CHAPTER 4
INDIAN EXPATRIATES IN UAE
This chapter explores about the Indian expatriates in the United Arab Emirates (UAE) and discusses relevant aspects including issues like the decision to migrate and its theories, process of expatriation to UAE and its labour laws, living conditions and expatriate management practices. Section 4.1 gives overview on expatriate workforce in the UAE. Section 4.2 gives some light on trend of migration from India to UAE. The causes of migration have been discussed in section 4.3. Process of expatriation has been extensively explained in section 4.4. Section 4.5 discusses and finds out issues and challenges faced by Indian expatriates. Section 4.6 explains the ILO conventions. Section 4.7 mentions UAE Labour laws and its comparative analysis have been shown in Section 4.8 and section 4.9 is about expatriate management practices in the UAE.

4.1 Expatriates in UAE

UAE comprised of people from all across the world, its multicultural setup comprised of 80% of the expatriate population. The UAE provides an attractive environment for foreign workers of 200 different nationalities. Expatriates always bring the skill which is lacking in the local labour market and hence leads to better development and if we talk about the host country they get remittances in return. This chapter is about UAE and its labour Market. Chapter 4.1.1 mentions historical background of the UAE and Chapter 4.1.2 discuses about the UAE labour market.

4.1.1 Historical Background of the UAE

During the first Century, Romans dominated the region and they used the sea routes for trade and commerce. Byzantine Empire was dominating the region. At that time the main commodity for trade was pearls & seafaring. During the late 630 AD, the region adopted Islam massively after Prophet Muhammad’s call. During 16th century Portuguese arrived in the gulf due to which Arab residents of Julfar and east coast ports faced dire consequences thereafter European power gained the supremacy in the region. In the 18th century, the Qawasim - the local power gathered strength and provoked British personnel to control the maritime trade routes between the Gulf and India. During early 1790’s, Abu Dhabi became the hub of pearl trade and the political

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leader of BaniYas group moved to Abu Dhabi from Liwa. In 19th century member of the Al Bu Falasah, a branch of the BaniYas, settled along the bay area in Dubai and established Maktoum rule.

Qawasim was defeated in 1820, and British signed good number of agreements with the Sheikhs of the individual emirates. The joint move later stressed on preserving a maritime truce and the area became known as “the trucial states”. Further, the First World War led to economic depression in the late 1920’s and early 1930’s, negatively affecting the date farming and pearl harvesting. Japanese invention of cultured Pearl and heavy taxation imposed by Indian government on Pearls imported from Gulf, just after World War II, also elevated the depression in UAE.

In 1946, Sheikh Zayed was chosen as ruler’s representative. He was well versed with the geological condition of the region as in early 1930’s an oil company came for a geological survey in the region. The first cargo of crude oil was exported from Abu Dhabi in 1962 and in 1966, Abu Dhabi was then ruled by Zayed’s brother. He promptly increased contribution to the Trucial States Development Fund and with revenues growing as oil production progressed. Sheikh Zayed undertook a massive construction programme, building schools, housing, hospitals and roads.

In 1968, British announced their intention of withdrawing from Arabian Gulf. And by the end of 1971 following a period of negotiation, an agreement was reached between the rulers of 6 of the emirates forming a federation popularly known as United Arab Emirates (UAE). Formally, UAE was established on 2 December 1971 with Sheikh Zayed become the first president. In 2004, he was followed by his eldest son H.H. Sheikh Khalifa bin Zayed al Nahyan.²

UAE has experienced various makeovers from desert to modern state and from usual trade of fisheries, livestocks’ and pearls to outstanding services and urbanized the state with higher level of standards of living. The population of UAE (year 2009) can be observed in Table 4.1. In the 21st century, the fast economic growth and development cannot be denied by the world that too in this competitive era. The current GDP (Gross Domestic Product) of UAE is estimated to be about US$400 billion in 2013 and has been growing at 4% rate of economic growth which provides an aggregate measure of changes in value of goods and services produced by an

² Facts and figures taken from website of UAE Embassy, New Delhi
economy. Because of UAE’s successful economic diversification they have reduced the portion of GDP based on natural resources output to 25%.

Table 4.1: Area, Population and Population Density of UAE (by Emirate)

<table>
<thead>
<tr>
<th>Emirates (Official name in Arabic)</th>
<th>Area(^1) (km.sq.)</th>
<th>Percentage (^2) (%)</th>
<th>Estimated Population(^2) (thousands)</th>
<th>Density/km.sq.</th>
<th>Emirates</th>
</tr>
</thead>
<tbody>
<tr>
<td>أبوظبي</td>
<td>67340</td>
<td>86.7</td>
<td>1628</td>
<td>24</td>
<td>Abu Dhabi</td>
</tr>
<tr>
<td>دبي</td>
<td>3885</td>
<td>5.0</td>
<td>1722</td>
<td>443</td>
<td>Dubai</td>
</tr>
<tr>
<td>الشارقة</td>
<td>2590</td>
<td>3.3</td>
<td>1017</td>
<td>393</td>
<td>Sharjah</td>
</tr>
<tr>
<td>عجمان</td>
<td>259</td>
<td>0.3</td>
<td>250</td>
<td>965</td>
<td>Ajman</td>
</tr>
<tr>
<td>أم القيوين</td>
<td>777</td>
<td>1.0</td>
<td>56</td>
<td>72</td>
<td>Umm Al Quwain</td>
</tr>
<tr>
<td>رأس الخيمة</td>
<td>1683.5</td>
<td>2.2</td>
<td>241</td>
<td>143</td>
<td>Ras Al Khaima</td>
</tr>
<tr>
<td>الفجيرة</td>
<td>1165.5</td>
<td>1.5</td>
<td>152</td>
<td>130</td>
<td>Fujairah</td>
</tr>
<tr>
<td>إجمالي الدولة</td>
<td>77700</td>
<td>100.0</td>
<td>5066</td>
<td>65</td>
<td>Total</td>
</tr>
</tbody>
</table>

Note: 1 Excluding Islands area which is about 5900 km\(^2\).
2 Estimated population in midyear according to 1995 and 2005 census data.

Also, the world is witnessing the outstanding growth of the UAE in terms of higher education and that is not merely because of the rapid growth of the population but also the higher education opportunities. Lefrere (2007) mentions that this has a result on increase in investment by the private sector in higher educational institutions in the gulf.

4.1.2 The UAE Labour Market

The humankind is witnessing the high rate of growth of UAE from any other country in the Arabian Gulf region. The infrastructure and the construction are going to assist this growth rate to sustain it further. UAE comprised of 7 emirates (Abu Dhabi, Dubai, Sharjah, Ras-al-Khaimah, Al-Ain, Fujairah and Ajman). UAE is a member of Gulf Co-operation Council (GCC). The government is currently working on the

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5 Source: http://www.tradingeconomics.com/united-arab-emirates/gdp-growth accessed on 17 March 2014
process of Emiratisation. The UAE and other GCC country such as UAE, Kuwait and Qatar are dominated by expatriates making their own population into “demographic minorities”. For instance, in UAE foreigners constitute 80% of the total population. Therefore it is obvious that many nationals of these countries feel insecure due to large presence of outsiders in their respective countries. The current situation is an urgent call for localization.

The total labour force represents different nationality of the population, which comprised of approximately 19 percent UAE national, 19 per cent other Arabs and Iranians, 50% South Asians, and 8% expatriates from Western and other countries. Most white-collar jobs in private companies belong to Western, Arab, and Indian expatriates, the immensity of employees in the service sector are South Asians or from the Philippines, and cleaning and construction jobs are accomplished by expatriates from South Asia, especially Indian, Pakistan, and Bangladesh (see Figures 4.1 and also Figure 4.2).

Figure 4.1: Distribution of Labour Force in the UAE
Source: National Bureau of Statistics, UAE

Ibrahim (2005), states that in recent decade’s unemployment has been rose to more than 15 percent. This data varies according to different estimates i.e. as per another

6 Emiratisation is the policy which aims at reducing unemployment among nationals or a process which is being introduced to increase the participation of locals in the labour market at the same time declining the huge number of expatriates in the UAE labour market
7 Localisation is a policy which refers to introduce participation of locals in the labour market for example; emiratisation, saudisation etc
data Abraaj Capital (2006) and Standard Chartered Bank (2004), the UAE unemployment rate has been estimated at 3 per cent.

Global Economic Forum has classified the UAE economy for seventh year consecutively among 23rd world economies based on innovation and creativity. According to The Global Competitiveness Report 2012-13 released by the World Economic Forum in Geneva on Wednesday, the UAE has been ranked 24th out of 144 countries globally, jumping three ranks from the last year. The report evaluates the country’s competitiveness along the 12 pillars corresponding to three main stages of economic development: Stage 1: Factor Driven; Stage 2: Efficiency Driven; and Stage 3: Innovation Driven. The UAE had joined the innovation and creativity driven economies since 2006. As a result, it has been ranked ahead of New Zealand, Australia, Italy and Spain.

Reem Al Hashimy, Minister of State and Chairperson of the Emirates Competitiveness Council mentions the status of UAE as one of the most advanced and innovative countries, and gives credit to UAE leadership for the UAE's 2021 vision envisioning to transform the country as one of the most competitive countries in the world by 2021. She also mentions that UAE's competitiveness index regarding the labour market efficiency surge by 21 points to ranking at seventh globally, reiterating that the UAE would score better results in the next global competitiveness reports.

The UAE topped the list among Arab countries and ranked 5th globally in the World Bank’s Doing Business Report for ease of trading across borders. Similarly, it ranked 1st among Arab countries and 17th worldwide on the UN’s recent World Happiness Report and 16th internationally in the IMD’s World Competitiveness Yearbook.

Workers in the UAE are some of the happiest in the region, according to a new survey. The high levels of satisfaction have helped the UAE become the most preferred country for relocation among employees in the region. Figure 4.2 shows the composition of Asian and non-Arabs in the labour force of UAE (by age group).11
4.1.3 Women workforce Participation in UAE labour market

The Emirati women’s participation at workplace has increased tremendously and quadrupled between 1980 and 1990, with the total number of national females (or Emirati women) as 100,000 in year 2010. Earlier men’s occupation was related with sea faring, pearling etc. and women was involved with agriculture and household activities. But now the scenario has been changed pertaining to the oil based development, and the women is also a part of it. The majority of students at UAE University and the Higher Colleges of Technology (HCT) are women. It can be taken as intimation that they are getting themselves ready for the future and will not need such a huge number of expatriates in coming years.

Women statistics

The total population of UAE national women is 468,888, out of which 83,784 lives in Dubai. Literacy rate of native women is 91% and a high number of women are involved in secondary and tertiary education. Native women are actively involved in

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politics with 22.5% is the share of women in parliament, accounting for 9 members of the Federal National Council of the UAE.

- 17% is the share of female ministers in the UAE, accounting for 4 posts in the Cabinet: The minister of Foreign Trade, Minister of Social Affairs and 2 Ministers of State. 4 is the number of female representative of the UAE abroad, accounting for 3 ambassadors and 1 consul general.
- 43% is the share of labour force participation of women in the UAE
- UAE women constitute 66% of the public sector workforce, 30% of which are in senior posts

The share of females in the country's labour force in 2008 was 15.5 percent.\(^\text{13}\)

### 4.2 Trend of Migration from India to UAE

Migration is the central issue of today’s world. Millions of people every year leaves their home and crosses their national boundaries with the desire of higher wages and better opportunity for employment.

The importance of the region in respect to migration from India lies in the fact that there are more than five million Indian expatriates living there and that too belonging to all three categories of labour including professionals, semi-skilled workers and unskilled labourers.

#### 4.2.1 Trends of Labour Migration to the GCC

GCC hosts the largest expatriate of Indian Community which is nearly four to five million in numbers.\(^\text{14}\) Their huge hydrocarbon endowment is an important factor for their enhanced global positioning. Also, the tri-continental location of GCC provides it a very strategic identity in the global order. In the early 20\(^{th}\) century, GCC countries were heavily dependent on income from several traditional trading commodities like pearl fishing, export of dates, animal skins, trading of gold and gold products. But the oil boom in the 1970’s helped generate petro-dollars and thereby transformed their


\(^{14}\) The Gulf Cooperation Council (GCC) comprises of six countries including Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE). It was established in 1981 in Riyadh to enhance bilateral cooperation among the members. Though the immediate cause of its formation was largely geopolitical, but over the years it has evolved into being a major trading block influencing the global economic order
society and economy remarkably fast. The GCC countries now play a remarkable role in global trade and diplomacy. They have the world’s largest proven oil reserves and also world’s largest natural gas reserves. Owing to availability of jobs caused by the oil boom, they now host a sizeable expatriate population also.

