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REEM ALSHAMSI

EVALUATION OF MIGRATION GOVERNANCE IN THE UNITED ARAB EMIRATES

**ABSTRACT**

The central idea of this thesis is to develop a migration governance framework that helps policymakers achieve a balanced, sustainable migration path for the UAE, by focusing on potential policies that strike a balance between benefits and costs implications of migration. The research is motivated by the growing debate on effective migration governance, which should be balanced through the simultaneous development of legal and institutional structures that support a migrant-friendly environment and policies that maximise the social-economic benefits of migration. A mixed-method research design is employed. Primary data was collected through structured questionnaire and is used with secondary data to provide a robust analysis of the effectiveness of the legal and institutional structures of migration governance and an empirical evaluation of the potential costs and benefits of migration in the UAE. The major findings are the following. First, the laws and institutions currently in place for regulating and enforcing migration process in the UAE are ineffective, primarily because they can be exploited to encourage, rather than penalise, labour and human rights abuses. Second, the findings suggest that attracting relatively low-skilled migration may have a negative impact on the productivity of the UAE's economy, potentially increasing youth unemployment, and worsening demographic inequality. The implication is that there are gaps in the policies which are designed to promote the positive experience of migrants in terms of their labour and human rights, as well as those which are designed to maximise the gains of migration. Consequently, this study proposes a three-dimension framework for evaluating the legal and institutional capacity aimed at creating a migrant-friendly environment and the associated economic, social and demographic outcomes. Crucially, the UAE's index of migration governance, generated from the framework, shows that, compared to the standard benchmark, the UAE is less than half way towards developing migration policies that will lead to a balanced, effective migration governance system. The policy implications of the findings include the following. On promoting migrant-friendly environment, the focus should be on enacting universal labour and human rights, including the ratification of relevant international conventions that fully protect the labour and human rights of all classes of migrants. On maximising the net benefits of migration, policymakers should focus on policies that strategically shift the structure of the economy towards a high-skilled, knowledge-based economy, which is necessary for attracting high-skilled migrants with a consequent positive impact on productivity, employment and demographic stability.

EVALUATION OF MIGRATION GOVERNANCE IN THE UNITED ARAB EMIRATES

BY

REEM ALSHAMSI

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## LIST OF ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
ASQ	American Society for Quality
BP	British Petroleum
CDI	Commitment to Development Index
CRC	Convention on the Rights of the Child
EIU	Economist Intelligence Unit
EU	European Union
FAIC	Federal Authority for Identity and Citizenship
FDI	Foreign direct investment
FNC	Federal National Council
FSC	Federal Supreme Council
GATS	General Agreement on Trade in Services
GCC	Gulf Cooperation Council
GCIM	Global Commission on International Migration
GDP	Gross domestic product
GDRFA	General Directorate of Residency and Foreigners Affairs
GFMD	Global Forum on Migration and Development
GMG	Global Migration Group
GNI	Gross national income
ICMC	International Catholic Migration Commission
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
IDM	Internal Dialogue on Migration
IGAD	Intergovernmental Authority of Development
IGC	Intergovernmental Consultation
ILO	International Labour Organisation
IMF	International Monetary Fund
IMPALA	International Migration Policy and Law Analysis
IMPIC	Immigration Policies in Comparison
IOM	International Organisation for Migration
IPC	Iraq Petroleum Company
ISI	International Statistical Institute

MDG	Millennium Development Goal
MGI	Migration Governance Index
MiGOF	Migration Governance Framework
MIPEX	Migrant Integration Policy Index
MoHRE	Ministry of Human Resources and Emiratisation, UAE
MNC	Multinational corporation
MOE	Ministry of Education, UAE.
MoI	Ministry of Interior, UAE
NAFTA	North American Free Trade Agreement
NBS	National Bureau of Statistics
NCCHT	National Committee to Combat Human Trafficking
NGO	Non-government organisation
NOC	No Objection Certificate
OECD	Organisation for Economic Co-operation and Development
OLS	Ordinary Least Square
PA	Public Administration
PD(TC)	Petroleum Development (Trucial Coast) Ltd
POLO	Philippine Labour Office
PSO	Public Service Organisation
PWT	Penn World Tables
RA	Recruitment Agencies in UAE
RAS	Recruitment Agencies in Sending Country
RCP	Regional Consultative Process
RQ	Research question
SAP-FL	Special Action Programme to combat Forced Labour
SDG	Sustainable Development Goal
STEM	Science, technology, engineering and mathematics
TELS	Teacher and Educational Leadership Standards
UAE	United Arab Emirates
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
US	United States of America
WDI	World Development Indicators

WPS      Wage Protection System  
WTO      World Trade Organisation

## DECLARATION

I declare that this thesis has been composed by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where states otherwise by reference, the work presented is entirely my own.

## COPYRIGHT

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## DEDICATION

To My Father

## **CHAPTER ONE:**

### **INTRODUCTION**

#### **1.1 OVERVIEW**

The concept of migration is multidimensional and multidisciplinary, leading to a lack of consensus on its nature, causes and implications (Dobson et al., 2001). Instead, a number of partial approaches or theories have been suggested in an attempt to explain the reasons behind migration (Bodvarsson and Van den Berg, 2013). For example, anthropologists postulate that migration is historically based from when people moved freely in search of suitable territory in which to live. More specifically, anthropological archaeologists point to early migratory movements among prehistoric hunters and gatherers, as well as among those who built the ancient civilisations of the old and new worlds, while historical anthropologists, who have worked with archival records, have demonstrated that the movement of people in Europe, Latin America, China, and Japan has been going on for centuries (Brettell, 2013).

For sociologists, migration is a result of social conflict driven by struggles for power and resources. The argument is that migration can be traced to adversarial activities between communities, resulting in people being forced to emigrate, while others forcefully occupy their territory, whether for reasons of the resources it contains or to extend their power base (Geiger and Pécoud, 2012). In contrast, economists argue migration is the result of spatial disequilibrium in labour markets, or an imbalance in wages between different locations. Therefore, migration is caused by interplay of demand and supply within national or international labour markets, with people moving to countries or to areas within countries with better employment prospects and higher wages relative to their home area (Borjas, 2008).

Thus, the multidisciplinary approach to migration has resulted in the development of different theoretical explanations for migration, despite the growing number of empirical studies. The different explanations for the causes of migration make it difficult to assess the implications and, therefore,

implement policies for the effective governance of migration. Against this background, the present study focuses on the emerging strand of migration literature in which the key debate is about a balanced, effective migration governance framework. A balanced approach to the study of migration combines the debate around a migrant friendly environment, which focuses on the legal and political developments that support the better integration of labour and human rights in migration policy, and the debate on the socio-economic impacts of migration, which focuses on the implications of migration dynamics on the labour market, demographic changes and the economic performance of the migrant-receiving country. In particular, this study focuses on the United Arab Emirates's (UAE's) experience, where about 90 percent of the residents are migrant workers and their families. This research combines the political, economic, social and demographic perspectives of migration to contribute to the debate and provide evidence of effective migration governance with respect to the causes and implications of migration, especially in countries in which there is a large population of migrants.

## **1.2 RESEARCH MOTIVATION**

As communication and travel have become easier and faster, international migration has increased to meet the demand and supply of migrant labour. Consequently, while the global population doubled in the last 50 years, international migration tripled over the same period (UN, 2015). More specifically, as of 2015, the global migration stock, or people living in a country not of their birth, was approximately 247 million, which represents a 200 percent increase in the past 50 years (UN, 2015). This development makes the debate over a migration governance framework a key challenge for public policy, especially for Gulf Cooperation Council (GCC) states,<sup>1</sup> and the UAE in particular.

---

<sup>1</sup> The GCC states are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE.

The key challenge for the migration governance debate is how to strike a balance between the benefits and costs of migration. Against this background, the search for and implementation of migration governance frameworks has become a defining aspect of the policies aimed at achieving a sustainable migration path in the UAE. Alongside this debate, there is now a growing consensus that measures of an effective migration governance system should go beyond the creation of a migrant-friendly environment, to consider the socio-economic and demographic needs of the receiving states, such as the UAE (IOM, 2016). This argument is informed by growing youth unemployment amongst Emiratis, and an increasing skills and demographic imbalance in the UAE (Low, 2012).

However, to date the development of migration governance in the UAE, based on the international migration governance framework, has focused primarily on one side of this debate; enacting a legal framework that deals with the problems of labour exploitation by unscrupulous employers and traffickers and the consequent promotion of migrants' rights, welfare, and safety. The argument for focusing on this aspect of the debate by international organisations, such as the International Organisation for Migration (IOM), is that it maximises the benefits of migration for both migrants and the receiving countries. Indeed, the benefits of this narrow-focused migration governance framework are real, but its unbalanced approach can result in a new issue; it may create "winners" and "losers" leading to tensions within society, which may threaten cohesion and political stability (Toledo, 2013). For example, there is growing evidence of socio-economic problems for certain social groups who are negatively affected by an unbalanced approach to migration governance.

Consequently, the existing migration governance framework, developed by the IOM, does not address the issues faced by the UAE in relation to sustainable migration. For example, socially, it does not support the State's target of increasing local women's participation in the workforce. Economically, it does not address the skills mismatch between migrants and Emiratis which is leading to increasing

income inequality and decreasing labour productivity. Demographically, the increasing number of low-skilled migrants means that a growing number of male migrants do not qualify to bring their spouses to the country, leading to a growing demographic imbalance.

Overall, the existing international migration governance framework offers little to policymakers in the UAE, who are increasingly interested in balancing the competing economic need for migrant labour and the socio-demographic objectives. With respect to the failure of the international migration governance framework to address the socio-demographic challenges faced by the UAE, the government has attempted to develop migration policies that cover the other side of the migration debate. Specifically, nationalisation of immigration policy, or ‘Emiratisation’, has been introduced to promote the participation of the native workforce in the economy, especially in the private sector (Toledo, 2013). Emiratisation includes the introduction of quotas in selective sectors of the economy, where a fixed proportion of the **employees is reserved** for the native workforce. For example, the banking sector is required to have four percent of natives in its workforce, while the insurance sector is required to achieve five percent (Ecouncil, 2007).

However, the nationalisation of immigration governance does not fully take into account the dynamics of demands for migrant labour to support the country’s huge developmental objectives, making it difficult to create an efficient, balanced migration governance framework. Consequently, there is now a need for a UAE-specific framework, with a coherent, comprehensive and balanced approach to migration governance, which is also realistic in terms of the development needs of the country, while at the same time serving the needs of both the native and migrant population. Thus, this study widens the focus from a narrow, one-sided migration governance framework to develop a system of migration governance that balances economic and socio-demographic objectives.

### 1.3 RESEARCH OBJECTIVES

Given the need to balance the economic needs for migrant labour and national socio-demographic objectives, this research seeks to identify the range of migration governance or policy factors that can meet the proposed objectives. Achieving this aim will contribute to a balanced migration governance framework with respect to the challenges that sustainable migration must address. Therefore, this study aims to achieve the following objectives:

- I. Analyse the potential challenges faced by migrants in the UAE.
- II. With respect to objective (i), evaluate the UAE's institutional capacity and strategy on migration governance in providing a safe and productive environment for migrant labour.
- III. With respect to objective (ii), analyse the existing UAE migration policies in comparison with international migration governance frameworks.

Overall, achieving these objectives allows for the identification of a number of policy indicators that are used to:

- IV. Develop a UAE-specific migration governance index, based on a proposed framework that balances the developmental needs of migrant labour, the legal and institutional instruments to promote labour rights, and address potential socio-demographic challenges, simultaneously.

