of the SGCs based largely on a welfare state model, rapid population growth and rising unemployment have driven up budgetary costs.[17]

Since health and social benefits for the foreign national population is also government-funded, the increasing size of the migrant workforce only adds to that budgetary pressure.[18] The third hurdle is the risk of long term decline in national revenues. Remittances of the foreign national workforce comprise approximately 10% of GDP.[19] The past few years have seen a sharp increase in oil prices and therefore in revenues. However, some SGCs are facing potential depletion of their oil reserves,[20] while others are battling increasing inflation rates that undermine their real growth rates.[21]

The accelerated growth experienced by the SGCs over the past several decades has generated numerous social challenges. Arab Gulf societies have all but abandoned their old socio-economic system through an extensive urbanization process. The “westernization” that accompanied this process, alongside the influx of foreigners, precipitated strong fears within SGCs regarding the loss of local identity.[22] Migrant workers are therefore perceived as a “threat to the fabric” of local society.[23] These fears are particularly strong with regards to the influx of foreign workers in the domestic sector. Migrants are often employed as cooks, cleaners and nannies and their employment is perceived as a status symbols. In the UAE, for example, domestic servants currently make up 5% of the population, and sometimes outnumber family members.[24] Their employment has drastically altered traditional family roles as many children are brought up by foreign nannies. Teachers are known to complain of an increase of children who, having been brought up by Asian nannies, do not speak proper Arabic.[25]

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Politically, labor dynamics create various tensions. The stability of the political system hinges upon the governments’ ability to provide citizens with improvement in their standard of living, employment, and privileges that separate them from the migrant population.[26] As the system’s ability to do so decreases, internal pressure for political change rises.[27] And while demands by the foreign national population for political representation have so far been rare, as the processes of democratization persist in the SGCs, they may increase.[28] Foreign workers have also raised national security concerns. Some of them were involved in incidents of political turbulence in Gulf countries, including coup attempts, political assassinations and terrorist attacks. They are often perceived as "potentially dangerous political agents disloyal to their hosts".[29]

Labor migration also influences the foreign policy of SGCs. During the 1960's and 1970's, immigration policy was used to express commitment to common causes of the Arab community. Today, it is a central component of relations with India and other Asian countries.[30] On the multinational level, conditions in the Gulf labor market and violations of workers' rights have been brought to the agenda of international organizations such as the International Labor Organization (ILO) and the World Trade Organization (WTO).[31] Clearly, the complexity of the policy challenge facing the SGCs cannot be overstated. The governments have employed, over the years, a wide range of policies designed to minimize these risks and tensions. Much of this effort focused on the most distinct trait—the extreme reliance on foreign labor. High priority has therefore been given to the goal of "nationalizing" the labor force. In order to evaluate the success or failure of these attempts, we need to understand their evolution.

By the 1970's, this laissez-faire approach to migrant worker flows could not be sustained.

ORIGINAL STRUCTURE: RIGID SPONSORSHIP SYSTEM

At the early stage of oil industry development in the Gulf, regional governments understood that their ability to accelerate their emergence into the energy market hinged on the importation of foreign knowledge and workers.[32] They did very little to regulate labor migration and generally perceived it as a temporary necessity that would disappear with time. By the 1970's, this laissez-faire approach to migrant worker flows could not be sustained. But rapid economic modernization and the lack of an existing legal infrastructure prevented the formulation of a coherent labor strategy.[33] Instead, the SGCs sought effective short-term measures to facilitate a level of migration necessary to support economic development, while minimizing its social and political ramifications. They did so by allowing industries to import labor almost uninterrupted and instituting rigid restrictions on the workers themselves.

The first tenet of this policy was maintaining a flexible stance on immigration that could adjust rapidly to economic needs and political interests. Restrictions were lowered when demand was high, and workers were expelled when unemployment increased.[34] Similar methods were used in response to political threats. Following a surge of Arab secular nationalism in the 1980's and Iraq's invasion of Kuwait in 1990, some SGCs forcibly expelled Palestinians, Jordanians and other Arab workers—reorienting their migration policies to facilitate an influx of labor from the east. This legal flexibility, aided by authoritarian political structures, enabled the SGCs to replace most of the non-Gulf Arabs with Asian workers within less than a decade.[35]

Alongside the flexible migration policy, policies regarding naturalization and citizenship have been restrictive and strictly enforced, "successfully limiting the enlargement of the privileged local populations by foreign elements".[36] These policies formed the second crucial tenet or "Sponsorship System" (*Kafala)*, which conditions the provisions of a migrant work visa to foreign nationals upon sponsorship by a local employer. The sponsor assumes full economic and legal responsibility for the employee during the contract period and must report any change in the labor contract. As it is illegal for an unemployed worker to remain in the country, the sponsor is required to repatriate that worker upon termination of his contract.[37]

