

A STUDY ON THE ISSUES OF EMPLOYMENT CONTRACTS AND PRACTICES OF EMPLOYMENT CONTRACTS IN UAE

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ABSTRACT

People who belongs to underdeveloped and developing countries, focus on getting employment in different developed countries. In the recent past years the number of people working in different countries has increased dramatically. In Pakistan it's a trend of moving to different countries to get better employment opportunities. For employment Hong Kong, Singapore, UAE, and Saudi Arabia are considered as the favorable countries for the Pakistanis. Despite the fact, these countries don't offer favorable and secured working environment to the immigrants, but still people prefer to go there for better earnings. Employment issues such as low wage rate, preference to residents, absence of contractual nexus, and sexual abuse etc. are common. This study aims to identify the major gaps in the implementation of laws regarding immigrant work force and the conditions of immigrants working in these countries. The study is qualitative and the respondents are those who have work experience of minimum three years. The results of this study shows that employers hardly follow labor laws for the immigrant work force, where as some countries have a clear policy which is enforced by their government. There is a dire need to do legislation regarding the rights of immigrant workforce and its implementation.

Keywords: Employment contract, UAE, Immigrant, Labor Laws

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INTRODUCTION

For earning high income the people of low income countries migrate to high income countries. These people are considered as immigrant workers or immigrant workforce. Out of 142 countries in the world 6 countries are considered as most favorite hosts, for the immigrant workforce. These countries are Malaysia, Singapore, Saudi Arabia, Hong Kong, Taiwan and United Arab Emirates. According to the statistics provided by the United Nations, there are 7.8million migrants working in UAE (Almannae, 2014). Whereas, the total population of UAE is 9.2 million (Ali & Darak, 2014). According to a recent survey, 90 percent of the workforce working in UAE is from Pakistan, India, and Bangladesh. Only Pakistan has received \$13.92 billion in the year 2013 (Hamdani, 2013). Poverty rate in Pakistan, India, and Bangladesh is increasing over several years. This is the main reason that migration is continuously increasing, as poverty rate is increasing in these three countries as mentioned above. But this increasing movement of international workforce in these countries does not guarantee protection to these migrant workers in these countries. Due to increasing number of migrant workers they face sexual abuse, underpayment, out of contract jobs, and even death penalty has also been seen in UAE (Mahdavi, 2013; Loney, et al., 2013; Nyarko & Wang, 2015). Even at time people face drastic conditions and they commit suicide (Al-Maskari, et al., 2011).

The major issues faced by immigrant workers include, illegal immigration which is considered as the top level crime as well in majority of the host countries. A significant number of workers working in the above mentioned countries are illegal. In UAE alone, there are almost half million people who are working without work visa (Matthews, Robertson, & Griffin, 2013). At the same time they face language issues and thus, they are highly exploited by the contractors of the host countries. They provide them low salaries. Poor living conditions are provided to them along long working hours. As their status is illegal, therefore, they are unable to get proper employment benefits which are described by the law of UAE.

Developed countries have declared the minimum wage but illegal immigrants are not paid with the same amount, but lesser than bear minimum level with long working hours (Vlieger, 2012). At the same time usually they are not paid with the overtime payment (Buckley, 2011). Due to their illegal status, they are not covered under insurance benefits. Most of the employers do not provide residence to legal immigrant workers. The cost of living especially in these high income countries is damn high (Sevil, Apostolopoulos, Tran, & Rentrope, 2011). As a result, workers are bound to live in small over crowded rooms where toilet and shower facilities are hardly available to them. At the same time health and safety problems are also faced by the immigrant workforce (Loney, et al., 2013). Especially the illegal workforce is forced to work in unhygienic conditions. The food if provided by the employer is malnutrition, the sanitation facilities are even proper, where they people live (Loney, et al., 2013).

The poor illiterate, even those who are legal workers, fail to get proper medical facility, because they are unaware of their rights. They do not know that the compensation also cover their health and safety. A very sad fact is that in late 1990's the life expectancy of immigrant workforce was decreased to 48 years only. Another issue faced by them is related to racism. Due to racism immigrant workforce face sever discrimination in working hours, in salaries and in working conditions as well.