International migration is not a new issue, though some new trends have been analyzed in past few decades. After the oil boom, GCC countries became one of the popular destinations for Indian expatriates, and it attracted huge number of semi-skilled and unskilled workforce, and as a result, remittances from GCC countries to India by the Indian expatriates have also increased manifold.

Rahman (2010) has identified five phases of migration to the Gulf. The first phase in the modern history of migration to the Gulf occurred in the period prior to the 1970s oil boom. During this phase, more than 80 percent of migrant workers were Arabs, mainly from Egypt, Syria, Yemen, and Palestine. The second phase characterizes the point at which migration to the Gulf began to intensify. This was the period post-1973 oil price hike. During this phase, the number of Arab migrants, especially from poorer countries such as Egypt and Yemen, increased considerably. In the third phase which spans the latter part of the 1970s and the early 1980s, because of developmental projects and social welfare programs, there was a need for migrant more workers. The number of Indian workers also increased. The fourth phase began with the decline in oil prices in late 1982 because of which there was lesser increase in migrant workers. And in the fifth phase which began in the 1990s, new migrant workers began to arrive in the Gulf countries, particularly from China and the newly independent states of the former Soviet Union and also from India and other Asian countries. The majority of Indian migrants in GCC are either unskilled or semi-skilled. It is very interesting that GCC countries comprise of only 0.4 per cent of the world population but hosts around 15 million expatriates with Indian expatriates being around five million.

In the labour market of GCC, a major chunk of the workforce is expatriate population coming from different nationalities, and this phenomenon is evident in all GCC countries. Indian migrant workers in the GCC countries belong to all three categories of labor: a) professionals (doctors, nurses, engineers, architects, accountants, and managers), b) semi-skilled workers (craftsmen, drivers, artisans, and other technical workers), and, c) unskilled laborers in construction sites, farmlands, livestock ranches,
shops and stores, and households. Indian white-collar workers and professionals comprise only about 30 percent of the Indian workers in these countries; the rest are semi-skilled and unskilled workers (Khadria, 2010).

The expatriates in the GCC countries are both part of government job as well in private sectors. They also face a huge social demarcation in terms of status. The local Arabs are given highest priority followed by Americans and Europeans. All these considerations leads to the concern about the challenges faced by expatriate especially Indians there. It is also important to mention here that the GCC countries use human resources inefficiently because the governments believe that ‘rents’ (from natural resources) can be used to catch up with industrialized countries without changing their social structures (Elsenhans, 2004). But this has led to the expatriates facing huge challenges in working there. Some of the general problems that the unskilled and semi-skilled expatriates face in the GCC countries includes poor safety condition at workplace, poor housing conditions, forced overtime, non-payment for overtime work, forced surrender of passport and forced daytime outdoor in high temperature (ILO, 2009).

ILO has several conventions related to the rights of the expatriates. Besides, the core conventions also discuss the rights of the labour. ILO Convention on Migration for Employment 1949 (No. 97) in its Article 11 states: ‘migrant for employment means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment’. ILO has developed detailed guidelines for formulation of migration policies for labour-sending and labour-receiving countries: a) employing foreign workers: a manual on policies and procedures of special interest to middle-and low-income countries, Geneva, ILO, 1996, and, b) sending workers abroad: a manual for low-and middle-income countries, Geneva, ILO, 1997.

It can thus be concluded that there are several international conventions on the rights of the migrants’ workers which have either not been ratified by many countries nor are implemented properly. This leads to several forms of violation of basic human rights, freedom and social well-being. International conventions on the rights of migrant workers are often ignored. Also, the participation of females in migrating workforce to GCC is one of the lowest in the world and they also face immense
challenges in terms of inequality of opportunities and of wages and discrimination in promotions, among others. The issue of ratification of international conventions and their serious implementation is a matter of concern as we still find Indians facing poor work conditions in the GCC countries.

The economy of the UAE is very much integrated into the world economy. The UAE currency—the dirham (AED)—is pegged to the US dollar. The UAE is geographically and culturally located at the intersection of major resource producers and the Gulf. It is a transit point of international trade and a country awash with petro-dollars. The rapid pace of infrastructural development and related developmental activities has brought in a huge number of migrant workers to the country. In fact, the UAE has one of the highest migrant/citizen ratios in the world with over 80 percent as migrants.

There have been various theories to explain the models of international migration especially with reference to migrant workforce (Massey et al. 1993). The Neo-classical theory focuses on differentials in wages and employment conditions between countries and on migration costs. It generally consists of movement as an individual decision for income maximization. The New Economics of Migration Theory considers condition in variety of markets including labour markets. It views migration as a household decision taken to minimize risk to family income or to overcome capital constraints. Another theory called the Dual Labor Market Theory links immigration to the structural requirement of modern industrial economies. Yet another theory called the World Systems Theory sees immigration as a natural consequence of economic globalization across national boundaries.

4.2.2 Trend of Migration from India to UAE

The word “migration” in this thesis is referred to “international migrants”, for statistical purpose, the United Nations defines migrants as “persons outside their country of birth or citizenship for 12 months or more”.  

The six countries of the GCC host the largest expatriate Indian Community which is nearly four million in numbers. The Middle East emerged as a new and popular destination for semi-skilled and unskilled labour after the oil boom. In the labour

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15 See Labour Migration Policy and Management: Training Modules, ILO, 2004
market of GCC, a major chunk of the workforce is expatriate population coming from different nationalities. Indian migrant workers in the GCC countries belong to all three categories of labour viz. professionals, semi-skilled workers and, c) unskilled labourers. Indian white-collar workers and professionals comprise only about 30 percent of the Indian workers in these countries; the rest are semi-skilled and unskilled workers (Khadria, 2010). Though expatriates form the part of government jobs also, but the recent trend suggest that the majority of the expatriates work in private sector in GCC countries (Forstenlechner, 2008). Expatriates in the GCC countries also have a huge social demarcation in terms of status. The local Arabs are given highest priority followed by Americans and Europeans.

Malecki and Ewers (2007) argues that Asians occupy the lowest position though among them Indians are placed slightly higher. All these considerations leads to the concern about the challenges faced by expatriate especially Indians there. It is also important to mention here that the GCC countries use human resources inefficiently because the governments believe that ‘rents’ (from natural resources) can be used to catch up with industrialized countries without changing their social structures (Elsenhans, 2004). But this has led to the expatriates facing huge challenges in working there. Some of the general problems that the unskilled and semi-skilled expatriates face in the GCC countries includes poor safety condition at workplace, poor housing conditions, forced overtime, non-payment for overtime work, forced surrender of passport and forced daytime outdoor in high temperature (ILO, 2009).

**India’s Migration Policy for GCC:** The 2\textsuperscript{nd} Annual Conference on Heads of Indian Mission in Gulf (held on 10-11 September 2007) organized by the Ministry of Overseas Indian Affairs, Government of India, made the following recommendations: a) to ensure bench marked standards of living and working conditions for Overseas Indian Workers, b) to provide for welfare of women immigrants specifying a minimum wage, 24/7 helpline, legal assistance, healthcare support, among others, c) bilateral MoUs for the protection and welfare of Overseas Indian Workers to be negotiated and signed with all GCC countries. Yet, the Indian government still does not have in place a comprehensive policy on labour migration or overseas employment, whether for skilled migration to the West or unskilled migration in the Gulf. Yet, the Indian policy paradigm for migrants in the Gulf nonetheless can be said to have shifted from protective/ restrictive, to welfare/ compensatory, to developmental/
restorative (as cited in Khadria, 2010). The issue of implementation is a matter of serious concern when still we find Indians facing poor work conditions in GCC countries.

Migration of Indians to the Gulf countries are basically oriented to labour and serving occupations on a contract basis. There were only 14000 Indians in the Gulf in 1948 and 40000 in 1971. Following the oil boom of the mid 1970s, the Middle East has witnessed a massive induction of South Asian workers. The population of Indian workers, which was 154,418 in 1975 rose to 599,500 in 1981 and to 1,150,000 in 1992 in the Middle East. 1973 witnessed the beginning of the rapidly increasing demand for expatriate labour in oil exporting countries of the gulf, and adopted development strategy centred around the infrastructure development.16

4.3 Causes of Migration

This chapter explores the factors which influence the decision to migrate, Chapter 4.3.1 provides an overview to the reasons of migration and Chapter 4.3.2 discusses the various theories and discourses related to international migration.

4.3.1 Overview on causes of Migration

There exists a lot of forces which lead to migration, ILO mentions it as poverty, wars, famine and repression are certainly among the major causes but other important factors which cannot be sidelined are population pressure on scarce natural resources, growing urbanisation, reduction in the cost of transport and communications with increasing interactions among societies, civil conflict, wage or income inequality, the absence of human right protection and the establishment of migration networks by previous migrants.17

The ILO Convention on Migration for Employment 1949, (No. 97) in its Article 11, states that “migrant for employment means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.”

16 “India and the Indian Diaspora: Inter-linkages and expectations” by Chandrashekhar Bhatt, Indian Diaspora: Global identity, edited by Ajay Dubey
4.3.2 Causes of Migration from India

This section of the chapter discusses the causes of migration from India to UAE. In this regard, primary interactions have been made and questions were asked on account of this from expatriates. The major reasons for migration are discussed in detail in the subsequent paragraphs. These findings are based on the discussions with expatriates and other stakeholders.

a) Wage Differentials: Wage differences between the two countries are one of the most important reasons for migration of labour. People move from low-wage giving countries to high-wage giving countries and low wages become the push factor and lucrative wages becomes the pull factor of an economy. This is one of the important reasons why people migrate from India to GCC. This cause of migration is well explained by the Neo-Classical Theory of International Migration, which also explains that cause of migration is wage differentials. It also explains that the lower migration costs also have impact on migration and that it is an individual decision for income maximization.

b) Influence of friends and relatives: Many people move to GCC countries because they are comfortable in moving to those countries where already their relatives stays. Also, they come to know about the job vacancies very easily and are attracted towards it. The case of Ram Bharose is highly relevant here also. The case presents that how family members influence the decision to migrate, this case is written by researcher after a detailed telephonic interview with Ram Bharose. Its already written in Chapter 6, please refer chapter 6 for detail.

c) Maximizing income and minimizing risk: Most of the people who migrate from India have reasons in financial issues. It is not only the hike in salary but also high saving propensity which makes migration to GCC attractive. This cause of migration can be easily understood by the theory of New Economics of Migration, which believes migration as a household decision taken to minimize risk to family income or to overcome capital constraint.\footnote{There have been various theories to explain the models of international migration especially with reference to migrant workforce. For a detailed discussion on such theories, refer Massey et al. (2003)} This model assumes that people collectively aim not only to maximize the expected income but also to minimize risks that are associated with all kinds of market failures. It also argues that economic development within
sending countries may not mean the end of migration; rather it can intensify the pressure for migration. An increase in the result of local productivity may increase the attractiveness of migration in order to overcome capital and risk constraints.

d) Unemployment in Home Country: Persisting unemployment in economy and non-availability of work due to lack of creation of job in the home country also leads to migration as is also evident in case of migration from India to Gulf. The high rate of population growth and comparatively low creation of job in the market leads to the situation where labour has to move out of country to accommodate them in the best possible manner.

e) Migration Cost and Geographical Proximity: The Gulf region has a geographical proximity to India and the travel time is relatively lower as compared to other land of opportunities. Moreover, the visa cost, ticketing cost and other expenses are low as compared to other country and so it becomes easy for Indian nationals to move to GCC countries.

f) Demand-led reasons: There is a huge demand of expatriates in the Gulf region owing to their expanding economy. Especially in the sectors of oil and gas, large yet cheap workforce is needed and they can easily source them from India. This cause is also well explained by the Segmented Labour Market Theory of International Migration. According to this theory, the main actor in initiating international migration is the labour market in the receiving country and all the employers and governments working on its behalf.