The Sponsorship System places heavy limitations on labor mobility. Since migrant workers can only legally remain in the country while under sponsorship, their ability to change jobs depends on the sponsorship transfer regulation, which is highly restrictive in all four countries.[38] Initially, this system achieved its goals. Access to national resources remained in local hands, labor supply met the industrial demand and foreign influence and integration was contained. Nonetheless, by the end of the 1980's, some side-effects became apparent.

Due to lack of enforcement infrastructure and the high returns for cheap qualified labor, an illegal workforce has existed in the SGCs since the 1960's. The Sponsorship System not only fell short in abating this trend but rather exacerbated the problem. By the 1990's, illegal workers accounted for up to fifteen per cent of the total workforce in the Gulf. Of that fifteen, only a small minority of them illegally crossed the border. The vast majority arrived legally but overstayed their visa. Many started working while on a tourist visa and either changed employers without proper authorization or, for practical reasons, could not leave the country.[39] The driving force behind this phenomenon has been the structure of the Sponsorship System itself. The system shifted the weight of labor recruitment away from the government and into the hands of recruiting agents hired by employers. Unsupervised, many agencies thrived on selling sponsorship documents that had either been obtained illegally from shell companies or were not backed by the employment offer presented to the workers. Upon arrival in the Gulf, these workers found themselves underemployed, underpaid or in debt, and resorted to the illegal job market.[40]

During the early 1990's, SGC governments responded by regulating labor-importing agencies, requiring agents to procure and renew their licenses, and prohibiting the charge of fees from workers.[41] As the legality of the initial employer sponsorship did not guarantee continuous legal employment, these new measures helped but did not significantly address the problem. Often, employers did not repatriate workers when their visa expired and "neglected" to return their passports. In effect, these workers could neither leave the country nor acquire a new job—effectively driving them into the illegal job market.[42] SGC governments tried to confront this second set of problems by tightening supervision over sponsors,[43] increasing penalties for workers, conducting raids to arrest and deport illegal workers[44] and granting temporary amnesties that allowed illegal workers to leave the country without penalty.[45] Due to the basic inconsistency between the short-term political and economic objectives of the Sponsorship System and the structural realities of the labor market, these measures also failed.

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One of the objectives of the *Kafala* system was to facilitate a continuous rotation of the migrant workforce. This objective primarily reflects a social priority that seeks to preempt the development of a permanent foreign presence in the Gulf. The premise for this rotation strategy is that migrant workers employed in the Gulf monarchies are hired one-job-at-a-time and expected to leave when it ends. This structure creates high transaction costs that neither the workers nor the employers are willing to shoulder. Demand for a mobile cheap workforce coupled with a supply of workers who prefer the mobility afforded by 'floating' illegally to adherence with the rigid demands of the current system drives the illegal job market.[46] The recurring amnesties in the UAE show that the problem lies not with the inability of illegal workers to leave but rather with the incentives they have to stay.

The structural weakness of the Sponsorship System also gave rise to wide-spread violations of workers' rights, from the failure to protect their contractual rights for payment and limited working hours to instances of straight-out slavery.[47] Labor laws in all four countries uphold the protection of workers' rights to compensation, health and social security benefits, as well as to vacations and limited working hours. The ability of a foreign national worker to guard against these types of violations, however, relies heavily on the means at his/her disposal to hold the perpetrator accountable. However, the extreme dependence of foreign workers on their local sponsors, along with limited access to dispute settlement mechanisms, has shielded most employers from any legal accountability.[48] Even within the realms of international law, vehicles for the protection of workers' rights are limited in their efficacy.[49] Nonetheless, international organizations advocating human rights and fair trade have highlighted the issue of labor conditions in the Gulf and increased the pressure placed on the governments to reform:

> The GCC countries can no longer continue the business-as-usual practices of violating the rights of foreign workers and subjecting them to exploitation and abuse. The GCC countries are under close scrutiny by the western countries, and the United States in particular, especially in relation to the status of migrant workers.[50]

THE SGCs: DIVERSE PRESSURE TO REFORM

The SGCs exhibit similar macroeconomic characteristics and have experienced similar economic and demographic trends. Each of them instituted a Sponsorship System and each faces increased local unemployment and a surge of foreign workers in its labor market. However, differences among the SGCs in their economic and political structures are worth noting because they influence the incentives that drive labor nationalization policies as well as their implementation. One such difference, and perhaps the most significant one, corresponds to the reliance of the various states on their respective oil and gas sectors. The higher the flow of oil revenues, the easier it is for the governments to sustain their original rentier structure, providing welfare for their growing national population through budgetary transfers, while relying on foreign labor for economic development. It would therefore be reasonable to expect that there would be an adverse correlation between oil reserves and labor nationalization reforms.

