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Migrant Workers in the Middle East: Not an *In Shah Allah* Situation¹

Trabajadores migrantes en el Medio Oriente: No como Alá querría

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Abstract: The Middle East is seen by many developing nations as a region of opportunity and prosperity. With the cost of living spiralling, coupled with mass unemployment, most Indian families are left economically strangled. Education, healthcare, rent, fuel, electricity and other essential commodities are becoming unaffordable to the ordinary masses. In lieu of a better future for their families, most workers migrate to the Middle East in search of well paying jobs.

Although the workers are paid as promised, their lives are burdened with many obstacles. Immigrants are discriminated against and made to endure strenuous working conditions. These workers are met with harsh realities, both during the course of employment and otherwise. With a poor dispute redressal mechanism and forcefully signed indemnity agreements, these workers are left neglected and abused.

Although free trade agreements have been entered into, the discrimination and hostility has persisted. Religion and nationality are often used as a ground to discriminate. Wages below minimum wages, restriction on job applications, heavy taxation on foreigners, etc. are often used tactics to propagate nepotism towards locals. The international community has warned the Gulf States and surrounding States of the same. Yet, there has been no visible change in the system. The paper seeks to identify, through primary and secondary sources of information, a suitable mechanism to help protect these migrant workers from such inequalities.

Keywords: Migrant Workers – Middle East – Human Rights.

Resumen: El Medio Oriente es visto por muchas naciones en desarrollo como una región de oportunidades y prosperidad. Con el incremento del costo de vida, junto a un desempleo masivo, la mayoría de las familias de la India están en una difícil situación económica. Educación, salud, alquiler, combustibles, electricidad y otros insumos esenciales se convierten en inalcanzables para las personas comunes y corrientes. Aspirando a un mejor

¹ Artículo enviado el 10.10.2015 y aceptado el 13.12.2015.

futuro para sus familias, la mayoría de los trabajadores emigra al Medio Oriente en busca de trabajos bien remunerados.

Aunque los trabajadores son pagados conforme lo prometido, sus vidas están agobiadas con muchos obstáculos. Los inmigrantes son discriminados y deben sobrevivir extenuantes condiciones de trabajo. Estos trabajadores se encuentran con una dura realidad, tanto en su jornada laboral como fuera de ella. Con un mecanismo insuficiente para la solución de disputas por compensaciones y unos acuerdos de indemnizaciones bien establecidos en su perjuicio, estos trabajadores son dejados en el abandono y abusados.

Aunque han entrado en vigor acuerdos de libre comercio, la discriminación y hostilidad persisten. Religión y nacionalidad son empleadas comúnmente como elemento de discriminación. Salarios bajo el mínimo, restricciones en la postulación a trabajos, altos impuestos a los extranjeros, etc., son tácticas comúnmente usadas para desincentivar la contratación de inmigrantes. La comunidad internacional ha llamado la atención a los Estados del Golfo y otros Estados de esa área sobre esto mismo. Sin embargo, no han existido cambios notorios en el sistema. Este artículo busca identificar, a través de fuentes de información primaria y secundaria, un mecanismo apropiado para ayudar a proteger a estos trabajadores inmigrantes de tales injusticias.

Palabras clave: *Trabajadores migrantes – Medio Oriente – Derechos Humanos.*

1. Introduction

When I was travelling back from Dubai after my four day vacation in December, 2012, I sat next to a woman in the flight. She was a middle aged Indian, employed as a domestic worker in Kuwait. She was travelling to Bangalore to meet her children who were staying at her in-laws place. As we talked, she told me about how she missed seeing her children. She told me that both, her husband (cab driver) and herself were employed in Kuwait and together earned Rupees Seventy Five Thousand a month. Although they hated the distance from their children, they had to endure in order to educate them.

I was told that she shared her room with three other woman co-workers, a Sri lankan, a Pilipino and a Qatari. Although they all performed the same work, they were paid differently. They worked for a private company that hired their services based on the need for domestic work in households. Initially, the work lasted 5-6 hours a day. However, with the passing of a few months, they were made to work overtime and were left with only 5-6 hours for themselves. The company threatened them with deportation and confiscation of passports and visa if they did not comply with the work conditions².

² This is the Kafala Sytem, regulated by the Sponsorship Law of 2009.