From the above mentioned discussion, it is obvious that immigrant workers living in UAE are facing sever issues which are causing problems to them. The main reason behind this issue is lack of legislation and implementation of the current laws. The employers of UAE are considered as the nation that exploits the poor immigrants. The laws of UAE related to labors are not followed and practiced by majority of the employers in UAE. The issue may cause severe consequences to the organizations, if the issue sustain for a longer period. However, the issue has not yet been studied yet, especially the issues of immigrant workers in UAE. Thus, there is a great need to conduct research on the issues faced by immigrant workers to highlight the problems faced by them. It will help the government of UAE to develop needed legislation to overcome problem as the issue is a serious crime. Therefore the core focus of this study is on migrant workers.

LITERATURE REVIEW

After boom of oil exploration, since 1973 in the Arabian Gulf, resulted in unprecedented increase in the demand of labor force in construction, oil, and industrial sector. The increase in the living standard of people living in these countries also increased the demand for domestic workers in homes (Irianto & Truong, 2013). This increase in demand resulted in the huge migrant of workers in these countries. Migrant human resource can be classified into four broad categories. Foreign human resource admitted for special purposes, settlers, migrant workers, economic migrants, and asylum migrants. Mobility of labor across the borders is increasing as corollary to globalization. This is a result of increasing trade and investment.

Inequality in income and social status is increasing not only between the countries but also within the countries (Jones-Smith, Gordon-Larsen, Siddiqi, & Popkin, 2012). Because of decreasing transportation costs, the movement of people for leisure purposes and for the sake of earning money is particularly an interesting phenomenon along with social, economic, and environmental implications. With the rapid growth in the international tourism industry the topic has attained attention of the academicians in the tourism related fields, including tourism for leisure and business both. Migrant workforce has a major role in the economy of the host country, because they not only spend their money in the country but also provide services to their community as well as to the tourist, thus, become a source of earning money for the host country (Kerr & Kerr, 2011). Different authors have studied migrant workforce from the perspective of motivation, behavior, and experience (Buckley, 2011; Al-Maskari, et al., 2011; Almannae, 2014). The attitude of employers is also a very important aspect in this regard and it has also gained huge importance

and attention of the academicians and researchers. This paper consequently focuses on the government of the host country in response to their attention towards the migrant workforce. As the importance of the employers and other institutions regarding labor markets, such as unions in the integration efforts have only been addressed vaguely so far. Structural issues of the immigrant workforce are the result of urge to get cheap labor to maximize profits by exploiting the migrant workers (Froilan & Youha, 2015).

There is a huge ratio of contract workers in UAE. The contract workers are those workers who are working in host countries, under the contracts that set limits on the period of employment and on the specific job held by the migrant work force (Kerr & Kerr, 2011). As per the laws of UAE, once entered in to contracts the migrants are not allowed to change the job and they are expected to leave the country when the contract is completed (Froilan & Youha, 2015). In such cases it is immaterial that either the work they were doing is completed or not. Usually in such situations the contracts are renewed, yet the departure from the country is compulsory even if the contract is renewed. But these are the legal aspects, major issue is exploitation of human resource in UAE. As the labor force considers UAE as a heaven for earnings, thus, poor masses from all these countries move to UAE and as a result due to excessive labor force they are exploited (Al-Maskari, et al., 2011). Their contracts are not properly met or they are forced to sign such contracts which are contrary to basic human rights or not in concurrence with the employment laws of UAE.

Thus, it would be right to say that the immigrant workers working in UAE are facing certain issue. People prefer to go there for high earnings and majority of the people are earning very high. At the same time, the issues faced by them and especially the lower level workers cannot be ignored.

METHODOLOGY

The study is cross-sectional as the data has been collected one point in time. The study adopted qualitative methodology because the study nature of the study was to explore the issues associated with employment contracts and their implementation in UAE. As in-depth interviewing technique is used to collect the data, thus, this study falls under the head of qualitative research. Those people were interviewed who were migrant workers. The interviewees were those who are or have worked in UAE in multinational companies. The interviewing stopped at 25 interviews because after 20 interviews data saturation started. A secondary data analysis of the employment policies of UAE is also done to enrich the analysis, and to understand the implementation of laws developed for the immigrant workforce.