While Bahrain was one of the first places in the Gulf to export oil, its reserves proved to be quite small. The government does not release official figures, but the estimates are that they will only last up to 15 years. This situation has forced Bahrain to diversify its economy, giving rise to a dominant tourism and financial services sectors, oil refining and aluminum production, with oil accounting for only 10.3% of GDP.[51] At the other end of the spectrum, Qatar, with the third largest natural gas reserve in the world and moderate oil reserves, relies on its energy sector for 61.9% of GDP.[52] Kuwait's energy sector accounts for 42.3% of its GDP. The size of its oil reserves is uncertain. Early in 2006, a leaked government document implied that the true level of oil reserves is 48b barrels, less than a half of the public official figures, allowing for only 50 more years of production. The government denied this information but has so far failed to provide evidence to support its own estimate.[53]

The situation in the UAE, the SGC's only federation, is more complex due to differences between its two prominent emirates, Abu-Dhabi and Dubai.[54] Abu-Dhabi manages the lion share of the UAE's oil endowment, which is estimated at 10% of the world's proven oil reserves. It is the largest and wealthiest of the emirates and therefore heads the federal administration.[55] Compensating for its minor oil reserves, Dubai has developed a bustling service economy—depending heavily on tourism, construction, telecommunications, and financial services.

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While the ability to rely on oil reserves effects the incentive to nationalize the labor market, internal political factors such as the level of democratization and internal social divides impact how these reforms are carried out. Due to the systemic nature of these factors, it is difficult, in a purely qualitative analysis, to isolate the effect of each and assess its influence. Nonetheless, it is worth noting the unique characteristics of political participation in each of the SGCs that may affect the labor nationalization process.

Of the four SGCs, Kuwait is the most democratic. It is ruled by an elected member of the ruling al-Sabah family and its National Assembly (the parliament) has the power to block legislation and dismiss ministers.[56] Over the past few years, the National Assembly has been the main arena for public discourse on government transparency and accountability.[57] It is also the only SGC that allows the formation of trade and labor unions, which currently encompass 10% of the foreign workforce in the country.[58] On one hand, these relatively high levels of political participation are, on the one hand, inductive to relatively open public discourse on the effects of foreign labor on Kuwaiti economy and culture. On the other hand, the power of the National Assembly, and the checks it places on the government, sometimes undermine the latter's capacity to push through reforms that may be unpopular in the short-run.

The process of economic diversification away from oil in Dubai has been accompanied by social liberalization and an influx of skilled western employees, unlike the predominantly unskilled Asian labor flowing into more traditional Abu Dhabi.

Qatar, once again at the other end of the spectrum, is an absolute monarchy. Although it recently declared the establishment of an elected Consultative Council with limited legislative powers, no date for elections has been set. Nonetheless, the royal family and the Emir Sheikh Hamad bin Khalifa al-Thani are considered quite popular and committed to issues of women's rights and regional liberalization.[59] Under conditions of political stability, extreme natural wealth and relative homogeneity of the local population, the government has faced very little public pressure with regards to its labor market policies.

The internal differences in the UAE between Dubai and Abu-Dhabi extend beyond their economic structure and to the nature of their reliance on foreign labor. The process of economic diversification away from oil in Dubai has been accompanied by social liberalization and an influx of skilled western employees, unlike the predominantly unskilled Asian labor flowing into more traditional Abu Dhabi. These socio-economic differences entail diverging interests and political clashes over federal policies on immigration and labor regulation. The resolution of such tensions came through the proliferation of Free Economic Zones (FEZs) in Dubai, making it the FEZ capital of the Arab world.[60] This construct allows Dubai to enact special tax and labor legislation in those areas to attract Foreign Direct Investment (FDI). In terms of labor nationalization policies, however, the fragmentation of labor regulation poses challenges to the federal government.

