

Neo-Slavery: Human Rights Violations of Migrant Construction Workers in UAE

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Abstract

The United Arab Emirates is well-known globally for its mega construction projects. To support the growing need of manpower in the construction industry, this country heavily depends on cheap migrant workers from across the world. Because of this big population of migrant workers in the UAE, the importance of the protection of their human rights is very significant. On the contrary, despite existing human rights laws and continuously talking about it, severe human rights violations of migrant workers are reported daily in mainstream media. Regardless of the presence of UAE's labor law, and other government led initiatives, migrant workers face severe human rights violations from the starting from the recruitment to till the end of these hectic jobs with unpaid or underpaid wages. These migrant workers are not even aware of the rights they are supposed to throughout this whole journey. Through comprehensive analysis of available academic reports, original human rights reports, legal documents, statistics and media reports, this paper identifies the areas of human rights violations faced by migrant workers with a particular focus on construction workers. This paper highlights some main causations of the human right violations like the Kafala system which is leading to financial incapability for the workers, as well as shows what responsibility the originating country of the migrant workers are showing. Finally, the paper emphasizes the need for labor law reforms, including enhanced legal protections and the support and empowerment of workers' unions to safeguard the human rights of this vast migrant community.

Keywords: Migrant Workers, Human Rights Violations, Kafala System, Construction Industry, UAE Labor Law

Neo-Slavery : human rights Violations in UAE Construction Industry

The United Arab Emirates (UAE) is one of the biggest markets for migrant workers. During the oil-driven economic boom in the 1990s, a major construction wave started for the rapid development of cities, big iconic skyscrapers to accommodate businesses from around the world. It created substantial demand for labor to work in the construction industry as engineers, experienced supervisors but mostly as construction workers. UAE's entire workforce is served 90 percent by migrant workers and among them approximately 500,000 are working in the construction industry (Sönmez et al., 2013, p.1). Most of that labor gap was filled by unskilled, semi-skilled workers from South Asia, mostly from India, Pakistan, Bangladesh and Sri Lanka. During the construction rise, about half of the country's 4 million inhabitants were employed in the construction industry across Dubai and the other Emirates (Sönmez et al., 2013). These construction workers changed the UAE's image from a poor desert country to a futuristic country in front of the world. Unfortunately, the human rights of these migrant workers are overlooked by their employers, the government of the United Arab Emirates and their originating countries. Due to the lack of labor law enforcement, inadequate migration policies from both host and origin countries, and insufficient human rights frameworks, the situation for migrant workers remains dire. Employers sometimes weaponize the absence or implementation of legal frameworks to protect migrant workers and make this situation worse for migrant workers and their families. Although the UAE has existing labor laws and other government led initiatives for the human rights protection of migrant workers, the incompetence of these protection mechanisms, lack of their implementation, and enforcement failed to protect human rights of migrant workers in the construction industry.

Areas of Human Rights Violations

Migrant workers faced violation of their human rights in multiple aspects in the process. It starts early before even they get recruited by a local recruitment agency in their home country and it continues to affect wages, working conditions, living conditions, access to legal rights and a lot more.

Lack of Transparency during Recruitment

Generally construction companies in the UAE hire migrant workers through local recruitment agencies in their targeted countries. These local agencies make fake promises about job, salaries; which harm their right to information in the first place. These recruitment agencies take USD 2000-3000 from the migrant workers for their ticket, visa, insurance and their fees. As most migrant workers are poor and less educated, they often cannot afford the hefty fees and are forced to sign loan contracts with unfavorable terms and high interest rates. The ill attitude to make profit from the uneducated underprivileged people, puts them in debt even before they start working and takes away their bargaining chip to talk about rights, wages and other basic needs.

Passport Seizure

Passport seizure sounds very hazardous for any foreign nationals abroad, but this is a general act for construction companies in the UAE. The companies use this tactic to bind migrant workers to obey their contract even if the working conditions are poor and wages are below the minimum wages. This practice puts an unofficial travel ban on migrant workers, which leads them in a do-or-die situation in the workplace. Already burdened with significant debt from the recruitment phase and deprived of access to their passports, migrant workers lose the option to return to their home country or seek legal assistance against their employers. This leaves them with no choice but to comply with whatever their employers demand.