### 1.4 RESEARCH QUESTIONS

Based on the assumption that a balanced migration governance framework should simultaneously meet the economic and socio-demographic objectives, migration governance policy should offer policymakers the tools for evaluating the implications of this balanced approach. Hence, the research questions (RQs) are:

**RQ1:** What are the UAE's legal and institutional structures on migration governance?

**RQ1.1:** What are the legal challenges and constraints that low skilled migrants face in UAE?

**RQ1.2:** How effective is the existing UAE legal and institutional structure in providing a safe and productive, and mutually beneficial environment for migrant labour?

**RQ2:** What are the impacts of migration on socio-economic outcomes?

**RQ2.1:** Is there a relationship between migration and demographic imbalance?

**RQ2.2:** What are the effects of migration on national output and youth unemployment?

**RQ3:** What are the policies and strategies that could be employed by UAE policymakers to address the challenges and maximise the opportunities associated with migrant labour in the UAE?

## **1.5. SUMMARY**

This chapter discusses the motivation for this study, the aims and objectives of and the research questions of the study. The remaining chapters are organised as follows. In Chapter Two, the various theories of migration are discussed. These theories are dominated by competing political economy models which explain the reasons for migration, including the costs and benefits. The chapter also explores sociological models of migration, based on globalisation, to explain that international migration is driven by increasing interconnectivity and dependency between countries. Overall, the chapter highlights the development of theories of labour migration and summarises the existing evidence on the costs and benefits of migration. In Chapter Three, the methodological choices employed to achieve the stated objective and answer the research questions are discussed. More specifically, the philosophical stance, research approach and strategy are highlighted. The discussion of the research design includes the issues and methods of data collection and analysis, the justification for the sample and sampling technique, and the interview/questionnaire design. Furthermore, the process and methods that are used in developing the proposed migration governance index development are explained. Finally, the chapter includes

discussions on the ethical issues of the research, and the issues about the validity and reliability of the methodological choices. In Chapter Four, the evolution of migration in the UAE and the development of migration governance policies are assessed.

In Chapter Five, the potential impact of migration on the socio-economic outcomes of UAE, including on productivity, economic output, the labour market, especially the youth unemployment, and demographic distribution of the population are examined. In Chapter Six, the focus switches to the debate about creating a migrant-friendly environment. In particular, the legal and institutional structures that support the migration process are analysed, by evaluating the provision and potential for exploitation of basic human and labour rights, including those stipulated in employment contracts. The empirical analysis in this chapter examines the following: the nature and process of migrant entry into the UAE; the process of obtaining an employment contract for domestic workers; the potential evidence of systemic human rights abuse; how employment contracts are ended or how migrant domestic workers can leave their employment; the sources of vulnerability to exploitation and abuse; and, the effects of delays in the ratification of international conventions. Overall, this chapter evaluates the effectiveness of laws and institutions that are designed to regulate and enforce the migration process in the UAE, with the overall aim of identifying potential gaps that exist in terms of their relevance and limitations.

In Chapter Seven, the proposed UAE's specific migration governance index, which is designed to evaluate the UAE's existing policies on migration governance, and to highlight the gaps in the desired policies and the current policies, is presented. Therefore, the objective of this chapter is to contribute to the emerging debate on balancing the potential benefits and costs of migration. Consequently, this chapter specifically evaluates the legal framework and institutional capacity and policies aimed at providing a migrant-friendly environment. It also assesses the effectiveness, and potential gaps, in migration policies aimed at achieving the competing economic, social and demographic national objectives of the UAE.

Finally, Chapter Eight provides an overall summary of the study, highlights the key findings, and discusses the policy implications of the findings, its limitations and suggestions for future research.

## **CHAPTER TWO:**

### **LITERATURE REVIEW: MIGRATION AND MIGRATION GOVERNANCE**

#### **2.1 OVERVIEW**

Migration is a complex subject: multidisciplinary in study, multidimensional in definition, multifactorial in measurement, and contentious in public policy, where its application or governance, to a large extent, depends on the various interpretations of the concept and socio-political environment in a given country. The lack of consensus around the concept of migration has crucial implications for public debate and poses challenges for government policy in terms of developing of migration governance because definitions may vary in time and across space, or according to the duration of the person's stay and the distance travelled (UN, 2017; Anderson and Blinder, 2017). Even the multilateral UN's recommendations on the definition of migration have not eliminated the definitional and conceptual debate around migration and migration governance (UN, 2017). In this section, the historical development in defining and conceptualising migration, including the extent to which different definitions used in different countries or geopolitical regions, is discussed. This discussion provides the background for a case study discussion on some of the issues involved in migration governance.

The roots of migration, where individuals leave home in order to overcome adversity and to enjoy better standards of living (Geiger and Pécoud, 2012), can be tracked to prehistory, (Amuakwa-Mensah, Boakye-Yiadom and Baah-Boateng, 2016). The concept of migration is very complex and although a number of typologies have been presented, scholars are unable to reach to a single definition for migration in general and labour migration in particular (Dobson et al, 2001, Narasimham and Vasudev, 2013). This is despite the fact that the topic of migration is gaining attention and is rapidly becoming a significant subject matter (Tharmaseelan, Inkson and Carr, 2010)

The International Organisation for Migration (IOM) defines labour migration as “the movement of people from one country to another for the purpose of employment” (International Organisation for Migration, 2017). Furthermore, certain researchers define international labour migration as a kind of “spatial” mobility of people who aim to stay in another country, other than their home country for a certain period (Grawert, 1998, Kutasi, 2005, Khosa and Kalitanyi, 2015).

However, Debson et al. (2006) argue the concept of labour migration is not clear. They pose a number of questions in an attempt to clarify the concept including does labour migration apply only to those who change country specifically for reasons related to work or can this be applied to anybody who shifts country for other reasons and ultimately joins the labour market? Other issues of contention include the different skill levels, types of migrants and family reunions.

The lack of clarity over the definition, also extends to the theory of international migration. As migration is a multifaceted phenomenon in nature, it embraces a number of factors including but not limited to political, economic, social, demographic, cultural, psychological and environmental, researchers have not presented a unified theory of international migration. Instead, a number of partial approaches or theories have attempted to explain the reasons behind labour migration. For example, economists and sociologists view the movement of people across borders from different perspectives, while government representatives, legislators and bureaucrats holding another set of views (Bodvarsson and Van den Berg, 2013). Regardless of the motivation and causes of migration, international migration has increased significantly in the past decade and it is expected to continue to grow continuously with impacts on both the countries of origin and the host countries (Rcmvs.org, 2017).

## 2.2 DEFINITIONAL DEVELOPMENT AND CHALLENGES

The debate around the concept of migration dates back to 1891 when the International Statistical Institute (ISI), at its congress in Vienna, debated efforts for standardising international migration indicators and underlined the significance of adopting a unified definition of an international migrant (Kraly and Gnanasekaran, 1987). The search for an appropriate definition of migration continued at the International Labour Organisation (ILO) in 1922 when, at its fourth session, it called for a debate to reach an internationally acceptable definition of the term ‘emigrant’ and the standardisation of records on migration (UN, 1949). A decade after the ILO called for a unified definition and measurement, it sponsored the International Conference of Migration Statisticians in 1932, which produced a general recommendation that “in principle, every act of removal from one country to another for a certain length of time should be included in the statistics of migration, with the exception of tourist traffic” (UN, 1949, p.3). Differentiating between permanent and temporary migration, the Conference also recommended that “when the removal is for one year or more the migration should be regarded as permanent International migration statistics migration” and “when the removal is for less than a year the migration should be regarded as temporary, frontier traffic being excluded” (UN, 1949, p.3).

The Second World War had both negative and positive impacts on international efforts to define and measure international migration. On the negative side, the war delayed international collaboration; and on the positive side, the mass population displacement during the war and the subsequent post-war reconstruction that required a large number of migrant workers, revived the debate around the concept of migration. The constitution of the UN after the war strengthened international efforts at standardisation. In 1949, the Population Division of the UN reassessed the recommendations of the 1932 conference sponsored by the ILO. The assessment made the following observations. First, the 1932 recommended definition of migration failed to distinguish between ‘tourist traffic’ and ‘temporary migration’ or provide

criteria for it. Second, it was not realistic to distinguish between on the basis on duration of stay alone, citing that seasonal migrant workers could, in fact, have a shorter stay in the country of immigration than tourists or business visitors. Consequently, the assessment concluded that both the purpose of the movement and its duration of stay had to be taken into account in defining and characterising migration (UN, 1949).

The findings from the assessment formed part of the recommendations in the 1953 UN Convention on Standardisation and Definition of Migration, which emphasised the intended duration of stay and residency, and introduced three main classifications. The 1953 recommendations maintained the difference between a ‘permanent migrant’ and a ‘temporary migrant’ on the basis of duration of stay; at least one year for a permanent migrant and less than one year for a temporary migrant. The recommendations suggested that temporary migrants should be distinguished from ‘visitors’ on the basis of the purpose of stay, with temporary immigrants defined as non-residents intending to exercise, for a period of one year or less, an occupation remunerated from within the country of arrival, while their dependants were to be classified as visitors (UN, 1953).

However, the 1953 recommendations did not provide a consensus and failed to offer any significant improvement in the comparability of international migration statistics. The key issue raised by countries was around the concept of ‘residence’ (ILO, 1997). Consequently, a further attempt was made to address the challenges of a universal definition of migration and the standardisation of a migration data collection system. The 1976 recommendations defined migrants in terms of actual and intended periods of presence in, or absence from, a country. Specifically, the term ‘long-term immigrants’ was defined as “persons who enter the country with the intention of remaining for more than one year and who must never have been in the country continuously for more than one year or, having been in the country

continuously for more than one year, must have been away continuously for more than one year since the last stay of more than one year” (UN, 1980, p.7).

Thereafter, in 1998, the UN attempted to provide further clarity about the concept of ‘residency’. The 1998 recommendations state that: “Long-term migrant is a person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence” (UN, 1998, p.36).

Despite these efforts at harmonising the concept and definition of migration, and the need for comparable statistics on migration, countries still use different definitions and, therefore, different measures of migration (UN, 2017). However, in essence, the three key criteria for defining long-term migration are: (i) entering the country by crossing the border; (ii) having been a usual resident of another country before entering or not a usual resident of the country when entering; and (iii) staying or intending to stay in the country for at least one year. The definition of short-term migration follows a similar approach but the actual or intention to stay in the country is for a maximum of one year. This thesis uses these definitions throughout.

## **2.3 CONCEPTUAL ISSUES THAT HAVE SHAPED THE DEVELOPMENT OF MIGRATION GOVERNANCE**

The lack of consensus on the definition and application of migration reflects differences in the evolution of migration governance. The developments in harmonising the concept and definition of migration, as discussed above, have been mainly for the purpose of the standardisation of international migration statistics. In this case, a migrant is defined around two elements: the change of country of usual residence; and the actual or intending length of stay or absence from a country. However, for the purpose of migration governance, the legal or the administrative definition of the term ‘immigrant’ differs across countries (UN,

2017). For example, a country may adopt a broad definition by considering all non-citizens as immigrants, including those who have the right to settle in the country permanently, while other countries adopt a more liberal definition excluding those who have a permanent right to remain because they are on the path to citizenship if they so claim it (UN, 2017). Similarly, a country may consider those coming into the country to study or work for more than one year as temporary migrants, although this contradicts the UN's recommended definition that treats actual or intending migration of more than 12 months as long-term migration. The implication is that countries reserve the right to determine the concept and definition of migration for their own specific legal and administrative purposes.