The only thing that keeps her going is the hope that her children would receive a better future and would not have to clean a stranger's toilet in a foreign country at 12:00 a.m. to make ends meet. She said that resignation crossed her mind now and then but she knew that she would be paid half as much as she is paid in Kuwait if she did so and settled in India. There are many others like her who battle every day in their work environment just to be treated at par with their co-workers. Human dignity and personal liberty is all they seek for.

Inequality in terms of religion and caste is extremely outdated and outlawed. Domestic laws do not come to the rescue of these people³. They are forced to labour everyday without fixed work hours and exorbitant taxes⁴. The paper is divided into four parts. The first part entails the workman situation in the Middle East. Part two deals the established principles of international law in place to govern the same. The third part identifies and examines the fallacies in the current system and the last part consists of recommendations to remedy this hidden crisis.

2. Life in the Middle East

Many Indians may have relatives working in the Middle East. As opposed to those relatives employed elsewhere in the world, they seldom return to India to meet their families. It is not poor parenting or economic hardships that are keeping them busy, but their work. Many workers migrate to the Middle East and end up majorly in the construction and agricultural sector. These sectors usually are least instructed and do not have fixed work timings⁵. Also, these are labour intensive sectors require a lot of physical labour. Since most locals refuse to do such work, these sectors employ many foreign workers from African and Asian countries⁶.

Just recently, in lieu of constructing the stadium of the FIFA World Cup, 2022, many Nepali and Indian workers were employed in the Qatari construction sector. In a report⁷ made by Amnesty International titled, *The Dark Side of Migration: Spotlight on Qatar's Construction Sector*

³ JOUDO LARSEN, Jacqueline. "Migration and people trafficking in southeast Asia". *Trends & Issues in Crime and Criminal Justice*, Australian Institute of Criminology, 2010, num. 401, [on line]
<http://aic.gov.au/media_library/publications/tandi_pdf/tandi401.pdf> [accessed: Dec. 20, 2015].

⁴ JOUDO LARSEN, "Migration and people trafficking...", *op.cit.*

⁵ INTERNATIONAL LABOUR ORGANIZATION. *Domestic Workers Convention concerning decent work for domestic workers*, Sess. 100, U.N. Doc. C/189/12/43, Jun.16, 2011. [on line]
<http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189> [accessed: Dec. 20, 2015], last seen on 24/08/2014.

⁶ ANDREVSKI, Hannah and LYNEHAM, Samantha. *Experiences of exploitation and human trafficking among a sample of Indonesian migrant domestic workers*, Australian Institute of Criminology (2014). 467, 461-480, [on line]
<<http://www.aic.gov.au/publications/current%20series/tandi/461-480/tandi471.html>> [accessed: Dec. 20, 2015].

⁷ AMNESTY INTERNATIONAL. *Treat Us Like We are Humans: Migrant Workers in Qatar*. [on line]
<<https://www.amnesty.ch/de/laender/naher-osten-nordafrika/katar/dok/2013/stopp-ausbeutung-von-gastarbeitern-durch-bauunternehmer/treat-us-like-we-are-human-migrant-workers-in-qatar-16-p>> [accessed: Dec. 20, 2015].

ahead of the World Cup, the testimony from these workers revealed that they were being “treated like cattle” with 12 hours of work, 7 days a week including the summer months of Qatar⁸.

These workers were subjected to forced labour as they were threatened with deportation, reduction in wages and fines⁹. Many workers were hospitalized on account of sickness and few others were reportedly permanently disabled in the process¹⁰. FIFA has expressed its remorse¹¹ for these workers but have taken no active initiative on its part to remedy the situation.

On 9th April, 2013, the United National International Labour Organization reported¹² that 600000 migrant workers were deployed into working at the manufacture, construction and domestic sectors. Qatar employs nearly 94% migrant workers¹³. The report titled ‘Tricked and Trapped: Human Trafficking in the Middle East’, talks about the systemic gaps in the labour migration governance across the region¹⁴. Clearly, this is one news that Qatar wished did not spread prior to its hosting the FIFA World Cup 2022.

Life in the Middle East is a very miserable one especially for migrant workers. Wages in the UAE are generally stratified based on race and nationality¹⁵. Reports show that the wages paid to nationals is 20% of that paid to their expat workers¹⁶. Also the wages that reflect in the agreement prior to the workers departing their home, is lowered once they land. Since recruitment agencies refuse to pay the worker to fly back home, the workers are forced to accept these jobs.