The Kafala System

The UAE is known for top-notch legal support to locals and their expat population mostly from the west. However it has been always ignoring the importance of legal protection for migrant workers. The primary reason is the long debated imposition of the “Kafala System” by the government. The Kafala system refers to a sponsorship based system that puts every migrant worker in need of a Kafael to sponsor their visa. This contract is temporary, having the time frame of one year. No migrant worker can be hired without this contract mentioned. For that reason, according to Ali, 90% of the population who work under the construction industry, is on a temporary visa (2010). This temporary or guest status is a tool for the government to overlook the human rights of these workers. The Kafala System also restricts workers to change employers or leave the country, even if the working condition is bad or any other problems faced by migrant workers. This system puts the employer (Kafeel) in a very powerful position over the employee; which creates a situation where migrant workers never raise their voice for their right out of fear of deportation.

Ban on Worker Union

In the UAE, the voice of migrant workers never reaches the policy making table. According to the Kafala system, there was a ban on workers’ unions and strikes against their employer; which directly limited the voice of workers and a way to avoid answering their questions regarding their human rights. As noted by Human Rights Watch, independent organizations advocating for migrant workers’ rights are lacking. Furthermore, no system exists for the systematic reporting of worker abuses (2006, p. 24).

Poor Wages

Poor wage is another form of human rights violation experienced by migrant workers. Rapid infrastructure development initiatives all over Dubai create a big need of labor. This human resource gap is filled by migrant workers mostly from India, Pakistan, Bangladesh, Nepal and

Philippines, countries that are financially underdeveloped and more likely to accept less wages. Employers in UAE's construction industry use their vulnerability as their opportunity to maximize their profit by paying below the minimum wages, forcing them to overwork and delaying or stealing their salary. The UAE government is continuously failing to enforce the minimum salary for migrant workers, which leads the migrant workers to earn way below the average Emirati. According to the Human Rights Watch (2006) report titled "Building Towers, Cheating Workers," a construction worker earns an equivalent of \$175 per month, while the average monthly per capita income in the UAE is approximately \$2,106 (p.2). This poor wage condition forces them to live in substandard accommodations, consume unhealthy food, and forgo any form of entertainment. Furthermore, it prevents them from integrating into society due to financial constraints, perpetuating their marginalization and exclusion.

Poor Working Condition

Construction industry is a prime example of hard-labor, high risk jobs. As UAE's geographic location is in the Middle East which is one of the most heated regions of the planet, long working hours in excessive heat made this place the hardest for migrant workers. These poor working conditions include long working hours, lack of proper resting place, access to cold water, even access to air conditioned transportation; which create short term and long term health hazards for migrant workers which sometimes even lead them to death. During COP28 in November 2023, hosted by the UAE, migrant workers were reported to be working under extreme heat at COP28 sites, despite a UAE policy that bans midday work during the summer to mitigate such conditions (Human Rights Watch, 2023).

Poor Living Condition

In most cases, accommodation for these migrant labor is provided by the employers. These housing, commonly known as labor camps, have poor conditions with lack of basic amenities where 10-12 migrant workers live in an unhealthy way in one room. Those labor camps do

not have enough toilets, sanitation and any fire or disaster management system. There were several media reports by BBC, Guardian during covid-19 about unhealthy living conditions in these camps which became viral.

Underlying Causes of Human Rights Violations

Understanding the root causes of human rights violations in the UAE's construction industry is crucial for developing effective solutions. Despite international safeguards and local labor laws, migrant workers continue to face severe abuses. This section will delve into the underlying factors contributing to these violations, including economic disparities, inadequate legal protections, and social and cultural barriers. By examining these causes, we can better understand the systemic issues at play and work towards meaningful reform.

Economic Disparities

Most of the migrant workers came from uneducated and poor backgrounds to earn a fortune for their family. Their uneducated background and lack of economic power led them to allow or stay muted against their human rights violations. It starts back in their home country by signing up for fraud agencies with fake lucrative offers to work in Dubai. Their desperation to change their fortune by moving abroad keeps them muted about asking any question about working conditions or other necessary aspects. However, once they arrive at their destination, the reality of life there is far from the glorious picture portrayed by the agents.

Imbalance Employment Contract

As mentioned before, the existence of the “Kafala System” puts migrant workers in a powerless situation compared to their employers in the employment contract. This imbalance in power creates more and more human rights violations as workers can not change their employer at the first place; then they have to go through a lengthy, non-arabic speaker unfriendly legal process to fill a complaint against the employer, where there was possible threat from employer for deportation and chances of system biasness to employer.