Furthermore, the differences in the development of migration governance are amplified by the rapid and substantial social, economic, demographic and structural changes taking place globally. It is, therefore, important to understand factors that have contributed to these changes, and their implication for migration governance. In brief, the main issues and key developments that have shaped migration governance include the following.

First, the twenty-first century has seen rapid growth in technological innovation and globalisation. According to the UN (2017), the rapid growth in globalisation, often driven by technological innovation, will deepen the global exchange of skills and knowledge and stimulate the mobility of people. The resultant political debate, often driven by arguments about the socioeconomic and demographic implications of rising human mobility, focuses on the concerns about the possible relationship between migration and economic outcomes. The political pressure for migration governance reform in order to control migration levels led to the UN High-level Dialogue on International Migration and Development conferences in 2006 and 2013. These conferences highlighted the need for reliable data to support effective migration governance policies (UN, 2017).

However, there are significant differences among international migration statistics systems. For example, European and North American countries, especially those that have experienced high levels of international migration, have dedicated statistical institutions with decades of experience working with international statistical agencies in data collection. In contrast, this is not the case with the UAE, despite its large immigrant population; 90 percent of the population are migrant workers or their dependants. While there is a growing recognition of the importance of reliable data, data collection institutions in the UAE have limited experience, are limited in scope and are poorly resourced. These limitations are evident in the inability of the UAE's National Bureau of Statistics (NBS) to conduct a federation-wide census after 2005. International statistical agencies, such as the World Bank and the IMF, have also highlighted quality and reliability issues with the UAE's data national collection programmes. These shortcomings, if not addressed, will have a direct impact on the ability of the UAE to develop and implement data-driven migration governance policies.

Second, the European migration crisis that started in 2015, and resulted in large movements of asylum seekers and irregular migrants into Europe, renewed the interest in migration governance as a critical global issue (UN, 2017). The crisis altered the migration governance framework in the EU and shifted the emphasis from the integration of migrants to the prevention of further arrivals. This change in migration governance approach also resulted in a change of responsibility, whereby the EU countries largely outsourced responsibility for migration control to countries outside the EU, including Libya, Jordan and Turkey (UN, 2017). The change in the governance approach, especially in the EU, led to the UN General Assembly convening the Summit for Refugees and Migrants in September 2016 in New York to reaffirm existing State obligations towards refugees and migrants. The New York Declaration for Refugees and Migrants adopted at the Summit recognises there are many gaps in our knowledge about migration governance (UN, 2016a). To better inform the public debate and to address migration challenges

effectively, The New York Declaration underlines the importance of data-led migration governance and of improving migration data collection at the national level and calls for enhanced international cooperation to achieve this objective.

Against this background, it is important to highlight fundamental differences in the migration governance philosophy between western countries and the UAE and between the GCC in general and the UAE. For example, the UAE's migration governance approach assumes that all migrants will ultimately return to their country origin with strict conditions imposed on attaining the same legal rights as Emiratis or obtaining full citizenship, which takes a minimum 20 years for a non-Arab migrant. In western countries residency is more easily obtained, which is why integration is seen as an essential part of migration governance in the EU States. These countries have well-developed metrics based on the Migrant Integration Policy Index (MIPEX) which is designed to monitor and compare national governments' migration governance policies. Furthermore, the migration governance approach in GCC countries treats all migrants, including the refugees, as temporary residents. Consequently, none of the GCC countries, including the UAE, have signed the 1950 Refugees Convention or the 1967 Protocol, and the asylum system is not formalised. However, on 14 June 2018, the UAE Cabinet "adopted a resolution granting nationals of countries facing war and natural disasters a one-year stay permit, in solidarity with the people of affected nations and to offer them a chance to improve their living conditions until they are ready to return to their home countries" (Uaecabinet.ae, 2018).

Third, following the adoption of the 2030 Agenda for Sustainable Development at the UN General Assembly in September 2015, international migration and its multidimensional relationship with development became an integral part of the global development agenda. Unlike the Millennium Development Goals (MDGs), which contained no reference to migration issues, the Sustainable Development Goals (SDGs) anchor the 2030 Agenda and include several targets directly related to

migrants, migration and mobility. The SDGs also demand that data is collected by which to measure the progress towards the achievement of numerically specified targets (UN, 2015a). Furthermore, a key feature of the 2030 Agenda, as expressed by the pledge of “no one left behind”, demands that migration governance in practice, both for the purpose of administration and data collection, should attempt to review the existing concept of migration to ensure relevant migration indicators are generated for effective governance, and the classifications used recognise the vulnerability of certain classes of migrants (UN, 2017). While the SDG implementation will have a significant impact on migration governance globally, this impact will be country-specific given the challenges individual countries face in an attempt to conceptually define key terms in SDG target 10.7, such as “orderly”, “safe”, “regular” and “responsible” migration.

It is likely that different countries will have different subjective interpretations and applications of these terms in relation to migration governance. While the UAE subscribes to the SDG targets, the factor that will impact on its ability to meet the migration governance targets is how it defines “orderly”, “safe”, “regular” and “responsible” migration. This makes the ratification of migration-related UN and ILO conventions or protocols even more important for the UAE in terms of developing effective migration governance policies that are consistent with international expectations and practice.

Overall, the main migration challenge now facing a State is that the labour market has become international. Thus, exogenous factors are leaving States grappling with the difficulties of maximising economic benefits while minimising the costs (economic, political and social) associated with adverse consequences of migration. Specifically, the substantial effort required to improve migrant policies and institutions in the UAE cannot occur in isolation from the international institutional framework. Therefore, it is important to highlight challenges that affect the migration system in the UAE in the absence of its comprehensive foreign policy strategy and its lack of power in the international system.

## 2.4 FACTS ABOUT MIGRATION

The United Nation's (UN) *International Migration Report* (2017) provides the following details about international migration as follows; the number of international migrants worldwide has continued to grow rapidly over the past fifteen years reaching 258 million in 2017, up from 220 million in 2010 and 173 million in 2000. Also, over 60 per cent of all international migrants live in Asia (80 million) or Europe (78 million). Additionally, Northern America hosted the third largest number of international migrants (58 million), followed by Africa (25 million), Latin America and the Caribbean (10 million) and Oceania (8 million). In 2017, two thirds (67 per cent) of all international migrants were living in just twenty countries. The largest number of international migrants (50 million) resided in the United States of America. Saudi Arabia, Germany and the Russian Federation hosted the second, third and fourth largest numbers of migrants worldwide (around 12 million each), followed by the United Kingdom of Great Britain and Northern Ireland (nearly 9 million). However, women comprise slightly less than half of all international migrants. The share of female migrants fell from 49 per cent in 2000 to 48 per cent in 2017. Also, female migrants outnumber male migrants in Europe.

In 2017, the median age of international migrants worldwide was 39 years, a slight increase from 38 years in 2000. Yet in some regions, the migrant population is becoming younger. Between 2000 and 2017, the median age of international migrants declined in Asia, Latin America and the Caribbean, and Oceania. At the same year, India was the largest country of origin of international migrants (17 million), followed by Mexico (13 million). Other countries of origin with large migrant populations include the Russian Federation (11 million), China (10 million), Bangladesh (7 million), Syrian Arab Republic (7 million) and Pakistan and Ukraine (6 million each).

Most importantly, the ratification of five United Nations legal instruments concerning international migration, while progressing, remains uneven. As of September 2017, 37 Member States had ratified all five legal instruments,<sup>2</sup> while 13 Member States had ratified none of them.

A very similar pattern was outlined by the Organisation for Economic Co-operation and Development's (OECD) *Outlook Report 2017*, according to which migration is at its highest since 2007 and permanent migration flows to OECD countries reached 4.7 million entries in 2015 (+7 percent compared with 2014), and should total around 5 million entries in 2016, according to preliminary data. In 2016, OECD countries registered over 1.6 million asylum applications, as in 2015. Around 1.5 million people were granted international protection during these two years. In 2015, over 1.5 million study permits were delivered to tertiary students in the OECD area. The foreign-born population in OECD countries stood at 124 million people in 2015.

## **2.5 CLASSIFICATION OF MIGRATION**

The classification of migration is a complicated process, as it requires considering a range of varying and multi-dimensional factors (Trewartha, 1969, Uyanga, 1981 and Sinha, 2005) and hence it is mainly categorised on political boundaries, such as state lines, county lines and international borders, as internal and international migration (Sinha 2005). According to Wood and Potts (1996), Bell et al. (2010) and Khosa and Kalitanyi (2015), the movement of individuals from one region of the country to another region of the same country is referred to as internal migration, whilst the relocation of an individual from one country to another is classified as international migration.

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<sup>2</sup> The five legal instruments are: (i) the 1951 Convention relating to the Status of Refugees, (ii) the 1967 Protocol Relating to the Status of Refugees, (iii) the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (iv) the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and (v) the 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air.

According to Clarke (1965, cited in White, 2016), Castle (2000) Amin and Mattoo (2005), the period for permanent and temporary migration can be defined with a condition that the immigrant aims to change their residence. Hence, if the immigrant has spent more than one year in another country then it would be considered to be a permanent migration and if the time spent is less than one year, it would be classified as temporary immigration. However, King (2012) argues that this threshold of one year does not include seasonal migrants who play an important role in tourism, construction and agriculture industries.

Researchers have also made a clear distinction between voluntary and forced migration, based on the decision-making process (Sinha, 2005). According to Ben-Sira (1997) and Guarnaccia and Lopez (1998), when the decision to immigrate lies with the potential migrant then it is referred as voluntary migration. In contrast, forced migration takes place when individuals do not have any option available to them, other than migration to avoid life-threatening conditions such as war, drought and famine.