Unlike its rather homogenous SGC neighbors, Bahrain is a majority Shiite country ruled by a Sunni royal family. Coupled with the fact that most government positions are held by members of the royal family, with clear socio-economic gaps between well-off Sunnis and poor Shiites, and with political suspicion following the Shiite Islamic revolution in Iran, this dynamic gives rise to complex political and social tensions.[61] These tensions came to light in Bahrain's constitutional transition in 2002. After initially boycotting the elections, Shiite opposition parties actively participated in the process in 2006—winning a majority of seats in the lower legislative house. [62] Ostensibly, it seems that the policy challenges posed by the phenomenon of foreign labor would only exacerbate the existing political tensions. However, to some extent the presence of a local lower socio-economic Shiite class, who is not incorporated into the public sector, also alleviates the need to export cheap labor and the reliance on foreign workers in the private sector.

NATIONALIZING THE LABOR MARKET

Over the past decades, the SGCs have grown aware of the deficiencies of the sponsorship system and of the socio-economic challenges created by the reliance on foreign labor. While all have declared their intention to reform the system, not much has actually been done. A straight line can be drawn between the ability to rely on oil reserves and the motivation to reform.

The larger the reserves are, the more capable the government is to maintain the system.

Indeed, the only country to have substantially reformed the sponsorship system is Bahrain. It has established a Labor Market Regulation Authority which is directly in charge of authorizing the employment of foreign nationals.[63] The new law allows foreign workers "reasonable time" to transfer jobs after the expiry or cancellation of previous work permits,[64] and increases supervision over employers.[65] Kuwait too has officially recognized the need to reform the sponsorship system, but has so far not taken any legislative actions to that effect.[66] Dubai seems to have somewhat mitigated the rigidity of the system through its FEZs. Foreigners working in these zones are sponsored by the FEZs authorities and not by any particular employer and therefore enjoy higher mobility. However, it should be noted that most of those who enjoy this increased mobility are high-skilled workers.

The UAE and Qatar, while able to set aside the structural deficiencies created by the sponsorship system, have nonetheless not ignored other challenges. Along with Kuwait and Bahrain they have been concerned with the dominance of foreign workers, particularly skilled ones, in the private sector and with the inability of nationals to penetrate the market. They have therefore pursued policies labeled Emiratization, Qatarization, Kuwaitization and Bahrainization to increase local participation in the private sector. The various measures pursued within labor nationalization projects can be divided into two strategies: direct policies to integrate nationals into the private sector; and indirect policies, aimed at increasing the cost of foreign workers so as to level the playing field between locals and expatriates.

In terms of direct policies, setting employment quotas has been the 'flagship'. The UAE has been the leader in pursuing this kind of policy, in which private sector companies are required to increase the percentage of their local employees or appoint nationals for certain positions.[67] The rationale behind the quota system is to place the burden of identifying, training and maintaining local personnel on the employers, who are often foreign companies.[68] Requirements differ by sector and firm size and incentives to comply with the requirements include reduced labor transaction fees and waives of formal financial requirements. Companies that fail to comply with the requirements may incur increased fees, fines and suspension of transactions.[69]

The rationale behind the quota system is to place the burden of identifying, training and maintaining local personnel on the employers, who are often foreign companies.

Data on the success of the quota system is quite inconsistent.[70] Employers complain that the local supply does not meet their demands, and claim that local employees often lack motivation and skills.[71] In terms of enforcement, the main challenge posed by the quota system stems from its emphasis on short-term quantity, rather than long-term quality, of employment.[72] As compliance with the law is measured by the number of employed nationals, companies often find loopholes. Some cover their quota demand by hiring locals for the cheapest price possible, to then use the benefits given by the government to import more skilled foreign personnel. Alternatively, they use "ghost companies" registered in sectors with lax quotas requirement (such as construction), import workers and release them illegally to other sectors where quotas are more restrictive.[73] Exceptions made in the Free Economic Zones further hamper the effective enforcement of the quotas policy.

A more long-term approach for increasing the presence of local labor in the private sector is seen through education and training policies. These have been difficult to pull through in the traditional governmental education systems.[74] Public-private sector collaborations have had greater success. Here too Bahrain took the lead, establishing a joint public-private training institute providing vocational training and work placement services by private companies.[75] These methods are of course not mutually exclusive. The

'Qatarization' project, for example, combines the quota system with professional training initiatives. Its goal is to achieve 50% local employment in the energy sector (currently at 28%) within five years. It is based on the active participation of leading companies in the energy sector in processes of locating, training and employing Qatari nationals with the support of the government.[76]