Social and Cultural Factor

Migrant workers faced discrimination due to social and cultural barriers, which restricted them to become a part of UAE society. Sadly these migrant workers are always treated as second class citizens. This inequality itself violates Article 1 of the Universal Declaration of human rights of human rights where it is clearly mentioned “All human beings are born free and equal in dignity and rights” (United Nations, n.d.). And, that right violation led to more human rights violations, including limited access to service and support compared to citizens, unequal pay, poorer living conditions, isolation from the broader community by living in labor camps. And for those reasons, the local Emirati people never feel the need for human rights protection of this community and stand with them.

Weak Diplomatic Influence

Diplomatic activity from the home country is often limited or completely absent regarding the protection of their citizens who are working as migrant workers in the UAE. The reasons behind this is comparatively less power of the countries, like Pakistan, Bangladesh, Nepal, Sri Lanka and Philippines etc. This almost inactivity led to no change in the policy level to protect the rights. Also, there was limited international pressure to reform the migrant rights situation and keep this situation unchanged.

Existing Measure and its Limitations

After multiple human rights violation reports against the migrant community from international organizations and labor rights protection bodies, hundreds of deaths every year — the United Arab Emirates government took some measures to protect the human rights of this immigrant worker community.

UAE Labour Law

Like most countries in the world, the United Arab Emirates has its own labor law. This labor law is a federal regulatory mechanism which is applied in all emirates of UAE which regulates minimum wages, maximum working hours, health and safety policy, annual leave and sets up an overall system for UAE employers to hire workers including local and migrant workers. UAE Labour law is currently failing to protect human rights of migrant workers mainly because of inefficiency, lack of effective implementation and monitoring. This law legitimizes the Kafala system, which is one of the tools for the emirates government and employer to deny workers human rights. This law also restricts workers union and right to protest which is one of the biggest shortcomings of this law to protect human rights.

Mid-Day Work Ban

The UAE government took some other initiatives to protect the rights of migrant labor workers other than labor law. One of the prominent ones is the ‘Midday Work Ban’ which is a labor protection measure for outdoor workers, especially in the construction industry during extreme summer months when the temperature stays constant around 40 celsius. This ban is a major step to protect migrant worker’s rights which can safeguard migrant workers from heat-related illnesses by prioritizing their health and safety in the workplace. But due to lack of monitoring, this midday work ban is not followed by many construction companies which leads to health hazards for migrant workers in the long term.

Reform of Kafala System

For decades, the Kafala System faced criticism from local and international stakeholders, especially from human rights monitoring organizations. UAE govt. took initiative for significant reform of this long-debated system in 2016. With an aim to provide more suitable working conditions for migrant workers, they created a new system named ‘Employment Contract System’ (NYCFPA, 2023). In the new system they introduce reformation in the wage protection system, flexible job mobility, introducing grievance mechanisms and well

defined health and safety regulations. But, this new reform has not completely demolished the old Kafala system. Even in this new system, visa and residency status of migrant workers are still highly connected with their employer; which is one of the major drawbacks of this new 'Employment Contract System'. Additionally, lack of enforcement and lack of awareness among migrant communities are still there which impact the implementation and impact of this new system.

Legal Dispute Mechanism

The Ministry of Labour also introduced a legal dispute mechanism to solve disputes between migrant workers and their employers. But, the system was criticized due to prejudice, possible negligent and bureaucratic lapses. It faced criticism from many people including acting head of the Civil Cases Unit of Dubai Court, Mohammad Saleh Al Madani who said in a newspaper, "The Ministry of Labor has no coordination with the Dubai courts or an action plan to protect laborers' rights. It also lacks information about the companies' status. In most of the cases the court finds that the companies involved in the dispute have shut down or have no properties or assets. Even the Ministry itself does not have important documents. If the Ministry has all relevant documents, this will facilitate the court's work and help expedite the proceedings more effectively. Even when the ministry submits the laborer's files, we find many important documents missing, such as labor contracts." (human rights Watch, 2006) His statement points out key failings of the legal disputes mechanism.

Formation of human rights Bodies

The UAE government introduced human right protection and enforcement bodies recently. Newly introduced protection bodies include the Ministry of Human Resources and Emiratisation, the National human rights Committee, and the Federal Authority for Identity and Citizenship (NYCFPA, 2023). These bodies are responsible for looking after labor conditions, taking care of labor complaints and enforcing labor law. Formation of these

bodies improves the condition of migrant workers but still not being able to fully protect human rights. The living and working conditions of these migrant workers have not been improved. There were multiple reports on overcrowded and unsanitary living conditions in labor camps, and workers face forced labor and debt bondage, particularly in the construction industry (NYCFPA, 2023).