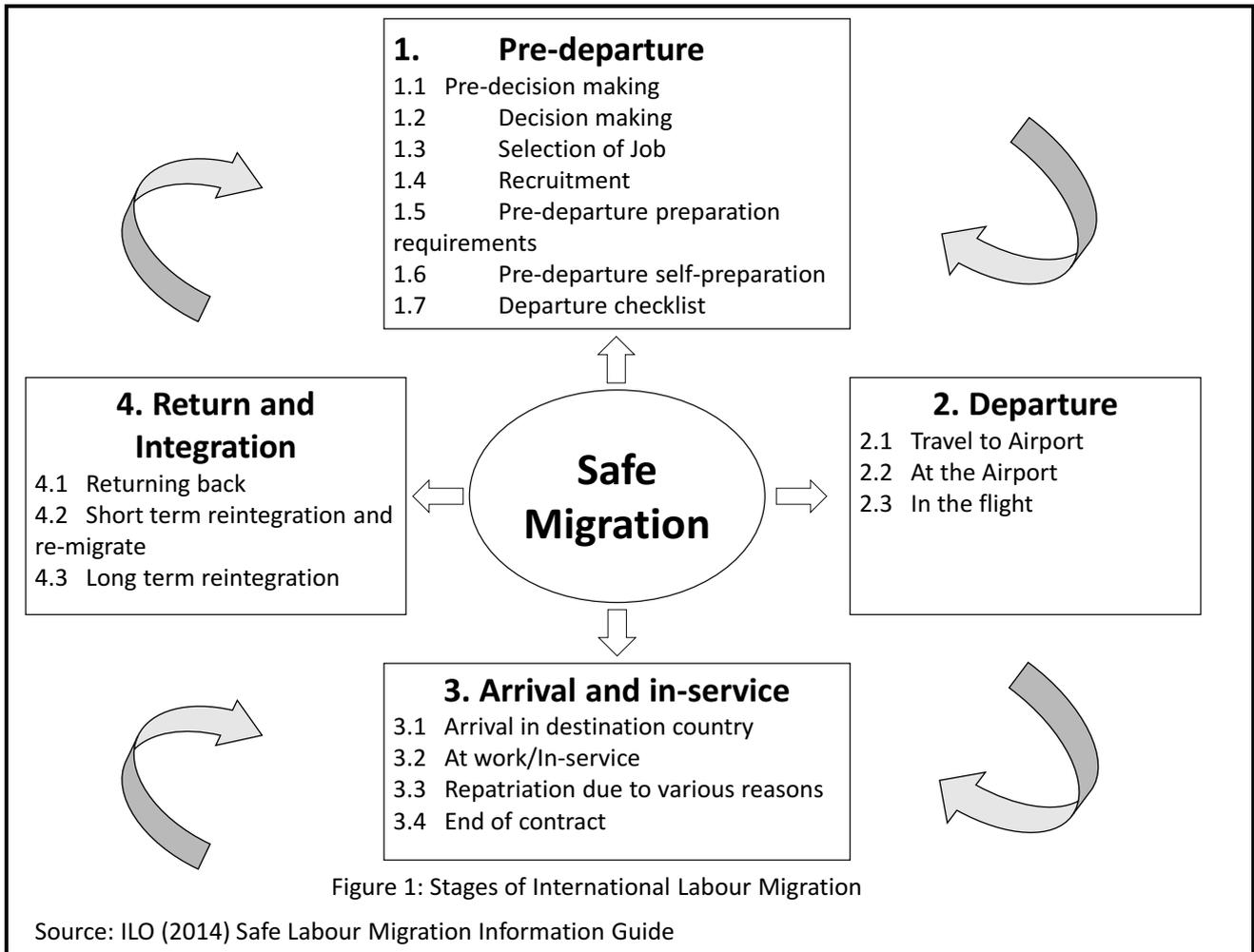
Another type of migration is family reunification migration whereby individuals migrate to join family members that have already moved to the host country as immigrants. Several countries allow the members of families of legal immigrants for family reasons (Castle, 2000; Gubernskaya and Dreby, 2017; Barbiano di Belgiojoso and Terzera, 2018).

## **2.6 MIGRATION STAGES**

Different researchers have used different models of migration stages in their studies. Some have used a two-stage model that covers the pre-departure stage and the actual move and everything in between; for example, McHugh (1984), Lu (1998), De Jong (2000) and Kley (2010). However, these studies do not explore the settlement of migration, i.e. what happens to an immigrant once s/he arrives at the destination country. Hence, other researchers include this stage covered. For example, according to Bhugra and

Becker (2005) the process of migration follows three stages. The first stage, known as pre-migration, involves the process of decision-making and preparing to migrate. In the second stage, individuals, physically “migrate” from point of origin to point of destination. Post-migration is the third stage when migrants settle in and absorb the cultural and social norms of the host country. Similarly, Frierg (2012) outlined three stages of migration; the initial stage, the transition stage and settlement stage. However, in contrast to Bhugra and Becker (2005) their initial stage comprises of pre-departure and physical migration. This stage assesses the motivational factors for migrating physically to another country. This initial period is usually short-lived and immigrants have plans to return. The next stage is the transitional stage where the immigrant lives in the foreign country, but their families are still based in the home country. They travel to their home countries from time-to-time to meet their families; however, most of them live in a state of being neither here or not there. The final stage is that of settlement, characterised by moving the primary household to the foreign country and integrating into their culture (Travis et al., 2012).

Nevertheless, the above-mentioned authors do not incorporate the concept of return migration in their studies. For any immigrant, going back to their home country is always an option (Carling and Erdal, 2014). In consequence, the return stage is included in the research of Drachman (1992), Benson-Rea and Rawlinson (2003), Erdal and Ezzati (2014), Mallett, Zanker and Mohsin (2014), McKenzie and Yang (2015). These researchers suggest four stages; pre-departure, departure, settlement (including transnationalism) and return (re-settlement). Similarly, the Sri Lanka Bureau of Foreign Employment in conjunction with the International Labour Organisation (ILO) produced a ‘*Safe Labour Migration Information Guide*’ that outlined the four stages of international labour migration as pre-departure, departure, in employment and return (see Figure 2.1).



**Figure 2.1: Stage of International Labour Migration**

Source: ILO (2014)

## 2.7 REASONS FOR MIGRATION

According to research, people mainly migrate because of economic, socio-cultural, political and miscellaneous factors Thait (2014). The following sections explore each of these factors.

### 2.7.1 Economic Factors

In emerging economies, lower rate of wages, unemployment and underemployment drive individuals to migrate to more developed economies that have better job prospects. These factors are categorised as Push and Pull factors. Push factors are those factors that “push” or force an individual to migrate, such as the

lack of employment opportunities, wage difference, poor labour standards, poor career prospects, and low salaries. In contrast, pull factors are those factors that encourage an individual to migrate to a certain country, such as better job opportunities, lower tax rates, better salaries, and availability of finance (Ciarniene and Kumpikaite, 2011; Piesse, 2014; Simpson, 2017).

### **2.7.2 Socio-cultural Factors**

In terms of socio cultural factors, conflict within the family can compel an individual to migrate. Similarly, younger family members migrate to become more independent and autonomous. Existing networks in the host country also play a vital role in motivating an individual to migrate. Another important demographic factor in internal and, to a lesser extent, external migration is marriage because females often follow their spouses. Another socio-cultural factor is the level of education which influences migration decisions as individuals become more aware of better opportunities elsewhere (Beine, Bertoli and Fernández-Huertas Moraga, 2015; Cerqueti, Clemente and Grassi, 2018).

### **2.7.3 Political Factors**

The weak political situation of a country, a lack of security, and discrimination can compel individuals to migrate to a safer place. Changes in or the collapse of governments, strikes/protests, states of emergency, ethnic or religious conflicts are some of the events that lead a country towards political instability (Williams and Pradhan, 2009). In addition, a hostile political environment may adversely affect the economic conditions of a country (Mack, 2005; Collier, 1999), thus forcing individuals to leave the country not only for political reasons but also for economic reasons (Mathews, 2018).

#### 2.7.4 Miscellaneous Factors

Other factors, which motivate individuals to migrate, include existing contacts in the host area or country (Ciarniene and Kumpikaite, 2011), diversity of cultures, parents migrating for better future of their children (Suarez-Orozco and Suarez-Orozco, 2001) and their individual characteristics (Boneva and Frieze, 2001).

### 2.8 IMPACT OF MIGRATION ON DESTINATION COUNTRY

Globalisation has opened borders for freer movement of goods and service which, in turn, has led to massive increase in the number of migrants to developed countries. The huge influx of migrants in these countries has prompted heated debate about the effects of immigration on economic and social system of the host countries.

Empirical studies and independent research from established organisations including the OECD, World Bank and UN have concluded varying impacts of migration on destination countries. For example, the OECD (2014) in their report *‘Is migration good for the economy?’* highlighted the benefits of migration gained by the host country as: (i) Migrants accounted for 47 percent of the increase in the workforce in the United States and 70 percent in Europe over the past ten years; (ii) migrants fill important niches both in fast-growing and declining sectors of the economy; (iii) like the native-born, young migrants are better educated than those nearing retirement; (iv) migrants contribute significantly to labour-market flexibility, notably in Europe; (v) migrants contribute more in taxes and social contributions than they receive in benefits; (vi) labour migrants have a positive impact on the public purse; (vii) employment is the single biggest determinant of migrants’ net fiscal contribution; (viii) migration boosts the working-age population; (ix) migrants arrive with skills and contribute to human capital development of receiving countries; (x) migrants also contribute to technological progress.

Similarly, the UN in one of their publications in 2016 (Un.org,2016) identifies an overall positive economic impact for host countries as: (1) increases the labour force and the availability of skills; (2) allows native workers to perform higher value-added tasks by providing complementary, cheaper services (e.g., child care); (3) improves competitiveness; (4) contributes to mitigating the decline in working-age population in aging countries; (5) has a negligible net fiscal impact (rarely exceeding 0.5 percent of GDP over the past 50 years in OECD countries in either positive or negative terms).

However, immigration is still perceived negatively by some residents and policy-makers in the migrant-receiving countries. The prevailing fears are that migrants take the jobs of the local workforce, work at lower wages, enjoy the benefits of welfare and the social support system without contributing, involve themselves in crimes, bring their culture and lifestyle and do not integrate into the existing cultural system (Borjas, 1999; Dustmann and Glitz, 2005; UNDP, 2009:70; Papademetriou et al., 2009). Nevertheless, such perceptions, prejudices and fears are not supported by the research (Marwan, 2011). However, as Friedberg and Hunt (1995) determine that due to the use of different methodologies, the results of such studies are not conclusive.

It is argued that as immigrants increase the population of the host country the demand for consumption of goods and services increase, requiring a surge in output production and eventually improving the GDP of the host country (Ortega and Peri, 2009). Also, by taking up lower level jobs, immigrants allow the locals to take up higher level jobs, hence improving the productivity of the country. Innovative measures taken by immigrants have also proven to boost the productivity of the host countries (Ratha, Mohapatra and Scheja, 2011; Gheasi and Nijkamp, 2017). Conclusively, Foster (1994) and Constant and Zimmermann (2015) argue that the economic effects of migration on the host country are either neutral or positive but not adverse.

## **2.9 IMPACT OF MIGRATION ON COUNTRY OF ORIGIN**

The immediate family, local community and economy of the sending countries also reap advantages from international emigration (Embraceni.org, 2012; Azam and Gubert, 2006). One of the major benefits is in the form of foreign remittances that migrants send to their families in the home countries. According to the World Bank, remittances to low- and middle-income countries reached a new high record of USD466bn in 2017 (World Bank, 2018a). Researchers such as Adams (1991), Gustafsson and Makonnen (1993), Giuliano and Ruiz-Arranz (2005), Toxopeus and Lensik (2007), Gupta et al. (2007), Anyanwu and Erhijakpor (2010) and Ajayi et al. (2009) have found that these remittances aid in poverty reduction and catalyse economic activities indirectly which in turn increases educational and health facilities. However, researchers who study the labour supply response of the remittance-recipient households find a negative relationship between remittances and long term economic growth. According to these studies, remittances reduce the working efforts of the recipients and the money is spent on entertainment not on investment (Chami et al., 2005; Khatiwada, 2005; Azam and Gubert, 2006; Sharma, 2006; Ratha, 2007; Karagoz, 2009). In this context, Barguellil et al. (2013) conclude that the relationship between remittances and economic growth depends on a number of factors and hence different research yields different results.

For migrant-sending countries, the brain drain effect represents a considerable loss as they can lose young and educated members of their population (Gheasi and Nijkamp, 2017). The public resources had been invested in them and by leaving their country they reduce the productive capacity of the economy particularly in smaller countries (Marchiori et al., 2013; Beine et al., 2008; Faini, 2003).

## **2.10 THEORIES OF MIGRATION**

The multidisciplinary interest in migration has resulted in a multidimensional approach to the development of theoretical explanations of the concept of migration, with no unified model of immigration. In this

section, various theories of migration are discussed, along with their limitations. Migration theories are dominated by competing political economy models in explaining the reason for observed migration trends. There are also sociological models, based on globalisation, that are developed to explain that the international movement of people is driven by increasing interconnectivity and dependency between countries. The discussion on these theories is undertaken chronologically in order to show the progression in the theoretical development of the concept of migration, starting with internal migration.