It is important to note the story of Dabble Masubathi Maripan, a construction worker from Tamil Nadu, India¹⁷. He was employed in a construction company, which was controlled by the Prime Minister of Bahrain. The company breached its agreement with its workers by reducing their monthly wages from 100 dinars to 45 dinars¹⁸. Despite attempts from the Indian

⁸ NORTH, Andrew. “Qatar Migrant workers treated like animals – Amnesty”. *BBC Middle East*. [on line] <<http://www.bbc.com/news/world-middle-east-24980013>> [accessed: Dec. 20, 2015].

⁹ “The Middle East’s Migrant Workers: Forget About Rights”. *The Economist*, Oct. 10, 2013. [on line] <<http://www.economist.com/news/middle-east-and-africa/21583291-attempts-improve-lot-migrants-working-middle-east-are-unlikely>> [accessed: Dec. 20, 2015].

¹⁰ HUMAN RIGHTS WATCH. *Report of the Human Rights Watch (2012)*. [on line] <<http://www.hrw.org/sites/default/files/reports/wr2012.pdf>> [accessed: Dec. 20, 2015].

¹¹ NORTH, “Qatar Migrant workers...”, *op.cit.*

¹² HARROFF-TAVEL, H el ene and NASRI, Alix. *Tricked and Trapped: Human Trafficking in the Middle East*, International Labour Organization, 2013. [on line] <http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_211214.pdf> [accessed: Dec. 20, 2015].

¹³ HARROFF-TAVEL and NASRI, *Tricked and Trapped...*, *op.cit.*

¹⁴ KHATIB, Ahmad. “600,000 ‘tricked and trapped’ in to labour in the Mideast: ILO”, Apr. 9, 2013. [on line] <<http://www.livemint.com/Politics/7UC7NaD7LiVpjUQ4AkKE2H/600000-tricked-and-trapped-into-labour-in-Mideast-ILO.html>> [accessed: Dec. 20, 2015].

¹⁵ SAMBIDGE, Andy. “Emiratis paid 20% more than expats in private sector”, Oct. 15, 2013. [on line] <<http://www.arabianbusiness.com/emiratis-paid-20-more-than-expats-in-private-sector-518306.html>> [accessed: Dec. 20, 2015].

¹⁶ SAMBIDGE, “Emiratis paid 20% more...”, *op.cit.*

¹⁷ HADI, Abdul. “The price of well being in the countries of the Gulf”, Oct. 18, 2013. [on line] <<http://arabi.assafir.com/article.asp?aid=1209&refsite=arabi&reftype=articles&refzone=articles>> [accessed: Dec. 20, 2015].

¹⁸ HADI, “The price of well being...”, *op.cit.*

Embassy, the work was terminated and the company filed a law suit against the striking workers¹⁹. The court ordered for compensation through fines ranging from 400 to 600 dinars and also passed an order preventing these workers from leaving Bahrain without paying the fine²⁰. This led to many workers committing suicide in foreign soil.

The fact that various international organizations find human trafficking²¹ and forced labour so prevalent in the Middle East, clearly indicates a need to save these South Asian workers who are forced to work in gruesome working conditions. The Middle East consists of relatively rich developed nations, whose economy has skyrocketed over the past few decades. To dispense with the cost of employing locals, migrants are exploited to espouse cheap labour²². Economy of scale is achieved in the process at the cost of forced labour.

The demand for cheap labour in the Middle East has always been high. This is because most workers from developing nations prefer to work in these industries due to a greater pay scale for their work when compared to their own countries. Also, the locals do not render their services for jobs that are lineal, involving manual labour and jobs that are paid relatively less. Therefore there is a meeting of demand and supply.

3. Domestic Workers

Domestic workers in the Middle East have a huge demand. More than 750,000 migrant domestic workers work in the UAE²³. They comprise of 20% of the total expat workforce, in some cases greater than the total members of the family they work for²⁴. In Bahrain, the law enforcement mechanism does not extend any support to domestic workers who are abused. There have been cases of many domestic worker suicides in the past few years²⁵. These workers are jailed in the households and made to endure severe hours of work.

