

Enhancing the Protection of Migrant Workers in Dubai

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Nazila Ghanea

Dubai “ranks as one of the worlds leading trading centres and offers a gateway to a market of more than one billion people, covering the Gulf States, most of the Middle East, CIS, East Africa and Asian sub-continent as well as the more challenging markets of Iraq and Iran”.¹

Dubai, one of the seven emirates² composing the United Arab Emirates (UAE), with the UAE in turn constituting one of the six member states of the Gulf Cooperation Council (GCC).³ The GCC countries have amongst the highest percentages of migrant workers in the world in relation to their populations – constituting around one third of the total population of the GCC and amounting to around 12 million persons. Amongst these already high percentages of migrant workers in GCC states and the UAE in particular, Dubai’s proportion is amongst the highest still. The presence of migrant workers in GCC states is not a new phenomenon, but dates back to the earliest days of their independence, now stretching back over four decades. Yet, as the presence of migrant workers has increased and reliance on them for phenomenal rates of development in GCC states become stronger, there has been no concurrent increase in protections for migrant workers at all.

The specific focus of this study is on Dubai, as it is at the forefront in the region’s search to become a hub for global trade and investment. This makes it the most suitable focus in the GCC for the consideration of labour standards in the light of the twin foci of attention in this study:

1. the human rights standards, and
2. the question of the sustainability of Dubai’s economic development in the context of continued poor labour standards.

Human Rights Standards

The United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families came into force in July 2003. This Convention defines a migrant worker as a person engaged in employment in a State where he or she is not a national. The Convention protects the rights of migrant workers and their families without distinctions such as sex, race, religion or national origin, nationality, age, economic position, property, marital status, birth or other status. It includes: freedom to leave any State; the right not to be held in slavery, servitude or forced or compulsory labour; effective

¹ UK Trade and Investment, Overseas Market Introduction Service, UAE Economic Overview and Guide to Doing Business, Guide to Doing Business, January 2005, p. 3,

<https://www.uktradeinvest.gov.uk/ukti/ShowDoc/BEA+Repository/345/366341> (accessed May 2006)

² The emirates composing the UAE are: Abu Dhabi, Dubai, Sharjah, Ajman, Umm al-Qaiwain, Ras al-Khaimah and Fujairah.

³ The GCC states are: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

protection against violence and intimidation by both public and private actors; protection from arbitrary detention; the prohibition of imprisonment on the grounds of failure to fulfill a contractual obligation; the illegality of anyone other than an authorised public official from confiscating identity and other documents; the prohibition of unfavourable remuneration and conditions of work in comparison with nationals and the right to equality with nationals of the State before courts and tribunals. It also provides for a monitoring committee to oversee progress towards the implementation of Convention standards in the States Parties. None of the countries of the GCC are States Parties to the Convention.

As well as this UN Convention, a Special Rapporteur on the Human Rights of Migrants has been appointed by the UN Commission on Human Rights since 1999 to report on related human rights matters. The Special Rapporteur has raised a number of concerns in relation to GCC states. There are further human rights standards applicable to the situation of migrant workers in Dubai that need to be examined in order to assess how best they can be utilised in the promotion the rights of migrant workers.

Core Labour Standards

Core Labour Standards⁴ are those basic working conditions that all workers are entitled to regardless of status or nationality. They have been agreed by the international community through the International Labour Organisation (ILO) as consisting of four core standards as agreed in eight core conventions. These are as follows:

1. freedom of association and the effective recognition of the right to collective bargaining (ILO Conventions 87 and 98)
2. elimination of all forms of forced or compulsory labour (ILO Conventions 29 and 105),
3. the effective abolition of child labour (ILO Conventions 138 and 182), and
4. the elimination of discrimination in respect of employment and occupation (ILO Conventions 100 and 111).

These four Core Labour Standards were embodied in the ILO's June 1998 Declaration on Fundamental Principles and Rights at Work. They are considered as fundamental human rights and freedoms that are *universally applicable* regardless of state ratification or non-ratification. This is because they are regarded as part of customary international law. These are complemented by a range of other standards relating to workers that apply in accordance with state ratification.

What is important to note is that the UAE, despite its membership of the ILO since 1972, has not ratified the two ILO Conventions that protect the first set of these core standards – those relating to freedom of association and the effective recognition of the right to collective bargaining, ILO Conventions 87 and 98. The significance of this component of the four core standards to ensuring effective enjoyment of all four core standards by migrant workers in Dubai, cannot be overestimated.

Trade, Investment and Labour Standards

⁴ <http://www.ilo.org/public/english/standards/norm/index.htm> (accessed June 2006)

In recent years, existing labour and human rights standards have been supplemented by further interest in delineating the responsibilities and good practice of businesses in respect of labour standards. Both the UN Global Compact and the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (Human Rights Norms for Business) address labour standards and worker's rights. These 'top-down' efforts have been complemented by civil society activism in highlighting egregious violations of worker's rights by particular sectors and companies.

There are additional and very tangible trade incentives for Dubai and the UAE to address labour standards. If the current negotiations with the US for a Free Trade Agreement (FTA) are to be successfully concluded, the UAE would need to change its labour code. These negotiations began in 2004 under the US-UAE TIFA,⁵ and recognised "the importance of providing adequate and effective protection and enforcing workers rights in accordance with each nation's own labor laws, and of working toward respect and promotion of internationally recognized core labor standards as reaffirmed in the Doha Declaration".⁶ Furthermore in relation to the EU, whereas the GCC benefits from preferential access to the EU's market under the Generalised System of Preferences (GSP)⁷ general agreement, the enhanced GSP+ arrangement would require compliance with the eight ILO Conventions referred to as the 'core labour standards'.⁸ Much progress would be required in the UAE for compliance to these standards.⁹

Project in brief

The aim of this proposed International Policy Fellowship project is to research and advocate the promotion of the rights of migrant workers in Dubai. The issue of the promotion of worker's rights in Dubai is analysed and advocated through two prisms, both through a human rights framework and a business rationale for maintaining a sustainable trade and investment environment in Dubai. This allows a wider set of stakeholders to be pulled together towards this common objective and widens the practicability of this project to the question of how protections can be enhanced considering the UAE's political, legal, trade and investment environments.

By studying the situation of Dubai, lessons can be learnt for how the legal, normative and policy framework for the protection of the rights of migrant workers may gradually be brought into line with international standards both in here and in neighbouring states.

⁵ US-UAE TIFA (2004), Trade and Investment Framework Agreement, for the fostering of trade, investment and economic cooperation between the two countries.

⁶ US-UAE TIFA (2004), para. 17.

⁷ There are three types of arrangement in force for beneficiary countries, under the EU's GSP in Regulation (EC) No 980/2005 for the period 1 January 2006 to 31 December 2008.

⁸ These are the standards laid down in the eight ILO Conventions concerning the four areas to which the 1998 ILO Declaration on Fundamental Rights and Principles at Work refers: No 29 and No 105 on the elimination of all forms of forced or compulsory labour, No 87 and No 98 on the freedom of association and the effective recognition of the right to collective bargaining, No 100 and No 111 on the elimination of discrimination in respect of employment and occupation, and No 138 and No 182 on the effective abolition of child labour.

⁹ For example in the following areas: the elimination of all forms of forced or compulsory labour, the right to collective bargaining, the elimination of discrimination in employment and occupation.