### **2.10.1 The Concept of Internal Migration**

Interest in understanding internal migration, its causes and implications started with Smith (1776) who postulated that spatial variations in wages may result in labour movement within the UK, although he argued the extent of migration may be dependent on commodity price differentials. Smith's proposition prompted studies in relation to the UK and continental Europe using census data to evaluate the underlying trend in internal migration. In the US, internal migration did not attract significant interest from researchers until the 1930s when a combination of industrial development in the north, World War and the great depression led to the need to study of economic and social implications of internal migration. Major contributions in this area are Ravenstein's (1885) laws of migration and Thomas's (1938) research memorandum on migration differentials. Therefore, in this section, the development in internal migration research, highlighting key theoretical propositions.

#### **2.10.1.1 Spatial Equilibrium in Labour Markets Based on Smith's Theory**

Spatial equilibrium in labour markets provides a model for exploring the drivers of internal migration. In this model, internal migration is considered as a response to labour market variables and as a cause of change in labour market variables, with wage as the main variable. The foundation of this theory is based

on Smith (1776). He presented one of the first economic analysis on migration (Zlotnik,2005), and defined migration as the free mobility of labour and argues that poverty, unemployment and higher wages for emigrant and his family are the major factors that trigger migration (Rauhut, 2010). Smith also noted that the differential in wages between rural and urban areas of the UK was greater than the difference in the prices of basic commodities (Chiswick and Miller, 2015:5).

His findings on wages within the UK show the regional variation: 18 pence a day in London; 14 to 15 pence a day in neighbouring counties; ten pence in Edinburgh; and eight pence in the low country of Scotland (Smith, 1776, p.75). He further argued that the government should not intervene in the economy but instead allow the law of demand and supply to operate without any barriers (Bloy, 2015). Such free movement would allow the wages and employment to equalise between different geographical locations in a country (Rauhut, 2010). However, Smith concludes that wage differentials are not sufficient to drive migration between higher wage areas and lower wage areas, primarily because of the high cost of transportation, although he argued that similar differentials in prices of commodities would provide a better motivating factor for migration. He blamed the Poor Laws, apprenticeships and corporations<sup>3</sup> for hindering the movement of workers from one parish to another. Although such laws prevailed at the time

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<sup>3</sup> The English Poor Laws were a system of poor relief which existed in England and Wales that developed out of late-medieval and Tudor-era laws being codified in 1587–98. The Poor Law system was in existence until the emergence of the modern welfare state after the Second World War. Smith begins to talk about how the poor laws of England dually affect the workers' inability to move from location to location and gives a history of that law. At first it was enacted by Queen Elizabeth that the parishes take care of their own poor, with funds coming from the churches. But the churches did not want to pay, and they convinced their poor to move to other parishes, where they needed to be settled for 40 days before they had legal rights. This prompted James II to require people to submit notice in writing, which was made public that somebody intended to move. This made movement nearly impossible for the poor. Smith argues that corporations restrict the ability of people to move from place to place even when they retain the same employment. He notes that the corporation laws restrict, for example linen weavers from moving to a silk weaving plant. There were now only four ways to move. First by being taxed and paying the taxes of the parish. Second, by serving on a parish office for a year. Third, by serving in an apprenticeship in the parish. And fourth, by being hired into service for a year. The first two were impossible for the poor to obtain, as they can't pay taxes, and the parish won't elect him to office since he will then suck up the charity money. And married men find the last two nearly impossible since apprentices are almost never married, and there was a law forbidding married men from the fourth option. These four ways also prohibited any independent workmen and artificers from moving as well as they will not be hired as a servant or serve as an apprentice, and thus the free movement of labour was restricted. Source: Michaelatate.com, (2018) Adam Smith's Wealth of Nations Book I, Chapter X Notes. [online] Available at: <http://michaelatate.com/AdamSmith/b1c10p2.htm> [Accessed 29 Apr. 2018].

of Smith, they were only applicable to a few market towns and hence mobility of labour was allowed (Rauhut, 2010). Moreover, according to Smith, it was not possible for individuals to move from one parish to another which was only true to a degree, as “young, able bodied and single men” were allowed to stay in a different parish until they got married (Miller, 1981). Kindleberger (1976) reflects that most of the work conducted by Smith was not based on empirical studies, rather he extracted examples from books and literature like a “literary economist”. Furthermore, Rauhut (2010) argues that Smith failed to take into account the costs related to moving from one point to another including information about future jobs, accommodation, transportation and substitute income that would have been considerable and only faulted state laws for hindering migration.

Building on Smith’s observed wage differentials, subsequent studies argue differences in wages can result in migration, at least over a short distance. The argument led to the proposition in labour economics literature to the assumption that the long-run spatial equilibrium would be one of convergence in wage levels over space. This resulted in the following predictions: (i) migrants respond to higher wages by moving to regions/countries with relatively higher wages; (ii) there would be a decrease in wages in higher wage regions/countries as result of people moving into these regions/countries; (iii) there would be an increase in wages in relatively lower wage regions as result of people emigrating from these regions; and (iv) the combination of the first three predictions would result in convergence of wage levels over space, and a subsequent reduction in migration levels (Graves, 2013).

However, this traditional assumption is considered too simplistic, with weak or conflicting empirical evidence suggesting that labour market disequilibrium, in terms of wage differentials, does not drive, or is caused by, migration. For example, there is little evidence of convergence of wages between low-wage and high-wage regions, or where convergence is observed, it is deemed too slow to suggest a meaningful convergence (Shiller, 2009). Furthermore, Shiller finds that to the extent that there has been

convergence, it has slowed or reversed beginning in the 1980s. In addition, Galle and Williams (1972) show that there is evidence for a simultaneous increase in emigration and immigration in areas with high wages, making it difficult to attribute changes in wages to a particular type of migration. The lack of conclusive evidence on the role or effect of migration has led to debate about the relevance of the traditional spatial equilibrium in labour markets in explaining migration. Thus, a modification of the model has been suggested. The thrust of the alternative explanation is that wage differentials are not a sufficient factor to explain migrant trends, and thus other factors, such as climate and cost of living, should be included in the model. Rosen (1979) and Roback (1982) provide an alternative view of labour market wage differential argument, based on the assumption of equilibrium in utility levels over space. Geographical areas have different amenities, which may be either natural or man-made, that affect utility in the case of people moving in and out of the location (e.g. desirable weather, scenic views, population diversity) and affect production functions in the case of firms (e.g. sea ports, skilled workers, right to work laws).

According to Rosen (1979) and Roback (1982), if these cases are considered separately, the following prediction can be made: (i) if a geographical area is sufficiently desirable, it would be expected to attract people but this will lead to an increase in the demand for housing and labour supply; (ii) therefore, in equilibrium, a sufficiently desirable geographical area should have higher housing costs and lower wages; (iii) conversely, an undesirable area would be expected, in equilibrium, to have a mix of lower housing costs and higher wages; and (iv) if a location is sufficiently undesirable, it might lose its entire population, disappearing, as in the case of ghost towns/cities (Graves et al. 2009).

In this context, Graves (1976), using data from the 1960s, found that net migration was occurring to locations with lower incomes, not to locations with higher incomes. Only when climate amenities were introduced into the regression did the income variable take on its 'proper' sign; clearly if all amenities

could be held constant in an estimating equation, more income would be preferred to less. Moreover, in the context of the labour market disequilibrium approach, higher rents were taken to be higher ‘costs of living’, hence would, *ceteris paribus*, be expected to lead to lower real incomes—one should expect movement, holding nominal income constant, away from high-rent locations. However, exactly the opposite was found to be occurring by Graves (1983), with migrants moving toward high-rent locations, holding income constant.

#### **2.10.1.2 Ravenstein’s 1885 Laws of Migration**

The purpose of Ravenstein’s analysis was to develop laws of migration in response to “a remark made by the late Dr. William Farr (1876), to the effect that migration appeared to go on without any definite law” (1885, p.167). As with the spatial-based model of migration discussed in the preceding section, Ravenstein’s analysis was designed to provide an explanation of regional or within-country migration, using the 1881 British census data in relation to: (i) the nativity of the population; and (ii) the place of residence stated in the census. Overall, Ravenstein (1885) concludes that the rural population are more migratory in their habits than the urban population. More specifically, Ravenstein finds that approximately 28 percent of people born in an urban area emigrate from the town in which they were born, while in contrast only about 26 percent of the population in the rural areas is native born. In addition, Ravenstein investigated if migration is gender dependent. His findings show women tend to migrate more than men, with 9 to 12 percent more women emigrating from the place of their birth compared to men.

Ravenstein’s (1885, cited in Thieme, 2006) findings resulted in the formulation of seven “laws of migration”, from rural to urban areas (internal migration) which are summarised by Greenwood (1997) as: (i) the majority of migrants tend to move to larger cities and to travel short distances; (ii) cities with higher levels of growth and development attract migrants from its adjacent rural regions and therefore,

such cities become populous, while people from more distant areas fill in the gap of rural population; (iii) out migration has a negative relationship to in-migration; (iv) the main current of migration generates a compensating counter-wave; (v) migrants who travel a long distance try to settle in the large cities; (vi) individuals from rural areas are more inclined towards migration than those based in urban areas; and (vii) women are more likely to migrate than are men. Ravenstein explained the surprising seventh law by stating that “Woman is greater migrant than man. This may surprise those who associate women with domestic life, but the figures of the census clearly prove it. Nor do women migrate merely from the rural districts into the towns in search of domestic service, for they migrate quite as frequently into certain manufacturing districts, and the workshop is a formidable rival of the kitchen and scullery” (Ravenstein, 1885; p.196). Ravenstein also states the main reason for immigration is to gain better economic opportunities (De Haas, 2008). In addition, he argues that as the travel distance increases, the volume of migration decreases (Skeldon 1997), and that migration cannot be recognised as one lengthy move rather it takes place in stages, the movement of population is two way and the demographics of migrants affect their mobility (Bodvarsson and Van den Berg, 2013).

However, Ravenstein’s laws of migration generated debate, with questions raised over the principles underlying a number of his laws. At a discussion of his paper at the Statistical Society’s meeting, several participants criticised Ravenstein for the use of the word ‘law’ in the title. The criticism is based on the argument that while Ravenstein’s findings may be considered empirical regularities, they are not sufficient to be considered laws, as migration patterns may not be universally similar across the world.

Consequently, Ravenstein (1889) responded to the criticism by using data from continental Europe, Canada and the US. His findings supported his conclusions derived from his 1885 work on the UK. The Ravenstein model concludes that migration is based on ‘push-pull factors’, i.e. the hostile circumstances (higher rates of unemployment, high taxes, low salaries, etc.) in one region ‘push’

individuals out while favourable circumstance (high wages, lower rates of unemployment, better health system, etc.) at another other location ‘pull’ them in. Ravenstein also states the main reason of immigration is to gain better economic opportunities, and as the travel distance increases, the volume of migration decreases. Ravenstein’s thesis also questions the concept of one-way migration, by arguing that a two-way process is a better characterisation, in which migrants actively seek and maintain long-term links with their place of origin more than previously assumed (Bodvarsson and Van den Berg, 2013). Nevertheless, the theory does not explain why some people migrate while others stay (Masse et al., 1993; Reniers, 1998:680). The theory also fails to explain why migrants concentrate in a particular location in a planned way (De Haas, 2008). Gurieva and Dzhioev (2015), while acknowledging Ravenstein’s efforts in characterising the migration process that supports conceptualisation and modelling of migration for later researchers (also Boyle et al., 1998:59), criticise the theory as descriptive and not analysing the factors which reproduce migration behaviour.