4.3.3 Theories of Migration

There are numerous reasons for which the Labour migration may begin. The existing fact of economic forces and better standards of living alone cannot explain the dynamics of labour mobility as the other factors which can influence the migration decision can be geographical proximity, social networks, historical and cultural similarities or ties. The oldest conception in understanding migration dates from 1885, when Ernest Georg Ravenstein formulated the ‘laws of migration’ (Ravenstein, 1885, 1889; Bähr, 2004). Since then various theories has been derived and propagated to understand the international migration.

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Neoclassical Economics Theory

The theory explains that individual rational actors made a decision to migrate as they expect a positive net return, usually monetary on cost-benefit calculations. The approach focuses on differentials in wages and employment conditions between countries, and on migration costs. When we apply neo-classical economics to international migration, it can be said that countries with a shortage of labour relative to capital have a high equilibrium wage, whereas countries with a relatively high labour supply have a low equilibrium wage. It generally conceives movement as an individual decision for income maximization. Figure 4.3 shows the Neo-classical mechanism leading to equilibrium.

![Figure 4.3: Neo-classical mechanism of migration](http://catarina.udlap.mx/u_dla/tales/documentos/lri/sanchez_m_cb/capitulo2) (accessed on 12 August 2014)

New Economics of Migration Theory

This theory believes not only the labour market as reasons to migrate, but also conditions of other markets, such as the capital market or unemployment insurance market as a reason to migrate. Non-insurance by the government elevates the risk to livelihood. In a case if a country’s or region’s economy dwindles then it leads to loss of employment, or if a family member’s job is lost due to any serious injury it becomes tough for the family to live a life in the absence or reduction of income. However, in wealthy countries this risk can be made zero as government maintains an insurance programme that guard workers and their family from the risk to livelihood in the absence/lost of job.

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21 Op. cit. 2
This theory believes migration as a household strategy to minimize family income risks or to overcome capital constraints on family production activities (Stark, 1991). The ‘new economics of migration,’ in contrary, mulls variety of markets conditions besides labour market. It sees migrations as a household decision to cut down the family income risks and means to overcome capital limitations on family production ways. Basically, the theory explains the wage differential as a main reason to migrate from a low wage country to a high wage country and through the time it attains equilibrium as due to the movement from low wage country to high wage country the supply of labour decreases and wages rise in the capital-poor country, while the supply of labour increases and wages fall in the capital-rich country. This theory further extends to explain that the investment capital flows from capital rich to capital poor countries and the relative scarcity of capital in poor countries generates a rate of return which is high by international standards and attracts investment. This movement of capital also includes human capital, with highly skilled workers moving from capital rich to capital poor countries in order to enjoy high returns on their skills in a human capital scarce environment which leads to a parallel movement of managers, technicians, and other skilled workers.

Massey et. al. (1993) argues that the international flow of labour, therefore, must be kept conceptually distinctive from the related international flow of human capital and the heterogeneity of immigrants beside skill lines must be clearly known.

**Decision-making Models**

Decision-making models (Langenheder, 1968; Esser, 1980) consider a variety of factors influencing migration decision, but still remain in the push-pull framework. The earlier two models including neoclassical model and new economic of migration present micro-level foundation behind the understanding the causes of migration. These model have not considered other aspects which influence decisions such as the individual or the household, the entity being maximized or minimized (income or risk), economic context of decision-making and the extent to which the migration decision is socially contextualized. There is another theory called the dual labour market theory, which does not discusses about individual decisions but argues that

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international migration happens because of the intrinsic labour demands of modern industrial societies (Massey, 1993).

**Dual Labour Market Theory**

This theory links immigration to the structural requirements of modern industrial economies (Piore, 1979). According to this theory, segments in the labour markets in these countries may be distinguished as being primary or secondary in nature. The primary segment is characterised by capital-intensive production methods and predominantly high-skilled labour, while the secondary segment is characterised by labour intensive methods of production and predominantly low-skilled labour. The dual labour market theory assumes that international labour migration stems from labour demands in the labour-intensive segment of modern industrial societies (receiving countries) (Piore, 1979; Massey et al., 1993). It relates immigration to the structural desires of contemporary industrial economies.

**World Systems Theory**

This theory explains migration as a natural consequence of economic globalization and market penetration across national boundaries (Wallerstein, 1974).

**World Society Approach**

This approach focuses on cultural globalisation, where people increasingly share cultural values worldwide, and therefore also perceive economic imbalances and migrate as a consequence (Hoffmann-Nowotny, 1989).

**Network Theory**

Network theory tries to explain why international migration is an ongoing phenomenon. It stipulates that interpersonal ties between migrants set a migrant network which play imperative role in the process of migration. The interpersonal ties include networks between migrants, former migrants and non-migrants in home as well as labour receiving countries based on blood relationship as well as social relationships. These networks have potential to increase the likelihoods of international movements due to their positive impact on return to migration and its nature to mitigate the risks of migration.
International migrants change the ethnic composition in receiving countries. As a result of large inflows of international migrants, migrant networks may be formed. These networks enhance the probability of employment and a decent income. A summary of the various theories have been given in Table 4.2.

Table 4.2 Summary of the theories of International Migration: Key variables, measurable indicators and claimed causalities and associations

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<thead>
<tr>
<th>Theory</th>
<th>Key variable</th>
<th>Measurable indicator</th>
<th>Claimed causality or association</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neo-classical</td>
<td>Real wage country A-real wage country B</td>
<td>Real GDP per capita in A-real GDP per capita in B</td>
<td>GDP pc in A-GDP pc in B has a positive effect on migration from B to A.</td>
</tr>
<tr>
<td>Keynesian economic theory</td>
<td>Unemployment country B- unemployment country A</td>
<td>Total unemployment as percentage of the total labour force in B- total unemployment as percentage of the total labour force in A</td>
<td>Unemployment in B-unemployment in A has a positive effect on migration from B to A.</td>
</tr>
<tr>
<td>Dual labour market theory</td>
<td>Shortage at the bottom of the labour market in country A</td>
<td>Average years of education of the labour force in A</td>
<td>Education in A has a positive effect on migration from B to A</td>
</tr>
<tr>
<td></td>
<td>Unemployment in country A</td>
<td>Total unemployment as percentage of the total labour force in A</td>
<td>Unemployment in A has a negative effect on migration from B to A</td>
</tr>
<tr>
<td>New economics of labour migration</td>
<td>The certainty of sufficient household income in country B</td>
<td>Total unemployment as percentage of the total labour force in B</td>
<td>Unemployment in B may have a positive effect on migration from B to A</td>
</tr>
<tr>
<td>Relative deprivation theory</td>
<td>The degree of (income) inequality in country B</td>
<td>Average years of education in B</td>
<td>Education in B has a negative effect on migration from B to A</td>
</tr>
<tr>
<td>World Systems Theory</td>
<td>Material and cultural linkage between country A and country B</td>
<td>The migrant population of country B in country A per capita</td>
<td>Migrant stock of B per capita in A has a positive effect on migration from B to A</td>
</tr>
<tr>
<td>Network theory</td>
<td>The size and quality of the network of the migrant population of country B in country A</td>
<td>The migrant population of country B in country A per capita</td>
<td>Migrant stock of B per capita in A has a positive effect on migration from B to A</td>
</tr>
<tr>
<td>Institutional theory</td>
<td>The number and quality of organization that facilitate migration from country B to country A</td>
<td>The migration population of country B in country A per capita</td>
<td>Migration stock of B per capita in A has a positive effect on migration from B to A</td>
</tr>
</tbody>
</table>

Source: ibr.ub.rug.nl/dbi/43789b460aea8
4.4 Process of Expatriation

The process of expatriation is a complex phenomenon and it varies from country to country. Expatriates are temporary workers who work in a foreign location under contracts for a limited duration. These work contracts may be renewed multiple times; thus prolonging the stay of expatriate workers in a foreign country. Though many studies also used the term ‘migrants’ and ‘expatriates’ interchangeably, this research uses the term ‘expatriates’ considering the fact that migrant workers gulf countries are not entitled for permanent settlement. A survey, undertaken by HSBC called Expat Explorer 2013, also shows that expatriates in the GCC are among the most satisfied with the state of their local economies compared to individuals in other regions around the world. Four countries in the GCC, Oman (1st), Qatar (6th), UAE (9th) and Saudi Arabia (10th), are among the top 10 economies in terms of expat satisfaction.23

Moreover, GCC hosts 6 million Indians and globally Indian diaspora accounts for 20 million (source: ILO- EU Asia Migration Project, 2010).24 As per the World Bank, it is expected to receive US$71 billion in remittances in 2013,25 the highest among developing countries.26 Discourses on Indian expatriates’ favourite destinations shows that the six-member Gulf Cooperation Council (GCC) comprising of Bahrain, Kuwait, Oman, Qatar, United Arab Emirates (UAE) and Saudi Arabia have been among the most preferred countries. Other than the GCC countries, Indian expatriates have been choosing neighbouring nations such as Sri Lanka, Bangladesh and Nepal. However, considering a case of Indian migration to Canada, an exception is also recognized owing to distant location.

There is also an impact on demographic structure of destination countries due to continuously increasing inflow of migrant workers. The presence of a large numbers of expatriates has outnumbered national population in countries like UAE, where the national population has become a minority. Migration flows are characterized by a

24 based on estimates made by the high level committee on the Indian Diaspora, mentioned in “ Return Migrant Entrepreneurs in India: case studies and policy recommendations”, ILO-EU Asia Migration Project, ILO Sub regional office, New Delhi, 2010
basic distinction between skilled labour, semi-skilled labour and unskilled labour. Khadria (2010) mentions that Indian migrant workers in the GCC countries belong to all three categories of labour viz. professionals (e.g., doctors, nurses, engineers, architects, accountants, and managers), semi-skilled workers (e.g., craftsmen, drivers, artisans, and other technical workers), and, unskilled labourers (e.g., those engaged in construction sites, farmlands, livestock ranches, shops and stores, and households). In fact, UAE hosts all three categories of Indian migrants, and that too in large numbers. This distinction is highly relevant because the comparison on the basis of skills positions them differently in the labour market in terms of their contribution and working conditions.

UAE is witnessing a high rate of growth as compared to other countries in the Arabian Gulf region, The GDP in the United Arab Emirates was worth 360 billion US dollars in 2011.27

This has helped the country to attract expatriates from all over the world. Infrastructure and construction are going to assist this growth rate and sustain it further. UAE comprises of seven Emirates, Abu Dhabi, Dubai, Sharjah, Ras-al-Khaimah, Al-Ain, Fujairah and Ajman. Dubai and Abu Dhabi are UAE’s most vibrant emirates in terms of economy. Abu Dhabi is the emirate where majority of the country’s oil reserves are concentrated. It is the capital city and the center of political, cultural and business activities. Moreover, because of its continuous efforts in economic diversification, the country has been able to reduce the portion of GDP based on natural resources output to 25 percent of the local GDP.28 The country has become a modern state and has developed a state-of-the-art infrastructure which ensures a good quality of life.

Labour migration has played an important role and helped the countries of the Gulf to advance toward one of the most economically developed regions in the world, Dito (2008). He concludes that, if managed well, it can still play a decisive role in the development agenda of both receiving and sending countries and also suggested to reduce their oil dependency for sustainable economic development and right based labour policy to overcome labour problems. Wikramsekara (2002) examines the

trends and issues in Asian labour migration and challenges faced by countries and the trade union movement in protection of migrant workers. The study traces the main trends and features in Asian labour migration in the recent past, and identifies the most vulnerable groups of migrant workers who need priority attention. Khadria (2006) mentions that the labour migrants to the Gulf have been viewed as the main source of remittances, swelling India’s foreign exchange reserves. Ray (2003) suggests improving relations between migrants and host communities, employers and recruitment agencies and governments and argues that contracted labourers are assumed to have been recruited by outsourcing agencies in their home countries.

Sub agents and labour brokers in the sending countries often have poor information about the contracts they arrange. This disinformation leads to the various professional and living challenges which the expatriates face in the Gulf region.