Domestic workers are not allowed to step out of the household while at work. If they do, the employers physically and sexually assault them. In most cases, they are not fed well and are made to work for long tiring hours without a break. Since professional cleaners are very expensive to hire, girls from poor households in India, Bangladesh and other South Asian and

¹⁹ HADI, "The price of well being...", *op.cit.*

²⁰ HADI, "The price of well being...", *op.cit.*

²¹ HAYNES, D. "Used, abused, arrested and deported: Extending immigration benefits to protect the victims of trafficking and to secure the prosecution of traffickers". *Human Rights Quarterly*, 2004, num. 26, 220, 228.

²² HUMAN RIGHTS WATCH, *Help wanted: Abused against female migrant domestic workers in Indonesia and Malaysia*. 2004. [on line] <<http://www.hrw.org/reports/2004/07/21/help-wanted>> [accessed: Dec. 20, 2015].

²³ SALAMA, Samir. "Domestic workers get more protection from exploitation", *Gulf News*, May. 02, 2012. [on line] <<http://gulfnews.com/news/gulf/uae/employment/domestic-workers-get-more-protection-from-exploitation-1.1016692>> [accessed: Dec. 20, 2015].

²⁴ SALAMA, "Domestic workers...", *op.cit.*

²⁵ HADI, "The price of well being...", *op.cit.*

African countries are trafficked and brought to the Middle East. Once they settle in they are employed for a lifetime. The ILO explains that the reason for poor wages is because their tasks are perceived as that of a typical woman and not as that of domestic work²⁶.

The ILO has passed a Convention concerning decent work for domestic workers²⁷ which helped provide for written agreed contracts between employers and employees and also provides for protection from child labour, abuse, hard working conditions of sixty hours a week²⁸, unilateral termination or modification of contract and a dispute redressal forum. The UAE has also made certain laws that are in conformity with the Convention²⁹. However, it is still to be seen if these laws are enforced in its true meaning and purpose.

4. Reasons for Exploitation

The Employer-Employee relationship in the Middle East is very constrained. There exists no equitable position. The employer enjoys a stronger bargaining power as in most cases he controls the accommodation, wages, food and tenure of the worker. Once employed, the workers are bound by their contract of employment. Since most of these migrant workers are illiterate, they often do not understand the terms of the contract. Most times, the contract is written in Arabic. Employers take advantage of the linguistic inability of the workers by adding harsh unilateral terms in the contract³⁰.

Also, the linguistic and cultural differences pose a huge problem to these workers. They would be unable to make written or oral complaints to the concerned authority. In the Middle East, all documentation should be done in Arabic. Even the knowledge of English will not suffice as in most cases, official complaints have to be typed in Arabic. These workers would not be in a position to afford translators and legal assistance. Thus, their concerns are unvoiced, leaving it to the International Labour Organization and Amnesty International to conduct interviews to identify their problems.

²⁶ *Report of the Special Rapporteur on human rights of migrants*, General Assembly, Sess. 26, UN Document A/HRC/26/35/Add.1, Apr. 23, 2014. [on line] <http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf> [accessed: Dec. 20, 2015].

²⁷ INTERNATIONAL LABOUR ORGANIZATION, *Domestic Workers Convention...*, *op.cit.*

²⁸ DOHA NEWS TEAM. "UN Report: Domestic Workers in Qatar work some of the longest hours in the world", Jan. 12, 2013. [on line] <<http://dohanews.co/un-report-domestic-workers-in-qatar-work-some-of-the/>> [accessed: Dec. 20, 2015].

²⁹ SALAMA, "Domestic workers...", *op.cit.*

³⁰ *Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Bahrain, Oman and Qatar*, UN Human Rights Council, UN Document A/HRC/4/23/Add. 2, Apr. 25, 2007, pp. 21-23; *Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon*, UN Human Rights Council, UN Document E/CN.4/2006/62/Add. 3, Feb. 20, 2006, p. 8.

Further, the Middle East follows the retributive theory of punishment. Therefore the penalties are severe³¹. This makes it even harder for the workers as small mistakes, which would otherwise be legal in their home state, is met with severe punishment. In most cases, workers are unaware of what is lawful and what is not. Employers take advantage of this information asymmetry and threaten the employer with penalties, if they show any sign of slack or resignation, which would normally not attract a penal provision.