### **2.10.1.3 The US Contribution to Internal Migration Research: 1920 to 1940**

Despite the publication of Ravenstein’s laws of migration stimulating further migration research in Europe, there was a corresponding 30-year dearth of literature on internal migration between 1890 and 1920 in the US. Thomas (1938) summarises the reasons for this lack:

The lack of interest in internal migrations is probably due in part to the apparently unlimited possibilities of economic and population expansion in America in the decades preceding the war. Although cities were expanding rapidly, the agricultural population was not only holding its own but producing a surplus. There was no widespread apprehension about the possible dysgenic aspects of this situation...whereas in Germany and other older European nations, the real or imagined ill effects of urbanisation had brought internal migration to the fore as a problem of importance (p.2).

Borjas (1994) offers additional explanations for why researchers were not interested in internal migration the US. He suggests this was mainly because the US faced different a migration problem, with international migration into the US more of a concern to researchers than the internal migration. More

specifically, Borjas (1994) highlights the statistics that influenced migration research as: about 54 percent of population change in the US between 1901 and 1910 was attributed to about 8.8 million migrants that arrived in the US during the period; in the following decade, which includes World War I, immigration accounted for about 41 percent of population change, with about 5.7 million migrating into the US; between 1920 and 1930, immigration slowed to about 4.1 million, representing about 24.6 percent of the US population change; finally, during the 1930s, and partly due to depression, migration slowed to about 0.5 million. Therefore, Borjas (1994) concludes that the significant international migration into the US in the early decades of the twentieth century meant that research on internal migration was traded for research into international migration as the increased international migration necessitated social and policy changes and implications.

However, according to Greenwood and Hunt (2003), five significant events in the 1930s changed the focus of research in migration in the US from international to internal migration. First, World War II significantly reduced migration into the US, as did changes to the immigration law which introduced the national-origins quota system. Second, the growth of industrial centres in the north resulted in demand for labour from other parts of the US. Third, internal migration of African-American from the South to the North “swelled to unheard of proportions” (Thomas, 1938, p.2). Fourth, the declining birth rate increased internal migration as an adjustment for demographic imbalance. Finally, the Great Depression, and disruptions associated with it, revived the need to understand the role of internal migration, as Thomas (1938) stated: “the depression migrations have attracted widespread attention, and have stimulated research into the incidence and types of migration and the kinds of people migrating” (p.3).

## **2.10.2 The Concept of International Migration**

The developments in the study of internal migration, and growth of international migration, resulted in increased interest in the causes and implications of international migration. Theoretical models of international migration built on the spatial equilibrium in internal labour markets. In this case, differentials in international labour markets, including wage differentials, are seen as the key drivers of the international migration. There are also models that link human capital investment decisions and their expected returns to international migration. Yet other models consider the social dimensions of international migration. In this section, the theoretical contributions to the study of international migration are critically reviewed.

### **2.10.2.1 Neoclassical Theory of Migration: Macro Framework**

The neoclassical theory of migration is also referred to as the neoclassical macroeconomic theory and explains the influence of the labour migration process on economic development. The major contributors of this theory, which is possibly the best-known theory of international migration include Hicks (1932), Lewis (1954) and Harrison and Todaro (1970). Wages are the central theme of this theory which argues that migration is caused by the geographical differences in the demand and supply of labour that results in the difference in wages between the countries that are rich in labour and those that are rich in capital (Kolláriková, 2016). The theory also assumes that under the condition of 100 percent employment, a linear relationship between migration flows and wage differential can be seen (Bauer and Zimmermann, 1999, Messay et al., 1993; Borjas, 2008). It also suggests that no migration would occur if the wage differential becomes zero between the countries. Thus, the theory argues that the international flow of migration can be controlled by governments by regulating labour markets in the countries of origin and countries of destination, because labour markets are the primary drivers of international labour migration. The

improved model considers an expected return from migration in which the main variable is earnings weighted by the probability of employment (Stahl, 1995).

The Harrison and Todaro model was originally focused on internal migrants; however, it is equally applicable to international migration, but with modifications. For example, Borjas (1989, 1990), argued that potential immigrants based their migration decision on a cost-benefit analysis, similar to the model developed by Todaro and Maruszko in 1987 in relation to undocumented migration; the probability of being caught and deported and an “illegality tax” was based on Harrison and Todaro’s original model (De Haas, 2008).

Critics argue that, according to the model, the poorest members of society and poorer countries should have the highest migration rates. However, one’s motivation to migrate has financial implications and, therefore, it is not always a poor person who migrates, and nor are the countries which are the poorest the ones that send the most labour (Faist, 2000; Massey et al., 1998). Another shortcoming of the theory is that it assumes that migration can be a solution to meet labour demands in the short term; however, in reality the balancing of such demands can be time consuming (Gurieva and Dzhioev, 2015). Moreover, the model assumes that the individual takes decision to migrate; however, in reality, this decision is not made in isolation (Gilbert and Gugler, 1982:54) and migration is a family strategy (Dasgupta, 1982:5). Other limitations highlighted by Arango (2000) include: a failure to explain the reasons that why migration rate of some countries is higher than others, even when they have similar resources; a failure to explain why only a few individuals migrates despite the advantages; and the theory does not take into account personal, family and other socio-cultural and political factors that may hamper emigration.

### 2.10.2.2 Human Capital Theory

Sjaastad (1962) was the first scholar to make a connection between migration and human capital investment. He views migration as an investment decision and considers four facets of the migration-investment decision; First, the migrant's imperfect synchronisation of costs and benefits in time. Second, differences in earnings between the regions of origin and destination. Third, differences in living cost between the regions of origin and destination. Fourth, the migrant's rate of time preference.

According to the theory, the prospective migrants compute their present discounted value of expected returns (Becker, 1962) in each possible destination including their country of origin. They decide to migrate to a destination "if the returns in a potential destination region, net of the discounted costs of movement, are larger than the returns in the country of origin" (Vandererf and Heering, 1994; p 96); that is where they can maximise the present value of the savings. The theory considers both the monetary (the financial cost of moving, for example, transportation expenses, boarding and loading, food cost, and the cost of being unemployed when moving between jobs) and the psychological costs of migration (for example, moving away from one's social circle of friends and family). The theory uses distance as a proxy for migration costs and argues that the monetary costs of migration increase in relation to distance. It is worth noting that each individual analyses the costs and benefits in a different way as it depends on an individual's age, level of education and sexual orientation (de Haas,2008). Sjaadstad (1962) holds the view that the likelihood to migrate decreases with age and increases with level of education, as higher qualifications mitigate the risks associated with migration because the potential migrants have a better understanding of the rules and regulations and are more informed (Vandererf and Heering, 1994).

Borjas established two models in 1987 and 1991, both of which are based on human capital investment. The models hypothesise that an individual is motivated to migrate because of the difference in the average returns to labour and human capital in the country of origin and country of destination.

According to the 1987 model, the flow of migrants is determined by the difference in labour returns plus the distribution of human capital between the country of origin and countries of destination. Borjas is of the view that individuals in the country of origin and country of destination are different in regards to their skills, qualifications, age and other factors and that countries have a pool of talented, skilled and qualified individuals of varied personal traits. The decision to migrate depends on how the potential migrants see themselves gaining from migration and fitting into a country of destination that has a labour force of very different characteristics from their home country in terms of level of education, set of abilities and expertise. Therefore, the decision to migrate is not only dependent on the difference in the average income of the home and destination countries but also depends on the individual migrant's skill set and their suitability to adjust in the foreign labour market. Hence, this model forecasts the movement of different types of migrants among countries.

The 1991 model suggests that the chances of migration are greater where the country of destination “values the migrant's characteristics, net of migration costs, more than the source country does” (Borjas, 1991). It further suggests that the rate of migration of an individual with certain given traits is dependent upon: the global differences of value that are related to such traits; the associated costs of migration; countries' variances in earnings; and the degree to which these traits can be transferred across different countries. The 1991 theory adds that the rate of immigration is dependent on “the distributions of unobservable characteristics in each country and the distribution of returns to schooling in each country” (Borjas, 1991).

The theories are criticised because they deal with a single occurrence and fail to explain why some people migrate more than once in their lifetime. In addition, no consideration is given to the influence of the household and families on a person's decision to migrate, as its unit of analysis is the individual. Another drawback of the theory is that it assumes that all potential migrants possess perfect knowledge of

the alternative destinations, which does not leave room for unknown conditions. (Bodvarsson and Van den Berg, 2013). Other researches claim that it is very challenging to test human capital theory in empirical terms (Hagen-Zanker, 2008) and, furthermore, the theory does not acknowledge the specific cultural values and different human capital values. Finally, human capital theory tends to identify a relationship between human capital and potential international migration but does not depict the intensity and direction of this relationship (Morawska, 2007).

### **2.10.2.3 Neo-classical: Micro Theory**

Lee (1966) revised Ravenstein's 19<sup>th</sup> century laws of migration, proposing a new analytical framework and was the pioneer in formulating push-pull theory at an individual level which also takes into account the demand and supply view of migration (Bauer and Zimmerman 1999). The prevailing negative and positive factors in the home and host country pull and push individuals to migrate or not. The theory acknowledges that there are also intervening factors that obstruct migration; for example, legislation and its related rules and personal perceptions as to how each migrant is affected by such factors. As the theory apparently seems to have captured all the factors affecting decision to migrate, it is regarded as a theory that provides best general view of labour migration (Bauer and Zimmerman 1998).

However, de Hass (1998) holds a different opinion about the push and pull theory. According to him, the theory is overly descriptively not allowing for any empirical testing, no weightage is attached to the factors and it lacks the idea of return migration; and hence if return is considered the model is invalidated (King 2012). Similarly, McDowell and He Haan (1997) argue that push and pull factors are two sides of the coin providing differences between "here" (country of origin) and "there" (host country) but does not add much of heuristic value. Furthermore, O'Reilly (2015: 26) expresses concerns about the

theory as it ignores a range of factors that can impact the migration decision including “historical relations, family and community dynamics and the role of intermediaries on migration by arranging passage”.

#### **2.10.2.4 The Value-Expectancy Model**

The value-expectancy model, presented by Crawford in 1973, is a behavioural-cognitive model, according to which the conscious decision to migrate is based on a number of factors other than the economic factors. The intention of a prospective migrant is dependent upon the “multiplication of the values of migration outcomes” (Crawford, 1973) and the anticipation that these results will be realised in the case of migration. By values, Crawford means certain goals; for example, to become rich or to be independent or autonomous. These values and expectations are different between individuals as they are dependent on personal, family and social factors and hence are not always economic. For a prospective migrant, safety and self-actualisation can be important factors and perhaps more important than economic factors. Thus, an individual’s decision to migrate depends on his/her willingness and intention, the indirect effect of personal and social factors and the modifying influence of limitations and enablers. However, this model is vague and subjective and is based on the assumption that a potential migrant makes a rational decision, based on the factors highlighted (Golledge and Stimson, 1997; Zanker, 2008).

#### **2.10.2.5 World System Theory**

Based on the work of Wallerstein (1974), World System Theory introduced new sociological concepts into the understanding of migration. The theory connects the individual determinants of migration to global structural changes. Thus, migration is viewed as a function of globalisation, the development of innovative forms of production and the increased interdependence of economies (Bijak, Kupiszewski and Kicing, 2004). Due to the growth in the manufacturing and agriculture sectors, foreign direct investment

(FDI) has flowed from developed to developing economies, which has changed the structures of traditional work and has caused segments of the population to migrate locally and internationally. This type of migration is assisted by various connections between the native and host countries, such as language, culture, and transportation (Gurieva and Dzhioev 2015). Thus, capital mobility is regarded as the main factor in the theory of World Systems, which views capital and labour mobility as interconnected elements (Silver, 2003).