Recommendation for Improvement of Human Rights Condition

Strengthen Legal Protections and Enforcement to Protect Basic Human Rights of Migrant Workers

Legal protection and enforcement is one of the key areas of improvement for UAE's effort to improve human rights of migrant workers in the construction industry. First of all, reformation of UAE labor law is needed. New labor laws should go through revision of minimum wages including assurance of timely payment and no theft of migrant workers payment through Wage Protection Mechanism (WPS) in all sectors including construction industry. Secondly, setting clear working hours and mandatory rest periods are also important to ensure workers's health, especially for extreme labor industry work like construction. Moreover, ensuring safety measures in the workplaces is an important aspect to prevent workplace accidents and injuries by utilizing personal protection equipment (PPE) via regular inspection and mandating it. Most importantly, new labor law should keep the door open for forming labor unions and the opportunity for worker's collective bargaining like strike, so that workers can protect their own rights. Including rights is not enough, keeping violators accountable through robust enforcement of labor law is equally important. This should include regular inspections, and for that reason the UAE government should recruit and train more labor inspectors to cover vast construction sites of UAE. Government should also ensure labor inspectors have knowledge and training about human rights standards, labor laws and workplace safety practices. Formation of an independent body to oversee labor

inspection, inspection report and ensuring public disclosure to avoid any corruption is also very important. Government should also impose penalties for non-compliance which will include financial penalties, license suspension or ban and blacklist the company. This step will fill the current gap in penalties and its implementation barriers.

Provide Clear Guideline for Improvement of Living Conditions

Initiating a comprehensive housing and health & safety regulation is an important step for developing human rights conditions in the UAE construction industry. Housing regulation should include clear guidelines for worker living standards where it should mention minimum space requirement for each person, access to proper sanitation facilities, access to drinking water and last but not least set clear requirements for fire safety measure and pest control.

Government should establish regular inspections and impose penalties for employers who failed to ensure the standard through a transparent system for reporting violations and ensure timely corrective actions. Government can involve workers in the monitoring system via regular surveys and feedback forms for even more effective inspections.

Support Workers Union through Instrument This in National Labour Law

The UAE government should legalize the formation of labor unions or workers committees and the opportunity for worker's collective bargaining like strike, so that workers can protect their own rights by including in new labor law. New law should have the capabilities to protect union activities and its members from employers' recrimination for maximum effectiveness. Places where worker union is not do-able, the worker committee should be formatted as representative of workers to negotiate with employers for their rights including advocating for basic human rights of the workers. Government and employer should empower worker union leaders through training programs on labor rights, negotiation skills through partnership with international labor organizations to support and guide union activity.

Develop Ethical Recruitment and Employment Practices

Establishing an ethical and transparent recruitment and employment practice is one of the key areas where it requires immediate improvement. First of all, formatting a regulation for recruitment agencies with license requirements and regular audits can be pivotal in pushing them (agencies) to adopt ethical recruitment practices including not charging any fees for workers and right interpretation of work description and salary. New recruitment practices should also push for employer-paid recruitment fees and a standardized recruitment contract; which should cover agency fees, travel expenses and visa fees and include clear job description, salary, working conditions and employment terms. Additionally, the UAE government should partner up with worker sending countries to promote ethical practices and jointly monitor and regulate their respective side of the stakeholders.

Government Effort to Bridge Social and Cultural Barrier between Native Emirati and Migrant Workers

Language barrier and cultural inclusion is one of the key reasons for human rights violation not only in the construction industry but for all migrant workers. Government should emphasize the importance of bridging the social and cultural barrier to better protect and serve migrant workers in the UAE. It should start with bridging the language barrier by making documents and information available for the worker's native language or in the places where this is not possible, the government should ensure an interpreter.

Government should highlight the contribution of migrant workers in the development of the UAE through TVC, OVC or other communication materials. This will change the perspective of native Emirati's perspective towards the immigrant community and possibly create social and cultural harmony.

Conclusion

In closing, this exploration into the lives of migrant construction workers in the United Arab Emirates reveals a disheartening contrast between the country's towering skyscrapers and the ground-level realities of those who build them. These workers, who come seeking better opportunities, instead find themselves caught in a system—marked by the Kafala system and weak enforcement of labor laws—that exploits rather than uplifts them. The findings of this paper call not just for policy reforms but for a fundamental shift towards empathy and justice. By dismantling exploitative systems like the Kafala, strengthening labor laws, and supporting workers' unions, the UAE can begin to offer a foundation of dignity and respect as solid as the buildings these workers construct. It is time for the UAE to build not just with bricks and mortar, but with the enduring materials of human rights and compassion.

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