The indirect nationalization strategy is based on the recognition that the different costs to employing foreigners and locals are at the root of the segregated labor market in the Gulf. The low wages paid to foreign workers are competitive compensation compared to the average wages in their home countries, but hardly sufficient wages in GCC standards. Additionally, the sponsorship system, the restrictions it places on labor mobility and the poor enforcement of the rights of migrant workers, allow employers to hire foreigners for cheaper than locals. The main measure advocated to increase the cost of foreign, particularly non-skilled, labor, is to do away with the Sponsorship System.[77] As mentioned above, only Bahrain has so far gone down that path. It is also the only SGC to increase the cost of foreign labor by introducing a tax, planned to be gradually increased, on companies for the employment of foreign workers.[78]

Once again, while other SGCs recognize the need to level the playing field between foreign and local workers, they have been reluctant to impose obligations that would undermine the supply of cheap foreign labor. This can be explained by their ability to rely on their energy reserves (or at least declared energy reserves, in the case of Kuwait); and by the fear of losing the competitive advantage they enjoy precisely due to their ability to offer private firms a tax-free cheap-labor environment. The need to preserve this competitive advantage, while pursuing nationalization of the work force, has prompted attempts to coordinate labor policy within the Gulf Cooperation Council (GCC).[79] Equating the benchmarks for foreign employment across the region will allow better enforcement and put a stop to the 'race to the bottom' dynamics of competing for foreign investments by lowering labor costs.

Despite numerous discussions and declarations of their intention to work jointly on the subject, the leaders of the GCC countries have so far failed to go beyond general statements of commitment.[80] The relatively new policy of time limitations on foreign workers stay is also associated with the nationalization effort. Both Bahrain and the UAE have raised a proposal for a "3+3 Law", that would stipulate a maximum 6 year stay (three-year contract that may be renewed once) for non-skilled foreign workers. They suggested this policy should be adopted by all GCC members.[81] However, this policy is really an extension of the old labor regime, trying to assure the rotation of the foreign labor force. It is unlikely to increase the employment of locals, it does not apply to the increasing number of skilled workers, and by mandating rotation it will further reduce the price of labor. Why pursue a policy so adverse to the proclaimed goal of increasing local employment? The rhetoric behind this proposal suggests that its primary goal is to abate social and political concerns. In the words of Bahrain's Labor Minister:

Why pursue a policy so adverse to the proclaimed goal of increasing local employment? The rhetoric behind this proposal suggests that its primary goal is to abate social and political concerns.

> In some areas of the Gulf, you can't tell whether you are in an Arab Muslim country or in an Asian district. We can't call this diversity and no nation on earth could accept the erosion of its culture on its own land.[82]

CONCLUSION: EVALUATING LABOR NATIONALIZATION

In principle, all SGCs are concerned with their reliance on foreign labor and the looming threat of increased local unemployment. In practice, most of them are more concerned with maintaining the momentum of economic growth and are reluctant to risk their competitiveness by raising the cost of foreign labor.

The UAE seems to be the most invested in the current labor market structure. Dubai's economy in particular thrives on the premises of a tax-free cheap labor haven for foreign investments. In addition, its tourism industry is now basing itself on grandiose construction projects that would further require cheap labor. The combination of Dubai's ability to rely on Abu-Dhabi's oil reserves, Abu-Dhabi's ability to rely on Dubai's innovation and modernization, and the lack of local political opposition, will allow it to stay the course of maintaining sponsorship with sparse quotas requirements.

The challenge to the UAE comes from the increasing power of the foreign workers and international support for their plight for equal protection under international labor standards. It may therefore strive to comply with those standards without reforming the system itself. Qatar also relies on its energy reserves to support its local population, while maintaining foreign-labor driven growth. But it differs from the UAE in that its political system is more homogenous and authoritarian. In addition, it is less reliant than Dubai on the activities of foreign companies. Its moderate but consistent Qatarization policy may help it create a strategic and systemic trend of workforce nationalization through private-public sectors cooperation.

Kuwait's active political sphere has been pushing towards accountability and transparency, on the one hand, and continued social segregation on the other. It has thus far done little other than set ambitious goals for nationalization and build separate housing to prevent a spill-over of expatriates into local residential areas.[83] While in the short term it seems that Kuwait will not be effectively promoting its national workforce, in the long run it is possible that its current efforts to increase transparency and accountability will allow it to pursue other policies more successfully than its neighbors.

It is clear that out of the SGCs, Bahrain has been the pioneer of reform. Due to the depletion of its oil reserves and the relatively high rate of participation in its political system, Bahraini authorities could not afford to ignore the rising local unemployment and market inefficiency created by the sponsorship system and its reliance on foreign labor. Therefore, it has been moving forward faster than the other three to institute the legal and social mechanisms required to increase local labor participation.