According to Favell (2008) and Bijak (2006), World System Theory has diminished over the years, as it is nearly impossible to make a testable hypothesis by based on the theory and its framework is overly descriptive. Furthermore, Zolberg (1981) concludes that it is not only economic factors driving migration, there are political reasons and motives that influence migration flows. Similarly, King (2012) concludes that migration is not always guided by economic reasons and migrants look for other opportunities too. He further adds that the “agency of migrants” is ignored and there are millions of migrants who go through exploitation and financial and physical pains; moreover, the theory does not draw a great deal of attention to the role of the governments in planning and managing migration.

#### **2.10.2.6 Dual Labour Market Theory**

Developed by Michael Piore in 1979, the theory claims that the demand for labour migrants is due to the economic structure of developed countries, which is divided into high- and low-wage sectors. High-wage sectors are capital intensive that require both unskilled and skilled labour and low-wage sectors are labour intensive that require only unskilled labour. It is usually the low-wage labour-intensive sector requires migrant workers. Piore (1979) postulates three reasons for this; (i) general shortage of labour. (ii) in the job hierarchy, there is a need to fill lower level (bottom) jobs. (iii) a shortage of labour in secondary, low-wage segment of the dual labour market.

The shortage of labour in the secondary sector occurs because a native worker is reluctant to fill these jobs as they are usually unskilled jobs (although not necessarily low paying), are on the lower level of hierarchy with limited promotion opportunities, laborious and have a high degree of uncertainty; i.e. they lack motivational factors and social status. As these jobs are at the lower levels of organisational structure and cannot be removed from the labour markets, companies require people that will take up such jobs merely to earn money. Hence, immigration become inevitable based on the demand on the labour market (Massey, 2015; Bahna, 2011 cited in Kolláriková, 2016).

Although the theory provides an intellectual description for the chronic demand for labour migrants and structural unemployment in the destination countries, it does not include the implications of labour migration on the sending countries or the complex official process of recruitment. It also does not account for the differential rates of migration between countries that have similar economic structures. As the empirical projections are based on distinguishing between primary and secondary sectors that are arbitrary, unreliable results can be obtained (Arango, 2000). Moreover, the theory does not take into account the push factors and overlooks the decision-making process of migration (Massey et al; 1993; Gurieva, L. and Dzhioev, A. 2015).

Hoffmann-Novotny's (1981) approach compliments the dual labour market theory, which is classified as a social system theory. The theory views migration as "a result of resolving structural tensions (power questions) and anominal tensions (prestige questions)" (Zanker, 2008: 11). After reaching their country of destination, migrants expect to attain the status to which they aspire, but most of the time, these are not achieved but take on other forms. Their success depends upon the international distribution of "status line" which varies from country to country. Thus, a person who has migrated from a country of low rank has difficulty in attaining a highly-ranked job in the country of destination. "Undercasting" is

also a common issue; migrants accept positions available at the very bottom in the society, while the lower level natives of the destination country are promoted to higher levels in regards of power and income.

The strengths of the theory are that it considers the economic push factor in a wider context and takes into account the challenges migrants face in the country of destination, as well as incorporating structural factors. However, its application and testing is complicated and complex (Hagen-Zanker, 2008).

#### **2.10.2.7 Family-decision Making Theories**

Bell (1972, cited in Stahl, 1995) proposed a model in which the family-decision variable is introduced. The family-decision variable relates to the division of labour time of the family between the family farm and wage employment in the city. The main aim is the maximisation of family welfare, which is not always the same as the maximisation of income because it is dependent on the relative value given to the income gained from the family farm and that made from the wage in the city. Thus, the different sources of income do not have the same utility; instead, they yield different utility. Similarly, Bigsten (1988) views migration as a decision of a household which considers the marginal product of combined wages as a decisive factor in deciding if the family member moves to a rural or urban region for employment (Hagen-Zanker, 2008). This concept was later embedded in the “new economics theory of migration” as it takes into account the fact that the households diversify their income of sources by encouraging family members to migrate, which mitigates the risks associated with having insufficient income.

Sandell (1977, cited in Hagen-Zanker, 2008) and Mincer (1978, cited in Hagen-Zanker, 2008) are of the view that migration decisions are made by families and they migrate only if they foresee a positive net gain out of migration. If only one member of a family secures a job in the country of destination, the family migrates only if the losses of other family members are internalised by the gain of the one family

member. Hence, the decision of a family to migrate is the result of an aggregation of individual migration utilities.

In 1981, Harbison presented a paper '*Family Structure and Family Strategy in Migration Decision Making*' acknowledging that an individual's decision to migrate is affected by families and family structures; in particular they can have a detrimental impact on the decision of female migrants; however, the paper did not conclude that migration is a strategic family decision. Similarly, Morokvasic (1984) argues that migration of women is not only influenced by economic factors but also by social and cultural factors, such as getting married, limited gender-based rights and lack of administrative procedures to protect women against domestic violence.

The theory is criticised by King (2012) who argues that the theory assumes a harmonious relationship among the family members that would lead to a common decision and ignores any conflicts that may prevail in the family. Such conflicts can deter a rational decision; moreover, this is not applicable where the entire family migrates.

#### **2.10.2.8 New Economics Theory of Migration**

Presented by Oded Stark in 1991, the new economics theory of migration challenges the neo-classical approach as it put forwards the idea that the decision to migrate does not depend upon an individual, instead it is a mutual dependency in which households and wider society play an important role. The decision to migrate is affected by a number of factors that prevail in the home country, not the individual's maximisation of utility. Instead, it is based on the response of households to reduce the risk of inadequate income and to save themselves from the failures of insurance, labour and credit markets (Stark, 1991, 2003).

Labour migration of a family member is one option by which to avoid the threat of insufficient household income; i.e. it is risk minimisation and risk aversion of household income (Massey et al., 1993). According to the theory, developing countries lack the institutional mechanisms, such as government support programmes, unemployment or private insurance. Thus, for poor households one way to mitigate the risk of market failure is to send an individual to a foreign country as a labour migrant. Usually family members who migrate to foreign countries send remittances to their families, as such households are no longer restricted in their investment and production decisions. Furthermore, the remittances contribute positively to the economy of the poor countries (Stark and Bloom, 1985; Taylor, 1999; Taylor and Waytt, 1996). Unlike neo-classical theory, return migration in this theory is considered a success as migrants would have met their saving targets and thus be able to invest in their home country.

The theory is criticised by researchers, as it biasedly only considers the advantages of labour migration for the sending countries and excludes the implications for the receiving countries. Its application is also limited as it is difficult to isolate the impacts of market imperfections and risks that arise from undertaking other sources of employment. It has also been criticised by social scientists for ignoring the roles of gender in a household and being largely predictive in nature. The theory has not been subject to intense empirical testing (Taylor, 1999; Faist, 2000; King 2012). Moreover Stark (1991) indicates that individuals from poor households may not be able to migrate instantly as their main priority is survival and they may not be in a position to afford migration.

### **2.10.2.9 Perpetuation of Migration**

Migration theorists Tilly and Brown (1967) and Lomnitz (1977) stress the significance of networks of families, relatives and friendship in supporting internal and international migration. Such networks connect migrants and non-migrants in the home and host countries and promote circular migration and

reduce risks associated with migration (Thieme, 2006). Massey (1990) argues that the reasons which initiate migration can be different from the factors that perpetuate migration. Once people from a community settle in a different region, other members of the same community follow their steps as the existing migrants help the new migrants to settle in, to a point where migration reaches a self-sustaining stage. According to Massey (1990), the migration that has taken place in the past changes the way in which existing or future decisions on migration are taken, as it changes the environment in the emigrant's household. As the social networks become stronger, emigration embeds itself into the native norms and through time it comes within the reach of all social classes. According to Massey (1990, cited in Filiz Garip, 2008), research argues that this accumulation of the social capital of migrants starts the process of "cumulative causation" through which the flow of immigration reaches a point of self-sustainment; i.e. social networking strengthens when a new migrant enters the country and makes connections with existing migrants and this leads to accumulation of migrant social capital. As more and more people take the advantage of such resources, the rate of migration increases and accumulates more migrant social capital.

Faist (1997, 2000), a sociologist, views neighbours, society and professional companies as an influential part of the migration decision-making process and also as a mean of integration, because they assist the potential migrants in making a decision and helping them settle in. An individual's different societal relationships depict different social capital and responsibilities and consequences; e.g. the "exchange relationship" that exists between a migrant and the agent are not socially strong and hence such relationship does not suggest any cohesion or harmony between these parties. Therefore, social capital is viewed as a resource, which is gained through having various relationships. This resource may also take the form of different capital types; for example, when in need, one may borrow money from relatives or neighbours (Bourdieu and Wacquant, 1992).

Migration networks and social ties play a vital role in explaining the factors that shape migration and define its magnitude. After moving to the destination country, the pioneer migrants encounter numerous challenges initially; however, for those who follow them, the transition phase becomes easier, because the pioneer migrants inform them about the challenges and available solutions. The newly migrated person receives support from the existing migrants at almost every stage of the migration, including travel and lodging arrangements, job searches, obtaining official documentation, etc. This helpful information makes the migration process less risky, less troubled and much more cost effective.

Hence, over time, the migrants form their own communities and social groups in the receiving country (Goss and Lindquist, 1995). However, King (2012) argues that such networks sooner or later vanish. He also points out that limited research has been conducted to explore how such networks diffuse. De Hass (2010) criticises the theory for its assumption that the system is already in place and it does not provide the reasons for establishing the system and the stages it goes through before it is fully set up. In another important argument, Samers (2010) draws attention to the phenomenon of smuggling and trafficking networks, halfway between social networks and (criminal) business networks for transporting migrants across borders, and subsequently (in the case of trafficking) exploiting migrants by, for example, retaining their travel documents.

#### **2.10.2.10 Transnational Migration**

With fast-growing globalisation, the concept of transnational migration has recently evolved. According to this concept, the migrants remain in touch with their home country, and are active participants in the activities of the home and host countries in many ways including economic, cultural and political (Guarnizo et al., 2003; Vertovec, 1999). Such participation brings reforms and changes in the macro environment of both the country of origin and country of destination. It creates challenges for bureaucrats

as they have to consider such migrants and look beyond their country's borders when formulating policies (Bretell and Hollified, 2008).

Involvement in transnational activities may lead to losing one's sense of identity, especially in cases when children are more attached to a different country than are their parents (IOM, 2010). It may get difficult for migrants to integrate in host country and it also undermines a common national identity (Geyer, 1996; Renshon, 2001; Leitner and Ehrkamp, 2006; de Haas, 2008).

#### **2.10.2.11 Migration Systems Theory**

An approach to migration that combines the fundamentals of neoclassical economics, the new economics of migration, world systems theory, and dual labour market theory is called Migration Systems Theory (Jennissen, 2004). This theory was proposed by Magobunje in 1970 and assumes that migration changes the societal values, cultural norms, economic conditions of both receiving and sending countries and migration shapes a whole new developmental space in which the migration system operates (de Haas, 2009).

Massey et al. (1998) argue that sending and receiving countries share a "unique set of ties", which Migration Systems Theory classifies into three linkages: 1) Relationship ties encompass cultural and historical commonalities and the related implications that can affect the settlement of migrants in receiving countries; 2) Regulatory ties which refer to congruent migration policies that are present in a shared membership, such as the political and economic membership of the European Union; and 3) Tangible ties including trade flows, capital and economic benefits (Greenwood and McDowell, 1991).