A report “Return Migrant Entrepreneurs in India” under ILO-EU Asia Migration Project, focuses on those temporary migrants who return to India after completing their short term employment contracts most of them were employed in the middle east and south east Asian countries (ILO). Table 4.2 summarises about the returned migrants who were interviewed as part of the case studies of the ILO study. It shows that 4 out of 21 returned entrepreneurs have mentioned “cheating by placement agents”.

### Table 4.3 Problems faced by Indian Expatriates

<table>
<thead>
<tr>
<th>Problems mentioned by migrants in the country of destination</th>
<th>No. of Mentions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cheating or abuse by employers</td>
<td>8</td>
</tr>
<tr>
<td>Lack of help from embassy</td>
<td>4</td>
</tr>
<tr>
<td>Cheating by placement agents</td>
<td>4</td>
</tr>
<tr>
<td>Loneliness/Cultural shock in destination</td>
<td>2</td>
</tr>
<tr>
<td>Health problems</td>
<td>2</td>
</tr>
<tr>
<td>Lack of insurance scheme for migrants in trouble</td>
<td>1</td>
</tr>
<tr>
<td>Helping stranded migrants</td>
<td>1</td>
</tr>
<tr>
<td>Visa/Immigration legal problems</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Author’s compilation based on ILO-EU Asia Migration project, ILO Subregional Office, New Delhi

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29 Return Migrant Entrepreneurs in India: Case studies and policy recommendations, International Labour Organisation, Sub-regional office, Delhi
4.4.1 Overseas Recruitment System and Expatriation Process

Understanding overseas recruitment system is a complex task given the number of stakeholders involved in the process and the time associated with it. It, thus, requires an in-depth study. Philippines has shown their well-managed practice for temporary labour sending management practices. Philippines Overseas Employment Administration (POEA), shows government interventions in three areas, a) linking participation to qualified employers, workers and recruitment and manning agencies b) creating rules and regulation to govern the recruitment process and set minimum standards of employment, and c) maintaining a system of adjudication to ensure compliance (Migration Policy Institute).

The separate ministry has been assigned in India for overseas Indians named as “The Ministry of Overseas Indian Affairs”. It is established in May 2004 as the Ministry of Non-Resident Indians’ Affairs and renamed as the Ministry of Overseas Indian Affairs (MOIA) in September 2004. Their scopes of services are Diaspora services, financial services, emigration services and management services. Therefore it looks into the matter of recruitment practices and have established POEs (Protector office of emigrants) all over the India. It specially looks into the emigration of ECR (Emigration Services Required) Passports.

There exist illegal recruitments by unauthorized placement agencies in India (MOIA-CDS Report, 2009). This also affects employment in UAE and other Gulf countries by creating difficulties for the government of India. It also poses serious problems for various stakeholders involved in the process, as these agencies are beyond the reach of the normal regulatory machinery. The situation becomes more complex and troublesome when nexus are formed between the unauthorized (un-licensed) recruiting agents and the corrupt elements in the official regulative and law-enforcing agencies (MOIA-CDS report, 2009).

To understand the process of expatriation from India to UAE, the existing practices and role of consultants the researcher has conducted field survey and questions about the basic recruitment process the consultant follows such as, how much they

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30 Currently Ms. Sushma Swaraj is a Minister of Overseas Indian Affairs. Earlier, the post was held by Mr. Vayalar Ravi
31 ECR Passport holders are below Tenth/Matriculation pass and generally in unskilled and semiskilled job
32 Mentions the report titled “beyond the existing structures: Revamping overseas recruitment system in India”, by Rajan, Verghese, Jayakumar, MOIA-CDS Report 2009, p. 6
charge from candidate, mode of recruitment, who bears the cost of conduct of interview, in how many locations they schedule it and preferred location for that, what all facilities they provide to the candidate before and after expatriation, What they did for getting license and how much time it takes etc.

The researcher has collected primary data, which includes field survey of six overseas recruitment consultancies based in New Delhi. The respondents are the employees of these consultancies and the sample size is 30. There exist a huge number of consultancies in Delhi, and most of them works with only 2 or 3 consultants working there. The researcher visited many consultancies with at least 4 consultants working there and got response from 30 consultants spread across six such consultancies.

During the field study, it was found that the consultancies do not support the survey as they feel that some official from the Ministry has come for the investigation. The researcher convinced that this is for academic purposes only and that the names will be kept confidential even then some preferred not to fill the form in their own handwriting. Some of the consultancies did not gave chance to talk even after prior appoint, and could not be included in the study.

To understand the whole process of recruitment and to get the actual insights to the actual picture of the process of expatriation, field visits have been conducted to get first hand data from recruitment agencies. The field visits was based on personal interviews with a select 20 questions model to each consultants/recruiters working in South Delhi areas. This survey was conducted during May-July 2013.

![Figure 4.4 Organising Interviews](image)
Based on the field study, it is found that generally there are three ways of recruitment as per the response of the consultants (Figure 4.4), which are as follows: a) direct recruitment, i.e. directly by the employer (27 per cent); b) through recruitment agencies/consultancies (60 per cent); and, c) other ways, i.e. through sub-agents (13 per cent) or by any other means. A detailed description of the overseas recruitment process in India is depicted in figure 4.5.

![Overseas Recruitment Practices in India](image)

**Figure 4.5 Overseas Recruitment Practices in India**

Source: Description based on Field Study

1. **Direct recruitment drive by the organization**: It is conducted mostly by the company itself by giving advertisement in the print media directly from the company. Though it also includes recruitment through referral system, but does not involve any third party or a consultancy. Referral system means that employee who is already working with the organization tells about the vacancy to his known ones or relatives who are eligible for that particular job.

2. **Recruitment by the consultancies**: Based on their types they can be divided in two parts:

   a) **Licensed**: the Ministry of Overseas Indian Affairs (MOIA) keeps a list of 1835 licensed agents; and, b) **Un-licensed**: there are several of unlicensed consultancies operating in the job market. They illegally recruit job candidates on the behalf of licensed recruiting agencies. This is also revealed by one of the consultants who are in this business from last 10 years; and he also mentions that if licensed consultancies don’t have sufficient resources then they give some work to small unlicensed consultancies).

   

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33 The term “licensed agents” means “licensed recruitment agency or consultancy”

34 Based on field survey conducted by the researcher
Ministry of Overseas Indian Affairs (MOIA) also recently launched an awareness programme related to the fake employment activities operating through the subagents and has generated a toll free number, to know about the consultancy through which they are getting opportunities are licensed or unlicensed.\textsuperscript{35} It itself verifies that there still exists an unlicensed consultancies in the market. Hence, it is also a matter of study that how they actually get their License for the recruitment.

Payroll can be of 2 types: a) On company’s payroll – in case of UAE, recruitments are done generally on company’s payroll; and, b) Third party Payroll – in third party payroll candidates are not directly on companies payroll and their payroll are outsourced by another company, in such cases candidate do not get full salary for first few months and the salary is deducted as a commission by the third party, in some cases company later absorbs the candidate on their own payroll. But based on the analysis of the data collected by consultants, in case of UAE it is found that in 100% cases, hiring in UAE is done on companies payroll directly (Ref. Chapter 6 Findings and Conclusion). This can be considered as a good practice in Human Resource Management.

\textit{Recruiting through sub-agents:} The sub-agents work with the consultancies and helps them by providing manpower from remote rural areas. Sub agents are, however, banned by MOIA. But during field visit, it was found that most of the consultancies are working with sub-agents. Sub-agents gets money from consultancies and also charge from the prospective candidates depending upon how much a candidate can afford. These sub-agents also threaten the candidates not to mention to the consultants, the fee charged by them. They go to the extent of saying that if the candidate reveals the truth to the consultancies, then the subagent will ruin his chances of being selected, explains one of the consultants during the field visit.

Generally, labourers are not aware of the licensed and unlicensed process of recruitment through various recruitment agencies. Those who are deceived by the unlicensed recruitment agencies become more prone to financial and mental exploitations. Many times, the agents at local level collaborate with travel agents and engage in illegal immigration which is another serious issue, which attract policy attention. In such cases, protection to labourers are also limited or not provided from both the home or host countries.

\textsuperscript{35}Toll free number awareness advertisement has been seen on Delhi Doordarshan Television Channel, seen on 03 March 2014.
The process of recruitments in overseas organizations from India generally follows the process of direct advertisements or advertisements in collaboration with the authorized recruitment agencies in India. The advertisement for recruitment is also advertised on the behalf of these agencies. Role of consultancies are not only limited to provide pool of talent but also to organize the whole recruitment drive such as hotel bookings for the company delegation visiting India for conducting interviews, hiring travel agents and managing the interview venue. They strive hard to do their best so that the project in hand converts into an annual event for them. The cost of hosting the overseas delegation is somewhere around INR 50,000 to INR 4 lacs and to compensate it they charge from candidates as well, revealed a consultant after successive talks with him during the three months of field visit in New Delhi.

Requirement of large number of workforce for UAE and other gulf countries results in large agglomeration of labourers for the recruitment. Sometimes these numbers are beyond the capacity of these agencies to handle it. Therefore, the big and authorized agencies/consultancies share their demand for talent acquisition with the sub-agents, who works at the grassroots to target the rural and sub-urban people. Most of these potential candidates are ready to pay between INR 50,000 to INR 1 lac or even more for a job of INR 8,000 to INR 15,000 per month. This payment is paid as recruitment charges. It is found during discussions with recruiters that occasionally, labourers have to sell their land to pay the amount. The MOIA report also mentions that the working of recruitment agencies, both licensed and unlicensed, is a matter of serious concern as many cases of cheating and betrayal come to light frequently.  

The Minister for Overseas, Indian Affairs, stated in the Parliament and to the media that “administrative apparatus itself has accentuated corruption as a result of the nexus formed between erring government officials and recruiting agencies, leading to increasing exploitation of the poor”. Also on the other hand, as Khowla Mattar, a senior specialist on worker’s right, said, “the culture of rights is weak in our societies; unless we enhance this culture at the regional level, migrant workers will continue to be exploited and their rights would be abused”.

36 http://www.cds.edu/download_files/MOIA-CDS per cent20Final per cent20Report per cent20June per cent202009.pdf, accessed on 18 November 2012
37 Statement by the Minister for Overseas Indian Affairs in the parliament and to the media on September 2007 mentions, Dreaming mobility and Buying vulnerability: Overseas recruitment practices by S. Irudaya Rajan, V.J. Verghese, M.S. Ayakumar
4.4.2 Role of overseas recruitment consultants

The Indian Council of Overseas Employment (ICOE) set up three phases of a job that is the candidate’s India-Gulf migration process. These phases include pre-departure phase, employment phase and the capacity building phase. The last phase means the return of the expatriates to his or her home country. The Indian government positively refers to this period as the capacity building phase.\(^{39}\)

Little study exists about these recruitment agencies. In case of unskilled migrants from India to UAE, the UAE government has formulated policies to have a control over recruitment agencies to overcome the cases of labour abuse. The proper procedure of recruitment for an Indian wanting to work in the UAE is the process of recruitment agencies (MOIA, 2008). The process is designed in a way that when an overseas (in this case, the UAE) employer needs the skilled, semi-skilled or unskilled manpower, it sends a demand letter to the recruitment agency or agencies through which it recruits.\(^{40}\) Figure 4.6, shows the step wise process involved in the process of recruitment. The recruitment agency finds the talents, which matches the requirements hiring organisation. Overseas Recruitment agencies get paid for their efforts and services by employer as well as by candidates.

![Figure 4.6 Flow-Chart of Overseas Recruitment Process from India to the UAE](source)

Source: Based on understanding of field survey

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\(^{40}\) Demand letter is an official letter of requisition for recruitment
To curb the unreasonably high amount charged by the consultancy, MOIA has fixed the maximum amount which recruitment consultants can charge from a job-candidate at Rs. 10,000 (approximately US$200). However, it is found that they charge INR 80,000 and even above in some cases, explains one of the candidates who already got selected by one of the 6 consultancies taken for study.\(^{41}\) It is also found that as per agreement, the employer has to pay certain amount as commission to the recruiter, but it remains on paper and is actually not paid by the employer to some.\(^{42}\) Consequently, recruitment agencies charges high fees from candidates (revealed one of the consultants during the field study).