In any case, the main challenge for any attempts of all SGCs to reform their labor market is one of effective governance and enforcement. The wide-spread socially-accepted illegality of the work force, problems in transparency and dissemination of information (particularly concerning the workers' rights), and the abundance of decrees and scarcity of laws have all created an uncertain legal atmosphere in which it is difficult for the state to set and enforce its own rules. Repeating amnesties for illegal workers, continuous need to crack down on abusive employers, and common policy loopholes indicate the severity of this challenge. The Sponsorship System contributes greatly to the erosion of the rule of law, as does the lenient corporate governance.

The challenge of governance cannot be met overnight, and will require first and foremost the commitment of the governments themselves and a sincere and continuous effort to change public perceptions regarding the role of foreigners in the societies. These are prerequisites to successfully implementing the necessary legal measures required to address the risks posed by the current structure of the labor market.

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Work Cited

1 Gawdat Bahgat, *The Persian Gulf at the Dawn of the New Millennium* (New York: Nova Science Publishers, 1999), 2-3.

2 Andrzej Kapiszewski, *Nationals and Expatriates: Population and Labor Dilemmas of the Gulf Cooperation Council states*, (New York: Ithaca Press 2001), 37-39. The change in population structure occurred at different times in different states, depending on the point at which oil was discovered. For example, in Kuwait, in which oil was discovered relatively early, foreigners already became the majority around 1965.

3 Alissa Sufyan, "The Problematic of Education and the Arab Labor Market Needs," *Dar Al-Hayat*, August 19, 2007.

4 Ibrahim M. Al-Dossari, "Higher Education in the GCC States: Current Conditions, Problems and Solutions," *Gulf Yearbook 2004* (Gulf Research Center, 2005), 123-124.

5 Bahgat, 54. In Kuwait, for example, only 26% of university graduates earn their degrees in fields of natural sciences, engineering and medicine. Also see, *Arab Human Development Report 2003: Building a Knowledge Society*, United Nations Development Program, Arab Fund for Economic and Social Development, 72.

6 United Nations Development Program, Arab Fund for Economic and Social Development, 9.

7 Abdunabi Alekry, "Demographic Changes in the GCC Countries and the Problem of Labor Rights in the Age of Globalization," *Gulf Research Center*, June 2005.

8 Gassan Al-Kibsi, Claus Benkert and Jorg Schubert, "Getting Labor Policy to work in the Gulf," *The McKinsey Quarterly* (2007 Special Edition): 19-22. In Bahrain, for example, workers in the construction sector earn $500 dollars a month, while most GCC households require at least $900 a month.

9 Al-Kibsi, 20.

10 Reaching 16% in Kuwait, 15% in Bahrain and 12% in Qatar. Ugo Fasano and Rishi Goyal, *Emerging Strains in GCC Labor Markets*, IMF Working Paper WP/04/71, April 2004, 6-8.

11 Alekry.

12 Onn Winckler, "The Demographic Dilemma of the Arab World: The Employment Aspect," *Journal of Contemporary History* 37 (4) (October 2002): 617-636.

13 Al-Kibsi, 19.

14 Winckler, 621.

15 Badr el-Din Ibrahim, *Economic Cooperation in the Gulf: Issues in the Economies of the Arab Gulf Cooperation Council States* (London: Routledge, 2007).

16 *Gulf People Index*, <www.YouGovSiraj.com>, (accessed September 26, 2007).

17 Winckler, 621.

18 Al-Kibsi, 22.

19 Ibid.

20 See below, analysis of the economic situation of Bahrain and Kuwait.

21 Inflation rates have recently reached 13.7% in Qatar, and a 19-year high of 9.3% in the UAE. Andrew Marshall and Stanley Carvalho, “UAE studies dollar peg as Gulf grapples with inflation,” *The Guardian*, April 1, 2008.

22 Kapiszewski, 160.

23 "Kuwait: New mechanism mulled to regulate expat labor system," *Arab News*, November 12, 2007.

24 "Domestic servants upset demography - ADCCI study," *Emirates News Agency*, November 12, 2007.

25 Kapiszewski, 160.

26 Daniel Byman and Jerrold Green, "the Enigma of Political Stability in the Persian Gulf Monarchies," *Middle East Review of International Affairs* 3:3 20-37 (September 1999): 28.

[27] Stacy Hickox, "Labor Market Needs and Social Policy: Guestworkers in West Germany and the Arab Gulf Countries," *Comparative Labor Law & Policy Journal*, 8 (357) (Summer 1987): 361.