5. Measures in place

The Indian Ministry of Overseas Indian Affairs has introduced an insurance policy that provides return and resettlement savings benefits at low premiums³². Various international conventions have been signed and draft contracts been entered into between the migrant nation and the host nation. However, the steps are seen only on paper. These laws do not reflect on the local laws of the signatory. Even if laws are modified, they are often violated in light of the submissiveness and vulnerability of the workers. Even the actions of the Indian Ministry do not address the root problem. It only aims at providing a form of financial security to workers, similar to any other insurance policy.

6. The Kafala (Sponsorship) System

This is a method adopted by the Qatari employers to ensure that they can exploit the workers. Here, the work permit is linked to the sponsor (mostly the employers), who then dictate the terms of employment. Frequent cases of abuse include, not granting the no objection certificate (allowing the migrant to change employers), confiscation of passports and refusal to pay migrant's plane tickets to return home³³. If an employer leaves without a no objection certificate, then the Ministry is informed and these 'runaways' are charged with imprisonment and fine. Although the Sponsorship law of 2009 abolished this practice, it is still rampant³⁴.

This practice violates the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms Racial Discrimination as it restricts the freedom

³¹ CHAPKIS, W. "Trafficking, migration, and the law: Protecting innocents, punishing immigrants". *Gender and Society*, 2003, num. 17, 933, 932.

³² BHARADWAJ, Vinita. "New Help for Migrant Workers from India", Sep. 05, 2012. [on line] <http://www.nytimes.com/2012/09/06/world/middleeast/06iht-m06-gulf-pensions.html?pagewanted=all&_r=0> [accessed: Dec. 20, 2015].

³³ INTERNATIONAL LABOUR ORGANIZATION, *Domestic Workers Convention...*, *op.cit.*

³⁴ INTERNATIONAL LABOUR ORGANIZATION, *Domestic Workers Convention...*, *op.cit.*

of movement and amounts to forced labour³⁵. The employer has to spend the first three years of his life as a domestic worker just to pay off his recruitment fees. This ensures that the worker does not flee. This amounts to trafficking as defined by the Palermo Protocol³⁶.

7. What is the next step?

It would seem like the most obvious solution to the existing problem would be to strengthen the law and ensure that international norms are complied with. But clearly, this hasn't worked in the past. The answer to these worker's problems would lie in the attempts of the migrant nations. The various embassies have to constantly monitor the condition of its people in the Middle East. The nations must enter into agreements with the Middle East nations to allow the embassies to have an effective control over the condition of its workers and blacklist those companies that violate set norms.

Considering the heavy dependency for migrant labour, the Middle East nations are most probably going to accept these terms. Many workers are coaxed into signing fancy agreements which alters itself on landing³⁷. This practice needs to end today. Providing information sessions and pre-departure training for potential migrants could help ensure that they have the necessary training and skills, as well as information on working conditions in Qatar, their rights and how to access those rights³⁸. The Ministry of Labour and External Affairs need to take a stand against such criminal practices and curb the practice of illegal recruitment agencies adopting alternative practices of transferring innocent workers to far off lands.

³⁵ *ILO Forced Labour Convention, 1930* (No. 29), art. 2(1) which defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

³⁶ *United Nations (UN) Convention against Transnational Organized Crime and the supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons*, Nov. 15, 2000, art. 3(a) states that “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

³⁷ *Report of the Special Rapporteur on human rights of migrants*, General Assembly, Sess. 26, UN Document A/HRC/26/35/Add.1, Apr. 23, 2014. [on line] <http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf> [accessed: Dec. 20, 2015].

³⁸ INTERNATIONAL LABOUR ORGANIZATION, *Domestic Workers Convention...*, *op.cit.*

8. Conclusion

Manual labour has always been underrated in importance and investment. This is mainly due to centuries of psychological acceptance of their ill treatment. Under the present laws, these workers are accorded considerable protection in lieu of social security. But in case of migrant workers, the plight is pathetic. In some countries, the population of migrant workers outnumber the local population. This subtly leads to colonization.

A well developed nation is reflective of the way it treats its labour force. It is hoped that the coming century is free from torture and trafficking. The importance of labour is often taken for granted by the rich and the influential. All it would take is a mass uprising of the labour class to suspend all developmental activity in the country. Before such revolution takes place, we must secure the interests of these people.