Consultancies says that they take charges for their services, but they are already paid for that from the employer at UAE, apart from that if we add all the services charges, also then it may not exceed up to INR 40,000 or INR 80,000. As in the case of UAE visa cost and visa processing is already borne by the employer. Also, 60 per cent of consultant mentions that the cost of conducting interviews at various locations in India and travel and lodging expenses of the employer during their India visit is borne by the consultants and it costs somewhere starting from INR 50,000 to INR 4 lacs as well, explained one of the consultants in informal talk during the field visit. 83 percent consultants revealed that they charge fee from the candidates (Figure 4.7).

![Figure 4.7 Whether Consultancy charges from Candidate: Findings](image)

![Figure 4.8 Amount charged by the consultancy from candidate: Findings](image)

With regard to the fee charged from the job-candidate, 64% replied that they charge up to Indian Rupees (INR) 20,000 and 29% said they charge between INR 20,000 to INR 40,000 and 7 per cent said they charge up to INR 80,000 in some cases (Figure 4.8).

\(^{41}\) Reveals one of the selected candidate by the consultancy in skilled segment during researcher’s field visit.

\(^{42}\) Explains one of the senior consultants, during the researcher’s field visit
This contradicts the limits fixed by MOIA of INR 10,000. If this is the case of licensed consultancy then we may think the situation of unlicensed consultancy. But the scenario is not the same in all licensed consultancies.

There also exists compulsion for such high fees from recruitment agencies. These agencies have to acquire license for such services or for recruitment activities. Informal payments to MIOA are inevitable practice in obtaining such licenses. 87% respondents remained silent or avoided to answer when asked about the process of licensing and time it took to be completed (Figure 4.9); though the proper channel is already mentioned on MOIA website.

Apart from the activity of licensing procedure, when the question was asked about the functionality of a consultancy/agency at ground level, the big picture of sub-agents was popped up. However, without these sub-agents, it is actually impossible to reach remote locations unless the consultancies have a huge manpower and that too located nation-wide at grassroots level. This is something which seems impossible, explained one of the senior consultants during the field visit. It is therefore suggested that regularizing the channel of sub-agents would benefit recruitment process. Nevertheless, the sub-agents should be adequately trained by the consultancies. This initiative requires a policy intervention at the first instance. Secondly, an active government as well as non-government organizations (NGOs) support will help villagers in remote areas and the prospective candidates therein to become aware about the licensed and unlicensed recruitment agencies and their pros and cons. This way they would not be lured by untrained and un-authentic sub-agents.

**Figure 4.9 Process of getting License**

- Replied: 87%
- No Answer: 13%

**Figure 4.10 Whether consultancy takes job-related responsibility: Findings**

- Yes: 83%
- No: 17%
The overseas recruitment consultancies (licensed) try to follow rest of the steps as designed by the Ministry. Whenever they want to conduct the interview at different locations then such agencies need to take prior approval for conducting interviews for Gulf region from the Ministry of Overseas Indian Affairs. Also, they need to mention about the location where the interview is scheduled besides mentioning the job description of the vacancies. Further, this has to be stamped, explained Mr. Sufian, who works with a reputed consultancy in New Delhi for the last 10 years.

During the field visit, he discussed extensively for around 2 hours related to the whole process of recruitment for and expatriation to the UAE. The whole cost of conducting interviews at multi-location is borne by the consultancy itself and it starts from INR 50,000 and can go up to INR 4 lacs. This expenditure includes travelling cost of consultant and client, booking of travel cabs, venue booking, and food and lodging depending upon the client and the level of recruitment, explained one of the consultant (Manager-Human Resources) during our informal conversation.

When asked how Consultancies gets recruitment projects, one of the consultants explained that they send the company’s representative to visit the employers place in the UAE and try to establish a networking with them. It is more or less like business development for which they need to meet personally which costs high during initial stages. They also mentioned that there are large numbers of consultancies operating in the market which are licensed and unlicensed too. And for getting the recruitment project from a reputed client is not so easy.

It is found that 83 per cent consultants respond that their consultancies do take job-related responsibility (Figure 4.10); and they get the employment agreement done at their office. They also make sure that the job-candidate understands all the terms and conditions of employment before signing it.

The consultants avoid talking about getting license which indicates in itself the malpractices involved in the process. Also, the varying answers among the consultancies related to the amount they charge from the candidates reflect that there are no fixed criteria for it, but it is based on the ability and willingness of the candidates to pay. However, MOIA has already fixed the amount. Also, while documenting the process of expatriation, it is also found that unlicensed consultancies also operates in the market by the help of licensed consultancy’s license (as licensed consultancy’s are not
capable of fulfilling the manpower demand due to unavailability of staffs, places or contacts with sub-agents who operate in rural areas). It solicits strong implementing machinery, under the aegis of MOIA.

Efforts need to be made at the policy level to deter the exploitation of loopholes in recruitment process as well as in issuance of license. Merely stringent rule-making will not help to curb the malpractices, the effective implementation of rules is crucial to improve the process of expatriation from India. Hence, the policy intervention is the need of the hour and an active role of government as well as support from NGOs will help the aspiring candidates in remote areas to become aware about the licensed and unlicensed recruitment agencies. Pre-departure orientation programme may be beneficial for the expatriates. Recent toll free number generated by the MOIA to enquire about licensed or unlicensed consultancies may be fruitful for improving the current situation but an extensive policy research is still the requirement.

4.5 Issues and Challenges faced by Indian Expatriates in GCC

Indian expatriates in GCC countries belong to all three categories of labour including professionals, semi-skilled workers and unskilled labourers. Mr. Juan Somavia, ILO Director General states that ‘Migrant workers are an asset to every country where they bring their labour and provide valuable services with their labour and furnish an often invisible subsidy to the national economies that receive them. They work in factories, produce food, provide domestic service, staff hospitals and contribute to a wide range of basic needs, often for low wages and with little recognition of the value of their contribution’. All migrant workers irrespective of their status contribute to the economic prosperity of the host society.

Most of the Indian expatriates to GCC are unskilled and semi-skilled and only 30 percent are in skilled or professional category. The common understanding that presence of huge number of Indian expatriates in GCC are also responsible to some extent for unemployment in GCC, is baseless because it is evident that Indian migrants are mostly in unskilled segment, a segment which is already rejected by the nationals. In GCC countries, most of the migrant population consists of temporary foreign workers under renewable contracts. Although, some of these migrants have

worked there for lengthy periods, even then they have not been granted the possibility of long-term residence (UNESCWA, 2006).

What most people forget is that migrant workers have generally made a positive contribution to the host countries, both in terms of socio-economic development and in providing labour for jobs which the local people did not want to do (ILO/ACTRAV, 1996). Also, it is evident that Asians are very hard working and technically sound and nationals can’t compete with expatriates in job performances. These are the reasons why employers cannot neglect expatriates in spite of unemployment in GCC countries. The kind of hard work, obedience, over-time and late shifts needed by employers are easily satisfied by expatriates. Generally the nationals are not so technically enriched and therefore could not replace expatriates in most of the job. The government of Kuwait has rejected a parliamentary proposal to speed up nationalization in public sector jobs, saying highly qualified foreigners were still needed by the ministries.\(^{44}\) Also, Jureidini (2003) argues that most countries do not cover temporary foreign contract employees, who are the preferred migrants in the Middle East, under local labour laws, and no UN or ILO conventions that offer national or international protection are in force or ratified, particularly for unskilled labourers. Some of the crucial challenges faced by the Indian expatriates in Gulf Cooperation Council countries include:

\(a\) \textit{Socio-cultural Issues:} As the contacts of Indian migrants are formal with locals, Indians have created their own social group, such as Indian Art Circle in Kuwait. It has constructed an auditorium in Kuwait with a seating capacity of 1200 persons. They use to organize various cultural events, seminars and other programs. Indian migrants have also taken initiative of setting up schools of Indian curriculum that are run and managed by Indian professionals, e.g. 38 schools in UAE, 15 in Oman, 9 in Kuwait and 7 in Saudi Arabia. Nationals do not mix with Indian expatriates; they avoid having friendship with people of foreign nationals. Even if they interact it is very formal and mostly in official parties. Not only this, Indian expatriates lives in different locations and cannot stay in residential locations.

\(^{44}\) See Daily Star (Kuwait), 5 July 2005
b) Labour camps: In general, these camps are recognized by unskilled labourers. Labourers live in these camps that are generally far from local’s residential areas. Such camps are not hygienic to stay; and has arrangements like a single hall in which 30-50 labourers stay together. Also, amenities like air conditioners, canteen, drinking water and electricity are not always present; many unskilled labourers dwell in ad-hoc structures throughout the cities and peripheries in converted garages, plywood structures, shipping container, and other dwellings built from construction detritus (Gardner, 2010).

c) Rising inflation and underpaid labour: Indian labourers are highly underpaid but because of unwanted circumstances such as financial issues and family problems, which have led them to work there, they suffer from lots of social trauma during their stay in GCC. Also, high inflation rate is making their survival and saving propensity to decrease. Though, efforts are underway to pressurize all labour hosting countries to ensure that salaries of expatriates should be equal to those of nationals.

d) Exploitation and harsh working conditions: Low income, uneducated and unskilled workers are exposed to various kinds of abuses and exploitations. These may include verbal as well as physical harassment, ill treatment at workplace and use of abusive words from the employer. Also, an unsafe working condition and forced overtime deprives them of healthy well-being mentally as well as physically, and when they are back to labour camps they don’t have any social group. They live in lack of amenities, many a times they are denied access to consular services and contact with their families. Keane and McGeehan (2008) argues that domestic labour provisions in the UAE will never be sufficient to provide basic rights to migrant workers and that a concerted international attention and pressure will be required to improve the situation of migrant workers there.

e) Local Sponsors: Being foreign nationals, expatriates are not permitted to own a business or purchase immovable properties on their own name except in some cases where some countries have allowed 100 per cent ownership in emerging industries. The small numbers of Indian businessmen that reside in these countries have successfully conformed to these regulations by forging the necessary
partnerships with local persons or entities. Regardless of nationality, expatriates are subjected to local sponsors, who have the power to limit migrant’s movement and ability to change jobs. Expatriates cannot change their job, and if they want to do so, then they have to pay a hefty amount to their employer for a reason of changing their job. As a result, most expatriates also avoid changing job.

f) Detentions and Imprisonment: There are 1,116 Indian prisoners in Saudi Arabia, 825 in UAE, 111 in Kuwait, 86 in Bahrain and 32 in Qatar. The treatment with these people is very miserable and they are not even given consular and legal access.

g) Restriction in forming Trade Unions and Associations: There are restrictions in forming Trade Unions and Associations. In case of UAE, US demanded the creation of Trade Unions and the amending Labour Laws to have compliance with International laws.

Such practices are inconsistent with ILO Declaration on Fundamental Principles and Rights at Work and international instruments on migrant workers. An immediate change in government policy and ratification of international conventions by GCC countries is urgently necessary to protect the interests of the expatriates and rights of migrants. However, this has also been found that UAE’s institutional restrictions hinder progress toward solutions, prohibiting researchers from documenting problems. A multilateral initiative is needed towards transparent cooperation between countries and official documentations with regard to the situation of expatriates in various countries particularly in UAE.

4.5.1 Challenges faced by Expatriates in UAE

Generally, people enjoy their life in UAE as it is well managed by stringent law and order, no fear of social security, living standard is high and expatriates appreciates that too. But as far as Unskilled segment is concerned their life is challenging, as they live in Labour camps, work in harsh weather conditions, they get less time for socialisation and they are deprived of enjoying such level living standards that in

45 It may, however, be noted that in a recent regulation UAE has relaxed visa rules and has lifted the 6 month ban on expatriates if they have completed 2 years with their previous employers. This came into effect from 1 January 2011

case of skilled labourers are available to them. Expatriates who live in UAE visit Dubai frequently to enjoy cosmopolitan culture, irrespective of their residents in any of the seven emirates.