[28] Kapiszewski, 121.

[29] Kapiszewski, 121-124, 203. Historically, non-Gulf Arabs have been considered the main threat and source of political unrest. However, during the 1990s, following the First Gulf War, many of them (particularly Palestinian workers) have been expelled. Today, Indians are the largest group of foreign workers in the Gulf, and while they are not considered as subversive as their predecessors, their large numbers have raised concerns regarding the potential of Indian political influence.

[30] Hickox, 363.

[31] Alkery.

[32] Hickox, 359-360.

[33] Ibid.

[34] Hickox, 364.

[35] Kapiszewski, 203.

[36] Ibid.

[37] Anh Nga Longva, "Keeping Migrant Workers in Check: The Kafala System in the Gulf," *Middle East Report* No. 211 (Summer 1999): 20-22.

[38] Salem M. Al-Touhaih, "The Vicious Cycles of Manpower in Kuwait," *Workforce Management in the Arabian Peninsula* 123, 151 (1986). The most lenient procedure in Kuwait requires the prior consent of the old and new sponsors and the Kuwaiti embassy in his home country. In Qatar, workers must maintain the approval of the Minister of Interior, after showing that the transfer of sponsorship serves the public's interest. Law No. 3 for 1984 on the Regulation of the Sponsorship of the Residence and Exit of Aliens, Qatar. The UAE system seems to be the most restrictive, as the worker must have spent a specified period under the original sponsor (spanning from 1 year for educated workers to three years for non-skilled workers), and then pursue a multi-staged procedure; Procedure Manual for Ministry of Labour, United Arab Emirates, Version 2.6 B.

[39] Kapiszewski, 88.

[40] Ibid., 93.

[41] For Qatar, see *Qatar Al-Jarida Al-Rasmiya*, 32 (15) (August 1992): 22-25; for Bahrain see Order No.15 of 1994 of the Minister of Labour and Social Affairs to specify conditions for the licensing of private employment agencies and *Bahrain Al-Jarida Al-Rasmiya* 47 (2110) (May 1994): 8-9; for UAE, see Articles 17 and 18 of 1980 Labor Law.

[42] Kapiszewski, 89-92.

[43] A decree issued in Bahrain, for example, required employers to regularly hand in documentation of new and existing employees and report labor contract conditions. *Bahrain Al-Jarida Al-Rasmiya* 47 (2121) (July 1994): 12-13.

[44] Kapiszewski, 93-96.

[45] This measure has been taken by the UAE three times, each time drawing hundreds of thousands of workers to leave the country. The last amnesty was given last August. "Time extended for illegal migrants to leave Dubai under 'amnesty'," *WorkPermit.com*, August 30, 2007, <www.workpermit.com/news/2007-08-30/dubai-uae/illegal-migrant-amnesty-extension.htm> (accessed September 10, 2007).

[46] Kapiszewski, 92.

[47] Hickox, 360.

[48] Both Kuwait and the UAE require a preliminary process within the labor department, aimed at "settling the dispute amicably", only after which the worker may approach the court system. For The United Arab Emirates, see Federal Law No. 8, article 6 (1980), Regulation of Labor Relations; for Kuwait, see Kuwait Ministry of Social affairs and Labor, Private Sector Labor Law. Steps to improve this situation have recently been taken by Qatar, who has declared the establishment of a special court for the settlement of

disputes between Qatari and foreign nationals. "Qatar sets up special court to hear labour disputes," *The Peninsula*, September 10, 2007.

[49] The WTO has so far not adopted any official labor standards. See *Background Paper*, IOM/World Bank/WTO Trade and Migration Seminar, October 2004. Additionally, all SGCs have ratified the ILO Forced Labor conventions and the Discrimination Convention. However, the obligations under these conventions can only be enforced within the framework of national courts.

[50] "Solutions to Labor Problems in the Gulf," *Gulf Research Center*, May 2006.

[51] *Country Profile 2006: Bahrain*, The Economist Intelligence Unit, 2006, 27-38.

[52] *Country Profile 2006: Qatar*, The Economist Intelligence Unit, 2006, 4-9.

[53] *Country Profile 2006: Kuwait*, The Economist Intelligence Unit, 2006, 27-30.

[54] The UAE consists of seven emirates: Abu Dhabi, Dubai, Sharjah, Ras al-Khaimah, Ajman, Fujairah and Umm al-Qaiwain.

[55] *Country Profile 2006: UAE*, The Economist Intelligence Unit, 2006, 32.