ANALYSIS AND DISCUSSION

UAE is considered as the most desirable destinations country for Immigrant workers especially for the people of Pakistan, India, and Bangladesh. With the passage of time, due to high

earning opportunities, UAE is becoming the first ranked country for the immigrant work force. Geographically, the proximity of UAE to Saudi Arabia are considered to be relatively similar. This similarity of culture makes many Saudi citizens choose UAE as a destination country for a relaxed living, legally, illegally, and religiously. Currently there are almost 7.8 million migrant workers in UAE (Froilan & Youha, 2015). But the actual number is probably much more, reason being the exact number is very difficult to verify, because of illegal immigrants in UAE. With this number UAE is one of the largest immigrant workers attracting country. Most of them are undocumented, without a permit or having they are an invalid work visa. The issue of equality or culture's sameness and more easy work requirements in UAE are the major attraction factors for the immigrant workers to work in UAE. Actually, the long history of migration from Pakistan, India, and Bangladesh to UAE, and cultural equality, did not make the immigrant workers who work at UAE devoid of problems. Rather than immigrant workers in other countries, especially Hong Kong and Singapore immigrant workers who work at UAE are the most frequently plagued by problems.

Another major issue faced by low level workers is the confiscation of passport by the employers. Passport held by the employer causes lack of freedom of association or union to immigrant workers in UAE. As one of the destination country for immigrant workers, Saudi Arabia has a similar policy with UAE but the pays are relatively better than UAE as the laws are stricter (Al-Maskari, et al., 2011). Saudi Arabia has one of the employment objectives set by the Government, so year by year, immigrant workers who works in Saudi Arabia officially get higher pays and thus, the number continues to grow. Bases on data from the UAE Immigration Department, there were approximately 8.2 million current immigrant workers are working in UAE (Froilan & Youha, 2015). Immigrant workers who work at UAE have a distinctive character when compared with the same in other developed countries. One major issue is that the immigrant workers in UAE has less rights, but more obligations and standard work contracts arranged by the government of the UAE Employment Ordinance contained for foreign domestic helpers or Foreign Domestic Helper are hardly followed by the employers (Almannae, 2014). That rules set out clearly that, the rights of the immigrant workers in UAE are violated, among other issues the minimum wage; job description; decent living conditions; accident insurance; annual leave; meals and transportation on the way as well as a medical examination.

The government of UAE actually keeps on attempting to improve the protection of immigrant workers in UAE. The policies regarding the welfare of immigrant workers include the disclosure of many cases of immigrant workers who have experienced working in UAE. The job description is clear, but still people are exploited to do extra work or to do overtime work at lesser than the prescribed rates. Salaries offered are good only to legal workers. Leave and holidays are given as per the policy of the state. But still exploitation is conducted by the agents in UAE. In the past years the government of UAE does not provide a framework for the protection of migrant workers because of limited migration there was hardly any need for it in early 1970's. The Labor matters in the UAE are governed by Federal Law No. 8 of 1980 Regulating Labor Relations as amended by Federal Laws No. 24 of 1981, No.15 of 1985 and No.12 of 1986 (the "Law"). UAE

labor law specifically ruled out domestic workers, including regulations on working hours, holidays and termination of the contract. Legal protection is not clear to immigrant workers in UAE, eventually have implications for their chances of gaining social remittances for work in UAE.

Although the rights, obligations, and the standard employment contract of immigrant workers in UAE has been protected by the law with a clear legal framework, but still their implementation and the strictness by the government regarding the issue is very weak. These problems can be categorized as structural problems and cultural issues. These problems are termed as structural problems when these are related to government policy. On the other hand these problems are termed as cultural issues and are categorized, in the event due to cultural differences, as well as the lack of sufficient knowledge of the policies regarding immigrant workers and culture in UAE. In addition, the basic problem often encountered is the number of IMW's that do not understand the contents of the contract; then how to get along excessive, too fast to believe new people and new cultures dissolve facing. This is the basic reason that certain cases have been found. According to the migrant workers' organizations and NGOs, the most fundamental issues who complained are problem of underpayment (salary below the standard), poor living conditions, and exploitation.

CONCLUSIONS

The literature reviewed and the analysis of data collected through interviews has shown that there is substantial exploitation of migrant work force in UAE. The governments did not pay any attention in providing a proper framework to secure the basic rights of migrated force. On the other hand, if the laws are developed then there is no policy to keep checks that are the laws being implemented or not. There is a sever need to made proper guidelines and regulations on the issues of holidays, termination of employment contract, and arrangement of insurance facilities. The main issues arise when certain employers hold the passports of these workers in order to restrain them from joining any union. There is a dire need to develop proper laws regarding the provision of fundamental rights to the migrant work force. Likewise, and there is a dire need to check the procedural laws in order to make sure that that laws developed are properly being implemented. The companies should be kept under sever check by the government so that the employers may not exploit any migrant workforce.

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