The unskilled segment such as labourers at construction sites, house maids, faces difficulties of extra working hours, and living conditions. Their life is confined to their work place and they hardly get chance to visit Dubai mall, Global village, Dubai shopping festival, water dance and light festivals, also it is so expensive to travel daily for the unskilled segment to these places and enjoy their life as skilled segment does. As compared to the high skilled segment the unskilled segment faces some challenges as follows:

*People to People Disconnect:* There exists a strong disconnect between the nationals and expatriates, there never exists a social gathering together, also in official parties they don’t interact with expatriates. Even their residence is far from expatriates dwelling place.

*Wages discrimination:* There exists a wage discrimination, explains an Indian expatriate in UAE during an interaction with researcher, Mr. Sandeep, an MBA from India and currently working in UAE from last 2 years said that majorly the issue is with semi skilled but generally exists at all levels, the person from Asia is getting less salary for the same skill set, education level and experience level as compared to the Americans for the same position. He also added that unskilled and semiskilled people don’t have their social life, as they overwork many times and their odd working hours, also the UAE has very high living cost which may not met with them if they spend on their living style.

*Delay of Payments:* Delay in payments are an important concern of unskilled labourers. In some cases semi-skilled labourers are also facing the same situation. Sometimes, payment delay exceeds 3 month and so on. This results in the miserable living conditions for expatriates and particularly those expatriates who migrated under severe capital constraints. Not only the expatriates are affected by this but it has been found that their families are also being affected by delay of payments as their wages in UAE.
**Long separation from family:** They cannot talk to their family members frequently like skilled segment due to monetary constraint and also as they are not so technology friendly and technology driven for online chatting and writing mails.

**Language:** Unskilled segment faces severe problems related to the Arabic language as they cannot speak in English but Emirati people manages to speak few commonly used words in Hindi at work place, so that their work does not get hampered due to language barrier. At the same time unskilled segment cannot express them as language is a barrier. To know other serious impact of language one of the Indian expatriate facing, a case of Razia on challenges she is facing in upbringing of her child due to multiculturalism, has written based on field research is also very contextual here, the same has already been mentioned in Chapter 5.4. It explains, that to hire a care taker is not only a very costly affair but the language that the maid speaks also augments the language barriers, creating a divide in culture for the parents (Refer case: Razia, Chapter 5.4 for detail)

The above mentioned challenges have been observed by the researcher during field visit to UAE. Discourses on challenges faced by expatriates are given below:

a. **Health and safety:** Construction workers risk severe exhaustion from lifting or carrying heavy materials in the heat for many hours. Over 30 percent of workers spend 50 hours or more per week on the job. Only the most serious injuries receive medical care; the employer pays for transportation to the hospital and for medical expenses, which labourers must repay upon recovery—thereby increasing their debt. (Human Rights and health disparities for migrant workers in UAE by Sevillet.al.)

b. **Housing conditions:** A 2006 Human Rights Watch (HRW) report detailed living conditions at labour camps that pushed Dubai’s government to announce a series of reforms—in particular related to hygienic conditions. Inspections in 2008 found that 70 percent of worker accommodations violated hygiene and safety rules. Paying fines (about US$545 for the third violation) for allowing sewage to remain in the open is cheaper than removal and repair.

c. **Working Conditions:** The most vulnerable group in terms of working condition is House maids as their work hour is not limited though law prohibits it. Second vulnerable group is construction workers. Both local and foreign contractors
have been resistant to safety laws that protect construction workers; in fact, accidents and injuries are often attributed to workers’ inexperience and language problems.

d. **Salary and payment of Wages:** Labours have been exploited as they overwork without rest and at the end they are not paid extra wages and many times they are under paid.

e. **Recruitment agencies:** Labours are unaware about the host country’s licensed and unlicensed recruitment consultancies and those who are deceive by the unlicensed consultancies they are more prone to be exploited So, the problem of the migrant worker’s begins at the home country.

4.6 **ILO Conventions**

There are eight international labour conventions elaborate upon the fundamental principles and rights expressed in the 1988 Declarations such as, Forced labour convention, 1930 (No. 29), Freedom of Association and protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Equal Remuneration Convention, 1951 (No. 100), Abolition of Forced Labour Convention, 1957 (No. 105), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Minimum Age Convention, 1973 (No. 138), and Worst forms of Child Labour Convention, 1999 (No. 182). All over the world these conventions are the most common conventions which have been ratified. Till date ILO has 185 Conventions and 195 recommendations.47

4.6.1 **Introduction to ILO**

The International Labour Organisation (ILO) formed in 1919, became the first specialised agency of the UN in 1946.48 ILO is built on the constitutional principle that universal and lasting peace can be established only if it is based upon social justice. International Labour Conference which meets annually provides a forum to set broad policies and minimum international labour standards. The conference

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provides a forum to discuss labour and social problems and each member countries can send their 4-delegates, representing both worker and employer.

Since 1919, ILO has worked outstandingly, and today around 200 countries are member state of ILO and conventions and recommendations have been adopted covering practically all issues relating to the world of work. These include certain basic human rights (such as, freedom of association, right to organize and bargain collectively, the abolition of forced labour and child labour and the elimination of discrimination in employment), industrial relations, working conditions, social security, occupational safety and health, employment of women and employment of migrant workers and sea-farers. ILO’s mission is to help people around the world find ‘decent work’ in conditions of freedom, equity, security, and human dignity.

Its course actions include ratifications and monitor the international conventions dealing with various issues related to labours. Considering migration and expatriation a global issue, ILO puts special attention towards these. It also deals with complaints filed on behalf of migrant workers.

ILO has an effective structure for supervision of the states. Government, employers and employee all play an active role for the supervision of the ratified conventions. ILO has Committee of Experts on the Application of Conventions and Recommendations (CEACR) works closely with the governments and suggests measures for better implementation of the conventions. It also supervises and helps in identifying gaps pertaining to implementation and information throughout the process. Even the workers’ and employers’ organizations may also furnish to CEACR, the relevant information related to the application of the ratified Conventions. CAECR examines the report submitted by states. These reports are in two forms i.e. observations and direct requests. “Observations” are CEACR’s public comments on the application of ILO Conventions. “Direct requests” are generally those request which seek further information on specific aspects. These information are sought directly from the government in question, on specific subjects. A committee of independent legal experts supervises the ratified conventions. By this way ILO ensures that its standards are observed.

Also, there are several ways in which indigenous peoples can ensure that their concerns are taken into account in the regular supervision of ILO Conventions by
Committee of Experts on the Application of Conventions and Recommendations (CEACR).

By sending information directly to the ILO on a new policy, law, or court decision. Usually, workers’ organizations – as ILO constituents – have a more direct interest in indigenous issues. Indigenous peoples can strengthen their alliances with workers’ organizations (trade unions) and ensure the issues of their concern are raised. Also by technical cooperation, ILO can assist governments and indigenous peoples in making progress towards the implementation of the ratified conventions. The ILO can also take into account official information from other UN supervisory bodies.

4.6.2 ILO’s Decent work Agenda

Decent Work is a globally accepted goal and instrument for improving the lives of people. This term was first introduced by the Director General of the International Labour Organization (ILO), Mr. Juan Somavia, in his address to the 87th International Labour Conference in 1999. The Decent Work Agenda practice can be achieved through four strategic pillars: job creation, rights at work, social protection and social dialogue, with gender equality.

Mr. Somavia defined decent work as

‘productive work in which rights are protected, which generates an adequate income with adequate social protection. It also means sufficient work in the sense that all should have access to income earning opportunities. It marks the high road to economic and social development, a road in which employment, income and social protection can be achieved without compromising workers’ rights and sound standards.’

Moreover, another international convention is the International Migration Convention of UNESCO which constitutes a comprehensive International Treaty regarding the protection of migrant’s rights. It emphasizes the connection between migration and human rights which is a contemporary issue.

49 International Labour Organisation
52 The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force in July 2003. Its primary objective is to protect migrant workers and their families, a particularly vulnerable population, from exploitation and the violation of their human rights. UNESCO advocates ratification of this convention by all states and disseminates information about this convention and other legal instruments concerning migrants.
In 2004, the International Labour Conference of the ILO adopted a Multilateral Framework on Labour Migration which is part of a plan of action for migrant workers agreed by ILO constituents. The Framework is part of an ILO plan of action which aims at better managing labour migration so that it contributes positively to the growth and development of both home and host societies, as well as to the well being of the migrants themselves.\textsuperscript{53} Some of the ILO conventions ratified by the UAE have been given in Table 4.4.

### Table 4.4 Status of Ratification of ILO Conventions by UAE

<table>
<thead>
<tr>
<th>Convention No.</th>
<th>Name of Convention</th>
<th>Year of Ratification</th>
</tr>
</thead>
<tbody>
<tr>
<td>C1</td>
<td>Hours of Work (Industry) Convention, 1919</td>
<td>1982</td>
</tr>
<tr>
<td>C29</td>
<td>Forced labour Convention, 1930</td>
<td>1982</td>
</tr>
<tr>
<td>C81</td>
<td>Labour Inspection Convention, 1947</td>
<td>1982</td>
</tr>
<tr>
<td>C89</td>
<td>Night Work (Women) convention(Revised), 1948</td>
<td>1982</td>
</tr>
<tr>
<td>C100</td>
<td>Equal Remuneration Convention,1951</td>
<td>1997</td>
</tr>
<tr>
<td>C105</td>
<td>Abolition of Forced Labour Convention, 1957</td>
<td>1997</td>
</tr>
<tr>
<td>C111</td>
<td>Discrimination (Employment and Occupation) Convention, 1958</td>
<td>2001</td>
</tr>
<tr>
<td>C138</td>
<td>Minimum Age Convention, 1973</td>
<td>1998</td>
</tr>
<tr>
<td>C182</td>
<td>Worst forms of Child labour Convention,1999</td>
<td>2001</td>
</tr>
</tbody>
</table>

Source: International Labour Organisation (ILO)

Also, the following rights for migrants may be identified:

a) **Good Working Conditions and Employment Issues**

ILO provides for following conventions:

89: Night Work (Women) Convention (Revised), 1948
90: Night Work of Young Persons (Industry) Convention (Revised), 1948
106: Weekly Rest (Commerce and Offices) Convention, 1957
115: Radiation Protection Convention, 1960
120: Hygiene (Commerce and Offices) Convention, 1964

121: Employment Injury Benefits Convention, 1964
158: Termination of Employment Convention, 1982
167: Safety and Health in Construction Convention, 1988
171: Night Work Convention, 1990
174: Prevention of Major Industrial Accidents Convention, 1993
175: Part-Time Work Convention, 1994
176: Safety and Health in Mines Convention, 1995

Whereas, UNESCO also provides for the following rights under its various articles:

Art. 9: The inhumane living and working conditions and physical (and sexual) abuse that many migrant workers must endure are covered by the reaffirmation of their “right to life”

Art. 10: Prohibition against cruel, inhuman or degrading treatment of punishment

Art. 54 (d): When work contracts are violated by the employer, the migrant worker should have the right to address his or her case to the competent authorities in the state of employment

Art. 18.1: They shall have the right to equal treatment with nationals and be entitled to a fair and public hearing by a competent, independent and impartial tribunal

b) Non-discriminatory Treatment

ILO provides for following convention:

111: Discrimination (Employment and Occupation) Convention, 1958

Whereas, UNESCO also provides for the following rights under its various articles:

Art. 25: Migrant workers are to be treated as equal to the nationals of the host country in respect of remuneration and conditions of work [overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract, minimum age, restrictions on home work, etc.