[56] *Country Profile 2006: Kuwait*, The Economist Intelligence Unit, 2006, 4-9. The National Assembly has recently put this authority to test, forcing the oil minister to resign after he admitted to consulting with a predecessor who was under investigation for fraud allegations.

[57] Muhammad Salem Al-Mazroo'i, "Legislative Institutions in the GCC States: Analysis and Assessment," *Gulf Yearbook 2005*, 45-46. Laws proposed by the Assembly in 2004, for example, dealt with rules for the preparation of the state's budget, establishment of the constitutional court and financial liability of government officials.

[58] In 1968, as part of a growing Arab-nationalist movement, Kuwait joined the International Confederation of Arab Trade Unions. Kuwaiti law has since provided for the existence of trade unions in public and private sectors. Ahmad Al-Khaled, "Strike fever hits Kuwait," *Kuwait Times*, September 11, 2007.

[59] *Country Profile 2006: Qatar*, (London: The Economist Intelligence Unit, 2006), 4-9.

[60] Presently, 15 of the 62 functioning FEZs in the entire Middle East are located in Dubai, and more than 10 new ones are being developed. "Free economic zones: Are they really such a good idea?", *Executive* (November 2007). The significance of the FEZs to the economic development of Dubai, and the UAE in general, was highlighted in an amendment to Article 121 of the UAE constitution, allowing the Emirati Governments to create Financial Free Zones, exempted from all federal civil and commercial laws. Federal Law No.8 of 2004: Regarding The Financial Free Zones in the United Arab Emirates (the Financial Free Zone Law), was gazetted on March 27, 2004.

[61] Byman, 26.

[62] The bicameral legislature is comprised of an elected lower house, the Chamber of Deputies, and an appointed upper house, the Shura (Consultative) Council. Opposition parties boycotted the 2002 elections in protest of the institution of a non-elected upper house. *Country Profile 2006: Bahrain*, (London: The Economist Intelligence Unit, 2006), 4-11.

[63] Act No. 19 (2006) with Regard to the Regulation of the Labor Market, Bahrain.

[64] Ibid., Article 25.

[65] Ibid., Article 24.

[66] "Kuwait: New mechanism mulled to regulate expat labor system", *Arab News*, September 12, 2007.

[67] A Decree issued in 2004 mandates a 2% annual increase in the number of emiratis employed in trade companies with over 50 employees. A decree issued in June 2006 required all firms to expatriate secretaries and human resources managers from their payrolls, and replace them with locals. Salama S., "Emiratisation drive on the right track," *Gulf News*, March 15, 2007.

[68] Joern C. Kuntze and Marc Hormann, "Migrating from Emiratisation to Skill-Based Emiratization," *Middle East Strategy Advisors* (Press release), March 1, 2006.

[69] Salama.

[70] Emilie Rutledge, "Are the GCC's Labor Nationalization Policies Working?," *Gulf Research Center*, June 25, 2006.

[71] Al-Kibsi, 24. UAE official data has shown that in the banking sector Emirati employees worked for only 19 months on average, compared with 60 months for the average expatriate; Rutledge.

[72] Fatima al-Shamsi, "Economic Performance and the Callenges of Non-Oil Economic Growth," *Gulf Yearbook 2004*, Gulf Research Center, 2005.

[73] Al-Kibsi, 24-25. McKinsey estimates that 25-30% of UAE expat workers are employed by such “ghost companies”.

[74] Al-Dossari, 124-125.

[75] *Country Profile 2006: Bahrain*, The Economist Intelligence Unit, 2006, 17-18.

[76] Information available on the official website: www.qatarization.com.qa.

[77] Al-Kibsi, 25; Les Horton, "Labour Market must Operate on Need and Merit," *Gulf Daily News*, August 10, 2007.

[78] Al-Kibsi, 27.

[79] The GCC, established in 1981 by Saudi Arabia, Oman, Qatar, Bahrain, Kuwait and the UAE is aimed at promoting political and economic cooperation in the region.

[80] Ra’id Qutsi, "GCC ministers Propose 11-Point Program to Cut Foreign Manpower", *Arab News*, September 14, 2007.

[81] Tariq Al-Maeena, "Expatriates' Impact on Gulf's Labor, Social Situation," *Arab News*, October 27, 2007.

[82] Ibid.

[83] The Kuwaiti government declared its intention to reduce expatriate workforce by 35%, but did not provide any other details as to its plan. "Kuwait government to cut 35 pct of foreigners in bid to organize labor market", *Arab Times*, November 29, 2007; and Al-Khaled.