Art. 27: Equality with nationals extends also to social security benefits

Art. 28: Emergency medical care
c) Abolition of Forced Labour
ILO provides for following convention:
29: Forced Labour Convention, 1930
Whereas, UNESCO also provides for the following right:
Art. 11: Related to slavery or servitude and forced or compulsory labour

d) Freedom of Association
ILO provides for following convention:
87: Freedom of Association and Protection of the Right to Organize Convention, 1948
Whereas, UNESCO also provides for the following rights:
Art. 12: Migrant workers are also entitled to basic freedoms like the freedom of thought, conscience and religion
Art. 13: Right to hold and express opinions
Art. 15: Their property should not be confiscated arbitrarily

e) Right for Wages and Wage-related Issues
ILO provides for following conventions:
95: Protection of Wages Convention, 1949
100: Equal Remuneration Convention, 1951
Whereas, UNESCO also provides for the following rights:
Art. 32: On completion of their term of employment, migrant workers have the right to transfer their earnings and savings as well as their personal effects and belongings

f) Social Security
ILO provides for following conventions:
102: Social Security (Minimum Standards) Convention, 1952
118: Equality of Treatment (Social Security) Convention, 1962
157: Maintenance of Social Security Rights Convention, 1982
Whereas, UNESCO also provides for the following rights:
Art. 27: Equality with nationals extends also to social security benefits
Art. 28: Emergency Medical Care
g) **Right for Health and health related issues.**

ILO provides for following conventions:

130: Medical Care and Sickness Benefits Convention, 1969
152: Occupational Safety and Health (Dock Work) Convention, 1979
155: Occupational Safety and Health Convention, 1981
156: Workers with Family Responsibilities Convention, 1981
161: Occupational Health Services Convention, 1985
162: Asbestos Convention, 1986
183: Maternity Protection Convention, 2000
184: Safety and Health in Agriculture Convention, 2001

Whereas, UNESCO also provides for the following rights:

Art. 28: Safety, health, equality with nationals extends also to emergency medical care

h) **Information as a Migrant Worker’s Right**

UNESCO also provides for the right to information for migrant workers under its convention.

Art. 33: The Migrant Workers have the right to be informed by the States concerned about their rights arising from the present Convention as well as the conditions of their admission, and their rights and obligations in those States. Such information should be made available to migrant workers free of charge and in a language understood by them.

### 4.6.3 ILO and conventions related to Migration

Related to the Migrant Worker’s protection of rights there exist two main ILO conventions and accompanying recommendations that provide precise protection to migrant workers.\(^{54}\)

Migration for Employment Convention (Revised) (No. 97) and Recommendation (Revised) (No. 86), 1949.

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\(^{54}\) The information regarding conventions related to migration has been taken from “Labour migration policy and management: Training modules”, published by ILO, 2004, pg. 68
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendation, 1975 (No. 151).

The migrant worker instruments has two fold ambitions, first, to regulate the conditions under which the migration process takes place and secondly, to provide specific protection to a highly vulnerable category of workers.

**The Migration for Employment Convention (revised), 1949 (No. 97)**

This convention aims to safeguard workers from discrimination and exploitation while employed in countries other than the home country. This convention covers the issues related to three areas: regulation related to the conditions under which migration occurs, protection provisions of medical services, transfer of remittances, prohibiting expulsion admitted on a permanent basis for inability of work. Also this convention focuses on equality between migrants and nationals regarding laws and administrative practices related to social security, living and working conditions, freedom of associations/formation of trade unions/collective bargaining rights, employment taxes and access to justice.

This convention also contains three annexes as follows:

Annex I: It consists of eight Articles, deals with the recruitment, placement and employment conditions if recruited other than under government sponsored agreements.

Annex II: It consists of thirteen Articles; it deals with the recruitment, placement, and conditions of employment of migrants recruited under government-sponsored arrangements for group transfer.

Annex III: It comprises of only two Articles, regulates the importation of the personal effects, tools and equipment of migrants for employment.

Also, this is important to mention that, Article 14 of convention No.97 permits a ratifying state, by a declaration mentioning to exclude from its ratification any or all of the annexes. In the absence of such a declaration, the provisions mentioned in the annexes have the equal effect as those of the convention.
**The Migration for Employment Recommendation (Revised), 1949 (No.86)**

Recommendation No. 86 complements, and broadens the scope of the protection described under convention No. 97 by mentioning it specifically about the welfare of the migrant workers, including:

- Ensuring sufficient accommodation, food and clothing on arrival in the host country.
- If necessary ensuring vocational training, to enable migrants to acquire the educational qualifications required in the country of immigration.
- Providing opportunity to avail school for migrants and members of their families.
- Providing trouble-free and unproblematic administrative formalities relating to departure, travel, entry, residence and settlements of migrants; and
- Equality of conduct in terms of working and living conditions extended to access to trades, occupation and property acquisition.

**The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)**

Migrant workers convention, 1975 addresses the control of migration flows and it eliminates illegal migration and suppresses the activities of organisers of secret movements of migrants, it is mentioned in two main parts as follows:

It deals with the problem arises due to secret or clandestine migration and their illegal employment, it establishes obligation related to basic human rights of regular and irregular migrant workers. The provisions mentioned in this part do not challenges the right of states to regulate migratory flows but it requires ratifying states to:

- To monitor clandestine movements of migrant workers in their province.
- Instigators of such movements, including abettors and employers should be punished.
- Migrant workers who have lost employment or are in an irregular condition state should have protective measures for them.

Also, this is important to mention that that member states ratifying convention No. 143 may exclude Part I or Part II or both from their ratification of the instrument.

**The Migrant Workers Recommendation, 1975 (No. 151)**

The Recommendation No. 151 sets a number of protective provisions in several categories, including such as equal opportunity and treatment, adaptation into the society of the country of immigration, occupational health and safety and reunification of families.
4.7 Labour Law of the UAE

The legislations related to the labour matters in the UAE are governed by Federal Law No. 8 of 1980: Regulating Labour Relations as amended by Federal Laws No. 24 of 1981, No.15 of 1985 and No.12 of 1986. Since this law is a federal law, it applies to all the Emirates of the UAE. As per Article 3 of the Law, it applies to all staff and employees working in the UAE, whether UAE nationals or expatriates. However, there are certain categories of individuals who are exempted from the Law as listed below:

i. Staff and workers employed by the federal government, government departments of the member emirates

ii. The Municipalities, public bodies, federal and local public institutions and those staff and workers employed in federal and local governmental projects.

iii. Members of the armed forces, police and security units.

iv. Domestic servants.

v. Agricultural workers and persons engaged in grazing (this exemption does not include persons who are employed in corporations which process agricultural products and/or those who are permanently engaged in the operation or repair of machines required for agriculture).

The Labour Law of the UAE covers all aspects of the employer-employee relationship including matters related to the following:

- employment contracts
- restrictions on the employment of juveniles and women
- maintenance of records and files
- wages
- working hours
- leave
- safety and protection of employees
- medical and social care
- codes of discipline
- termination of employment contracts
- end of service benefits
- compensation for occupational diseases
- labour inspections
- penalties and employment related accidents, and,
- injuries and death.

The Law is federal and is therefore applicable to all the emirates of the federation. It is enforced by the Ministry. In context of the employment of expatriates, the law hold that in order to employ any expatriate employee in the UAE, the company must make the application to the Ministry of Labour. The application must be approved by the Ministry before the employee enters the UAE. In fact, the law also requires that the new businesses should register or open a file with the Ministry before they can employ staff. Moreover, in addition to obtaining the Ministry’s approval to employ expatriate workers, there are certain immigration procedures that need to be complied with.

In the UAE, the employment contracts can be:

- limited employment contracts, and,
- fixed-term contract: those contracts which are signed for a specified duration with a specified start and end date
- Unlimited contract: which are for an unlimited period starting with a specified date, but ending only through termination of contract of by either party through a notice

The information required by law to be specified in an employment contract are as follows:

i. Wages/remuneration payable.
ii. Date of the employment contract.
iii. Date of commencement of the employment contract.
iv. Nature of the contract (limited or unlimited).
v. Nature of the work.
vi. Duration of the contract (for fixed term contracts).
vii. The location of employment.

It is common practice in the UAE to employ people on probationary period for a maximum of 6-month duration as per Article 37 of the Law. Wages according to the Law are defined as “Payments made to the worker on a yearly, monthly, weekly, daily, piece work, or production, or commission basis, in return for the work he performs under the contract of employment, whether such payments are made in cash
or in kind”. Whenever there is a dispute in the payment of wages, the Law requires the employer to provide written evidence that the employee has been paid his wages and all applicable allowances.

The law prohibits the employment of juveniles under the age of 15. Also, it is prohibited to employ women in hazardous or difficult work. Women can also not be employed in those works which are harmful to health or morals. Moreover, some specific details related to the issues that expatriates or employee would need from the Law are as follows:

**Working Hours:** Prescribed working hours for an adult employee is eight hours per day or forty-eight hours per week. This is the maximum limit. However, in case of persons employed in trades, hotels, cafeterias, and as guards, the working hours may be increased to nine hours per day. But the persons who hold executive/administration positions are expected to work long hours.

If the nature of the job requires an employee to work overtime, the employee is entitled to overtime pay which is equivalent to the wage paid during ordinary working hours plus an additional amount of not less than 25% of the wage for the overtime period. However, if the employee’s overtime falls between the hours of 9.00pm and 4.00am, he or she will be entitled to overtime pay of additional 50%. If the employee has to work on a Friday, he or she will be entitled to receive a rest day in lieu of this. However, the above provisions are not applicable to certain categories of employees or staffs.

**Leave Entitlements:** For every year of service, an employee is entitled to annual paid leave of 30 days.

**Sick Leave:** In case of sick leave, the entitlement is as follows:

i. Full wage for the first 15 days.

ii. Half wage for the next 30 days.

iii. Any following period will be without wage.

But if the illness is directly caused by misconduct such as excessive drinking etc., there will be no entitlement.
Maternity Leave: A woman employee is entitled to 45 days maternity leave with full pay which includes the period before and after the delivery. The employee must have served continuously for not less than one year. The maternity leave is granted with half pay if the woman has not completed one year of service. Also, the woman has the right to extend her maternity leave for a maximum period of 10 days without pay depending upon her medical condition.

During the first 18 months following delivery, the employee who is a nursing mother has the right to have two daily intervals which do not exceed half an hour each for the purpose of nursing her child. On the other hand, paternity leave is not provided for under the Law. The law also provides for regulations related to safety regulations including access to first aid, doctors, etc. Moreover, in case of an accident at work place, or while travelling to or from his place of work or in cases of occupational diseases, the employer should undertake to pay the cost of the employee’s treatment in a government or private clinic until the employee recovers or his disability becomes certain.

4.8 Comparative Study of ILO Conventions and UAE Labour Law

ILO has eight international labour conventions elaborate upon the fundamental principles and rights expressed in the 1988 Declarations such as Forced labour convention, 1930 (No. 29), Freedom of Association and protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No.98), Equal Remuneration Convention, 1951 (No. 100), Abolition of Forced Labour Convention, 1957 (No. 105), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Minimum Age Convention, 1973 (No. 138), and Worst forms of Child Labour Convention, 1999 (No. 182).

There are nine conventions of ILO which are ratified by UAE (see Table 4.4 on status of ratification of ILO conventions by UAE).

The UAE labour law is federal and it is applicable to all the emirates of the federation. This holds that to employ any expatriate employee in the UAE, a company has to apply to the Ministry of Labour, which should be approved before the employee enters the UAE. Not only that but to employ expatriate workers, there are certain immigration procedures that need to be complied with. The labour law of UAE covers
matters related to employment contracts, restrictions on the employment of juveniles and women, maintenance of records and files, wages, working hours, leave, safety and protection of employees, medical and social care, codes of discipline, termination of employment contracts, end of service benefits, compensation for occupational diseases, labour inspections, penalties and employment related accidents and injuries and death.

**Convention 1: Hours of work (Industry) Convention, 1919**

The Preamble to Part XIII “Labour” of the Versailles system of peace treaties, under which the ILO was established, specifically included “the regulation of the hours of work, including the establishment of a maximum working day and week”. The basic idea behind Convention No. 1 is that the combination of standards of the eight-hour day or 48-hour week contemplated by the Treaty of Versailles is to be embodied in national legislation in the form of a legal limitation of hours of work, which would be laid down by the legislature and enforced by the executive departments of the Government.  

Whereas, labour law of UAE mentions that, prescribed working hours for an adult employee is eight hours per day or forty eight hours per week. This is the maximum limit. However, in case of persons employed in trades, hotels, cafeterias and as guards, the working hours may increase to 9 hours per day, but executive and administration positions are expected to work long hours.

**Convention 29: Forced Labour Convention, 1930**

ILO defines it 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”.

Article 1 of Forced labour convention mentions that each member of the International labour organisation which ratifies this convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period. The UAE has ratified it on 27 May 1982.

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The Gulf Cooperation Council has denounced forced labour recently considering it a shameful crime, Humaid bin Deemas, undersecretary at the UAE Ministry of Labour, has mentioned on 7 June 2014, that providing a decent workplace for all employees and protecting workers’ rights can serve as a guarantee they would not fall into the forced labour category.\(^{56}\)

Whereas, The UAE labour law in UAE retention of passports by the employer is common in the case of migrant worker and they refuses to return them to the individual unless the worker continues to work for the employer.\(^{57}\)

**Convention 81: Labour Inspection Convention, 1947**

As per Article 2 of this convention, the system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors. The system has to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors.\(^{58}\)

Also, UAE labour law section 18 that the Labour Inspection Dept. and the personnel employed therein shall undertake labour inspections and shall have the power provided in this law. The inspector shall carry the identification card issued by the Ministry of Labour and Social Affairs, and shall be entitled to enter premises for inspection. Employers and their agents shall present the labour inspectors with all necessary facilities and information to perform their duties and shall consent to any summons to appear before them, or send a delegate to appear on their behalf, if they are required to do so.

\(^{56}\) http://www.thenational.ae/uae/ministry-of-labour/uae-speaks-out-against-forced-labour

\(^{57}\) http://books.google.co.in/books?id=QL5gGzHr6hwC&pg=PA48&lpg=PA48&dq=forced+labour+convention+1930+(no.+29)+and+UAE&source=bl&ots=uxxJcvHOeu&sig=3YkoK1x8rhIVBtkybLCDBa6sttk&hl=en&sa=X&ei=R8lU6vLM9nW-M0OT4HQCw&ved=0CDsQ6AEwBQ#v=onepage&q=forced%20labour%20convention%201930%20(no.%2029)%20and%20UAE&f=false (accessed on 9 August 2014)

Recently in UAE, the prosecutions came amid a massive enforcement campaign by the Ministry of Labour in 2013, whose staff conducted 138,801 general inspections, 11,807 visits to workers’ accommodation and 80,571 visits to construction sites to ensure labourers were not working during the peak hours of summer heat, which is illegal.59

Convention 89: Night Work (Women) convention (Revised), 1948

As per this convention, women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

For the context of the convention, night is defined as a period of at least 11 consecutive hours, including an interval prescribed by the competent authority of at least 7 consecutive hours falling between 10 PM to 7 AM, the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after 11PM.

This Convention does not apply to those women who holds responsible positions of a managerial or technical character; and employed in health and welfare services (not ordinarily engaged in manual work).

As per the UAE labour law also, no women shall be required to work at night. The term “at night” refers to a period of not less than eleven successive hours, including the period from 10 p.m. to 7 a.m. The prohibition of night work for women shall not apply for the Executive managerial and technical staff and Work in such health services and other business as may be specified in a resolution by the Minister of Labour and Social Affairs, if the female worker is not normally engaged in manual work etc.60

**Convention 100: Equal Remuneration Convention, 1951**

This convention states undertake to promote the principle of equal remuneration for men and women workers for work of equal value, and to ensure that rates of remuneration are established without discrimination based on gender.

The Convention is normally applied and in effect in the UAE. In this regard Article 32 of Federal Law No. 8 of 1980 regulating employment relationships provides that a woman’s remuneration shall be equal to that of a man where she performs the same work.

**Convention 105: Abolition of Forced labour Convention, 1957**

This convention undertakes to suppress and not to make use of any form of forced or compulsory labour, for political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; economic development, racial, social, national or religious discrimination.

UAE has ratified it but a common practices of retaining passports especially by private firms seems contradicting the ILO Convention No. 105. There are speeches on news paper and channels from the ministry that no one can hold passport but no ground work has been done for its implementation (says an expatriate currently working in Sharjah, and his passport is also not with him and its with employer).

As per the UAE labour law “a case of passport confiscation would cost between Dh.5000 and Dh.10,000 for the employer, although it is considered as a ‘simple case’. Moreover, the government will not tolerate companies that withhold passport”. 61

**Convention 111: Discrimination (Employment and Occupation Convention), 1958**

This can be defined as, any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

Whereas in UAE, Convention on the Elimination of All Forms of Discrimination against Women: article (2-F/6) which states that laws that discriminate against women are void. UAE considers this article as contradictory to rules of inheritance in Islamic Law (Shari’a). Article (19) concerning equal rights in the case of children’s citizenship. United Arab Emirates considers citizenship an internal matter subject to national law. Article (15-F/2) pertaining to equal rights in legal capacity, considered a contradictory to Shari’a and thus not binding. Article (16) concerning equality in marriage and family relations as it contradicts the provisions of Shari’a. Article (29-F/1) concerning the referral of dispute among states over interpreting or implementing the convention to arbitration.\(^6^2\)

**Convention 138: Minimum Age Convention, 1973**

As per the convention, the minimum age specified for this purpose shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. In UAE the employment of juveniles (of either sex) under the age of 15 is prohibited. Before employing a juvenile, employers must obtain copies of the following documents from him/her and retain them in the juvenile’s personal file including birth certificate, written consent from the juvenile’s guardian, certificate of physical fitness etc.

**Convention 182: Worst forms of Child Labour Convention, 1999**

This convention prohibits the worst form of Child Labour. It comprises, slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Whereas in UAE in earlier days the children from countries such as Bangladesh, Pakistan, Sudan and Yemen have been used as camel jockeys in the UAE. The use of children as jockeys in camel racing is extremely dangerous and can result in serious

injury and even death.\textsuperscript{63} In 2005, the Government of the United Arab Emirates recognised the seriousness of this problem and announced the introduction of a new law prohibiting the use of children as camel jockeys under the age of eighteen. When this agreement was done then UAE’s Ministry of the Interior estimated that some 3,000 children were being used as camel jockeys in the UAE and that around 2,800 of these children (93 per cent) were under 10 years old.\textsuperscript{64}

\textbf{Regional Charters}

United Arab Emirates has agreed to the “Cairo Declaration on Human Rights in Islam” issued in 1990 by foreign ministers of Muslim countries. The declaration is a guiding document that does not require ratification. United Arab Emirates also acceded to the “Arab Charter of Human Rights/Amended” prepared by the Arab Summit in Tunisia in May 2004. United Arab Emirates did not ratify the charter just like most Arab countries.

\textbf{Bilateral Agreements}

UAE has done bilateral agreement with the labour sending countries, as many labour recruiting agencies exploit workers by extorting large upfront payments from them for visas. This practice is illegal in the UAE, where labour law requires the cost of visas to be borne by the employer, but is difficult to combat because recruitment agencies operate outside of the country. Because of these issues, the UAE hopes bilateral efforts will prove successful. Agreements have been made with Nepal, India, Pakistan, Bangladesh, Sri Lanka, China, Thailand and the Philippines.

It is evident from the UAE government documents and UAE Labour Laws reforms that UAE is well aware and genuinely concern about the situation of the labours in the state in some matters. But there is still a need to do more.

\textbf{4.9 Expatriate Management Practices in UAE}

Expatriate management practices means, all those practices done to manage the foreign worker to manage the employment status, demographic status, socio-economic

\textsuperscript{63} http://www.antislavery.org/includes/documents/cm_docs/2009/2/2006uae_cameljockeys.pdf (10 August 2014)

\textsuperscript{64} Ibid.
and Cross culture of host country. Its objective is to hold on expatriates keeping national interest in mind.

Some of the policies related to expatriates Management Practices by Government are:

1. **Category wise visa issuance charges**: Based on the nationalities of the expatriates the visa category has been decided by the government of UAE and they charge for the visa accordingly (mentions one of the employers in UAE who has requested to keep name confidential) and explains this as “suppose there is 100 employees in the organization then:

- If more than 80% is Indians or Pakistani’s then category is A and visa renewal charges will be Dhs.2000 per employee will be charged by the Chamber of commerce.
- If 20-25% is from India, more than 40% is from Bangladesh or Nepal, around 20% are from Sri Lanka or The Philippines, 5% locals and rest from other nationality then it falls under B category.
- If Bangladesh are 40% to 60% and less percentage of Indians and other country, then visa category is C.
- If 60-80% are from Bangladesh and rest from other country then it comes under category D. By this way UAE government is managing the people from different nationality and cost of their hiring varies accordingly.

2. **Restriction in Employment Visa Issuance to some nationality**: Currently visa is restricted to nationals of Israel, Syria and Bangladesh and Shia community due to political reasons.

3. **Employment visa to be issued for 2 year contract and visa to be renewed every year**: Every year for the renewal of visa expatriates have to go through visa interview by employer of the organisation.

4. **High inflation rate**: High inflation is a part of expatriate management policy, so that they can hold only those people who have high purchasing power.

For example, in Dubai cost of living is very high and house rent is also very high. The cosmopolitan culture of Dubai is attracting everyone but only few can afford it.
5. **Emiratisation:** It is a quota driven policy to increase the employability of young nationals. It is a state policy which influences the demand and supply of expatriates and local workers (refer Case 2: Emiratisation Programme at Higher Colleges of Technology, UAE). Emiratisation is the affirmative action quota driven employment policy that encourages the employment of the UAE nationals in the private sector (Godwin, 2006). This is further discussed in Chapter 5 of this thesis.

**Case 2: Emiratisation Programme at Higher Colleges of Technology, UAE**

This case study is on Higher Colleges of Technology (HCT), UAE and its Emiratisation programme.

*About HCT:* HCT, founded in 1988, is the largest higher education institution in the UAE. It constitutes of four colleges, 17 campuses, and hosts more than 20,000 students and 2,000 staffs. The colleges are spread across the UAE in the following cities: Abu Dhabi, Madinat Zayed, Al-Ain, Dubai, Ras Al-Khaimah, Ruwais, Sharjah and Fujairah. The name of the colleges are as follows: Abu Dhabi Men’s College, Abu Dhabi Womens’ College, Al-Ain Men’s College, Al-Ain Women’s College, Dubai Men’s College, Dubai Women’s College, Fujairah Men’s College, Fujairah Women’s College, Khalifa city Women’s College, Madinat Zayed Colleges, Ras-Al Khaimah Men’s College, Ras Al Khaimah Women’s College, Ruwais College, Sharjah men’s College, Sharjah Women’s College.

*Programmes:* The HCT runs various programmes in the fields of applied communications, education, business, computer information science, engineering technology and science, and health sciences, among others.

*Mandate:* The mandate of HCT programs is to prepare UAE National students for careers which allow them for positive contribution towards the development of the UAE.  

*Implementing Emiratisation:* There are various ‘Emiratization’ events held throughout the year in HCT. Moreover, Careers UAE is an annual recruitment event held in Dubai. It helps HCT to network with Emirati job seekers and then they can accordingly take suitable measures to increase their representation in the workforce. Also, there is an Emiratization Committee which is involved during

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the recruitment of all UAE National candidates. The aim of this committee is to ensure that qualified Emiratis are considered for the available job vacancies. The colleges have also earmarked its certain administrative positions for Emiratis only. They also have strategies to fill leadership and faculty positions by hiring qualified Emiratis. The HCT employs people from over 60 countries including the UAE, USA, UK, India, South Africa, Lebanon, Australia, the Philippines, and others.

6. **Citizenship restrictions:** In 2011, President His Highness Shaikh Khalifa Bin Zayed Al Nahyan issued a decree allowing children born to expatriate fathers and Emirati mothers to seek UAE citizenship.66

7. **No freedom for Expatriates home country festival celebrations openly but government decides the place:** There is no freedom for celebration like Holi and Diwali openly, one can do this inside home or the place where it is decided by the government to use for crackers etc. A case of Nithya’s view on festival celebration at UAE has written based on field research is also very contextual here, the same has already been mentioned in Chapter 5.4. (Refer case: Nithya, Chapter 5.4 for detail).

8. **For Managing the multiculturalism opening of Church and Mandir in UAE:**

   UAE is a fast developing emirates, people from all over the world comes there to work as well as for tourism. Among all nationalities Indians dominates in number. To attract the tourism and to promote its openness in terms of race and religion a clear message is sent to the world by inaugurating Church and Temple.

9. **No dwellings of expatriates in residential area of Emiratis:** Expats are not allowed to live in the same area where Emirati does; also it is a fact that its cost or rent is not affordable by expatriates. Even if any elite expatriate stays they do not mix with. This can be observed and inference can be drawn that neither they mix nor the social and cultural exchange takes place, by this way they can conserve their culture.