According to DeWaard, Kim and Raymer (2012), although Migration Systems Theory encompasses different theories of migration, very little research supports its claims because of the limited availability of migration data. Different countries record their migration data in different ways, making it

unsuitable for cross-nation comparison. As a result, much Migration Systems Theory research uses limited data on the birthplace of specific migrants. Furthermore, the data confused mortality and naturalisation with migration.

### **2.10.3 Summary of the Theories**

In the past two decades, millions of people have left their homeland and migrated to other countries either voluntarily to seek a better life or involuntarily due to wars, political turmoil and natural disasters or as a result of human trafficking. Despite the different causes of migration, researchers have concluded that most migrants go through similar stages before settling in the host country; these stages include a pre-departure stage, the actual physical move and then settling in the host country. Thereafter, some migrants may decide to return to their home countries or may migrate to another country.

The literature argues that migration has economic, social, and cultural implications for the migrant-sending and migrant-receiving countries; however, there are contrasting opinions about the benefits and costs of international migration. Migrants send remittances back home, which, according to some researchers, may improve the economy of the country if spent wisely. However, other researchers conclude that it may be a barrier to economic development as family members who receive remittances rely on it as their source of income and tend to spend it on non-productive activities, thus limiting economic development in the long run. Moreover, for smaller countries these remittances are received at the cost of a brain-drain and the loss of young members of population who could play an important role in developing the economy of their country. On the other hand, the migrant-receiving countries acquire much-needed human capital, but this may stretch the costs of the welfare system and provoke racial tensions. This issue becomes challenging in cases where hundreds and thousands of asylum seekers and refugees enter a country.

From the syntheses of migration theories in this section it can be concluded that theories of international migration are composed according to the different discipline, such as economics, geography and political science, and hence a single and coherent theory on international migration has not yet to be proposed. The oldest concept in understanding migration dates back to Adam Smith (1776) who concluded that wage differences, unemployment and poverty initiate the process of migration. In 1885, '*Laws of Migration*' presented by Ernest Georg Ravenstein paved the way for future research in explaining the reasons of migration and its impact on the host country. Nonetheless, the shortcoming of these theories and Lee's (1966) push and pull framework is that they assume the migration process is caused by isolated economic, political and social factors. According to the researchers of the neo-classical macro framework model (Lewis 1952; Todaro 1969; Borjas 1989), the main decisive factor for migration considered by an individual is to maximise his/her income, including wage differences and employment conditions between the countries and the cost of migration. Similarly, human capital theory (Sjaastad, 1962) explains migration as an investment that is computed by the potential emigrants by discounting the present value of expected returns in each possible destination including their country of origin. It also considers heterogeneity of individuals and emphasises that an individual's socioeconomic factors should be considered. In contrast, many researchers (for example, Bell 1972; Bigsten, 1988; Sandell, 1977; Mincer, 1978) conclude that the migration decision is not made by an individual in isolation but is influenced by family members. This concept is integrated into the New Economics Theory of Migration (Stark, 1991) that views emigration as a household strategy in minimising family income risks against the failures of insurance, labour and credit markets. Critics of this theory argue that it may not be applicable to very poor households who barely survive on their income and, hence, are not in a position to afford migration. In addition, theorists Tilly and Brown (1967) and Lomnitz (1977) emphasise the usefulness of social

networks of families, friends and relatives and their importance in encouraging circular migration and diminishing risks that are associated with migration.

With increased globalisation, researchers started to focus on migration as a consequence of globalisation. For example, Wallerstein's World System Theory presented in 1974 views migration as an outcome of globalisation and business expansion across borders, while Dual Labour Market Theory (Piore, 1979) links migration to the structural requirements of modern industrialised economies. Likewise, Hoffmann-Novotny (1981) views migration as a process within a bigger social system and if the imbalance between the power and prestige are not addressed within the system, then the ultimate solution is to migrate outside the system. Migration Systems Theory proposed by Magobunje in 1970 conceptualises that international migration follows within the systems or countries that are linked through some kind of relations, e.g. geographical, historical, economic or colonial. The final migration approach discussed is transnationalism, which argues that the migrant remains connected to his/her home country and is in state "being neither here nor there". Such interconnectivity impacts social and cultural aspects of both home and host countries.

From the review of the literature it is clear an all-inclusive theory of migration does not exist. To this end, I use the neo-classical theory of migration as it explains the excessive demand for and supply of migrant labour in the UAE, including high wages for migrants.

## **2.11 CONCEPT OF GOVERNANCE: INTRODUCTION**

In this section, I explore definitions presented by different authors and institutions. It is important to understand the concept of governance before moving onto the concept of migration governance. I also highlight which definitions are used in this thesis. The actors in governance and the principles of good governance are also discussed. Understanding principles of good governance helps in assessing the

effectiveness of the governance migration in the UAE in later chapters. In addition, the different frameworks and institutions that govern international migration are introduced.

One of the pioneers of the governance concept, Hans Thorelli (1986), associates governance with “self-organising, inter-organisational networks or public policy networks. Such a homogenous type of coordinating collective action, based on networks and distinct from hierarchy and the market” (cited in Zawicki, 2015: 15). One decade later, a very similar concept was presented by Rhodes (1996: 652) that governance is “self-organizing, interorganizational networks and these networks complement markets and hierarchies as governing structures for authoritatively allocating resources and exercising control and coordination”. He further adds that the State no longer plays a central role and governance is the outcome of the sharing process in which state, market and civil society play their own roles and government is no longer a major player. However, the self-organising networks approach was soon challenged. According to Johansson and Borell (1999), Bache (2000) and Marinetto (2003) as cited in Colebatch (2014), it was concluded through empirical testing that self-organising networks were not self-organising themselves and the role of government remained vital. Furthermore, Kjaer (2011) point outs that networks have varied and clashing interests and, additionally, they have different resources with which they are pursuing their interests.

Pierre (2000:3) refers to governance as “sustaining coordination and coherence among a wide variety of actors with different purposes and objectives”. These actors can include government institutions, politicians, pressure groups, non-government organisations (NGOs), multinational companies and civil society. This definition indicates that in the contemporary concept of governance, other institutions deliver tasks that were previously performed by the government. In contrast, Hirst (1993, cited in Pierre, 2000) argues governance acts as “means” of controlling or directing activities in such a way that they deliver results according to the set standards and requirements. Similarly, Weiss (2000) concludes that, in general,

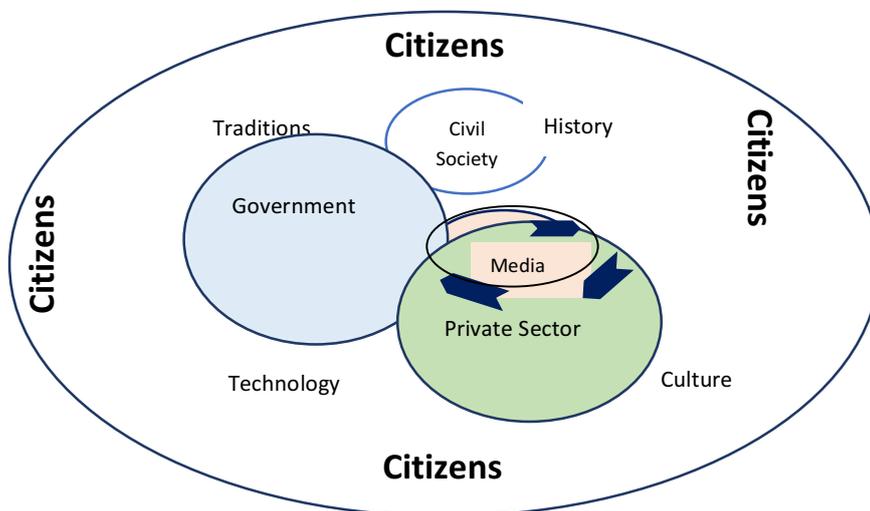
governance is viewed as exercising political powers to manage public affairs. Kjar (2004:15) determines that governance is “about managing rules of the game in order to enhance the legitimacy of the public realm”. Gisselquist (2012) notes that regardless of the definitions of different authors, three common features are included in most definitions of governance: i) it is a process; ii) it concerns exercising power or authority; and iii) through which collective affairs are managed. However, Offe (2009) notes weaknesses in research and identifies that authors use the term “managing relationship” in governance broadly, thus, they have not provided an answer to the difference between ‘management’ and ‘governance’ or ‘government’ and ‘governance’. He also adds that some use the concept of governance as structure while others use it as process and thus the concept of governance has become only an “empty signifier”. Moreover, Grande (2012, cited in Anderson et al., 2014) observes that given the ambiguity of the concept and range of views to which governance can be referred, it is difficult to find an underlying definition. For the purpose of this research with consideration to the UAE and its political system, the definition of governance is based on Hirst (1993) and Weiss (2000) in which both conclude that governance is political power to manage public affairs according to a set of policies and requirements.

The major international institutions including the UN, The World Bank and the OECD have also presented their own definitions of governance. The United Nations Development Programme (UNDP), in its 1997 policy paper, defined governance as “the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences” (1997:3). Similarly, the World Bank defined governance as “the manner through which power is exercised in the management of a country’s political, economic and social resources for development” (1993: 1). The definition proposed by the World Bank was heavily criticised as an agenda by which to enforce liberal democratic views of the West on developing countries

(Wilson, 2000). Meanwhile, the OECD defines governance in their glossary as “governance is the exercise of political, economic and administrative authority necessary to manage a nation’s affairs” (2007).

### 2.11.1 Governance Actors

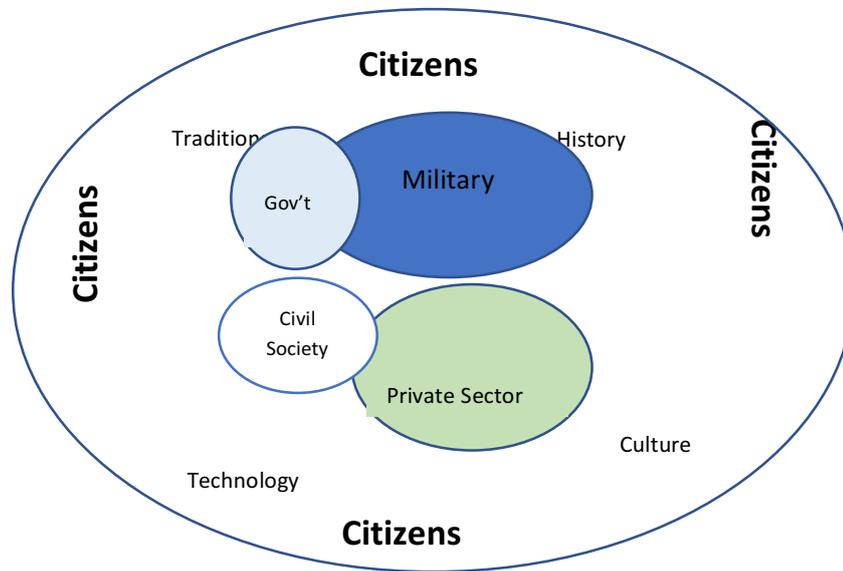
Graham, Amos, and Plumptre (2003) identify the governance players. According to them, in order to understand the concept of governance at the national level, it is important to consider the role of the economic and social establishments. As shown in Figure 2.2, usually business, civil society, media and government are four sectors are found among citizens.



**Figure 2.2: Sectors of Society**  
Source: Graham, Amos, and Plumptre (2003)

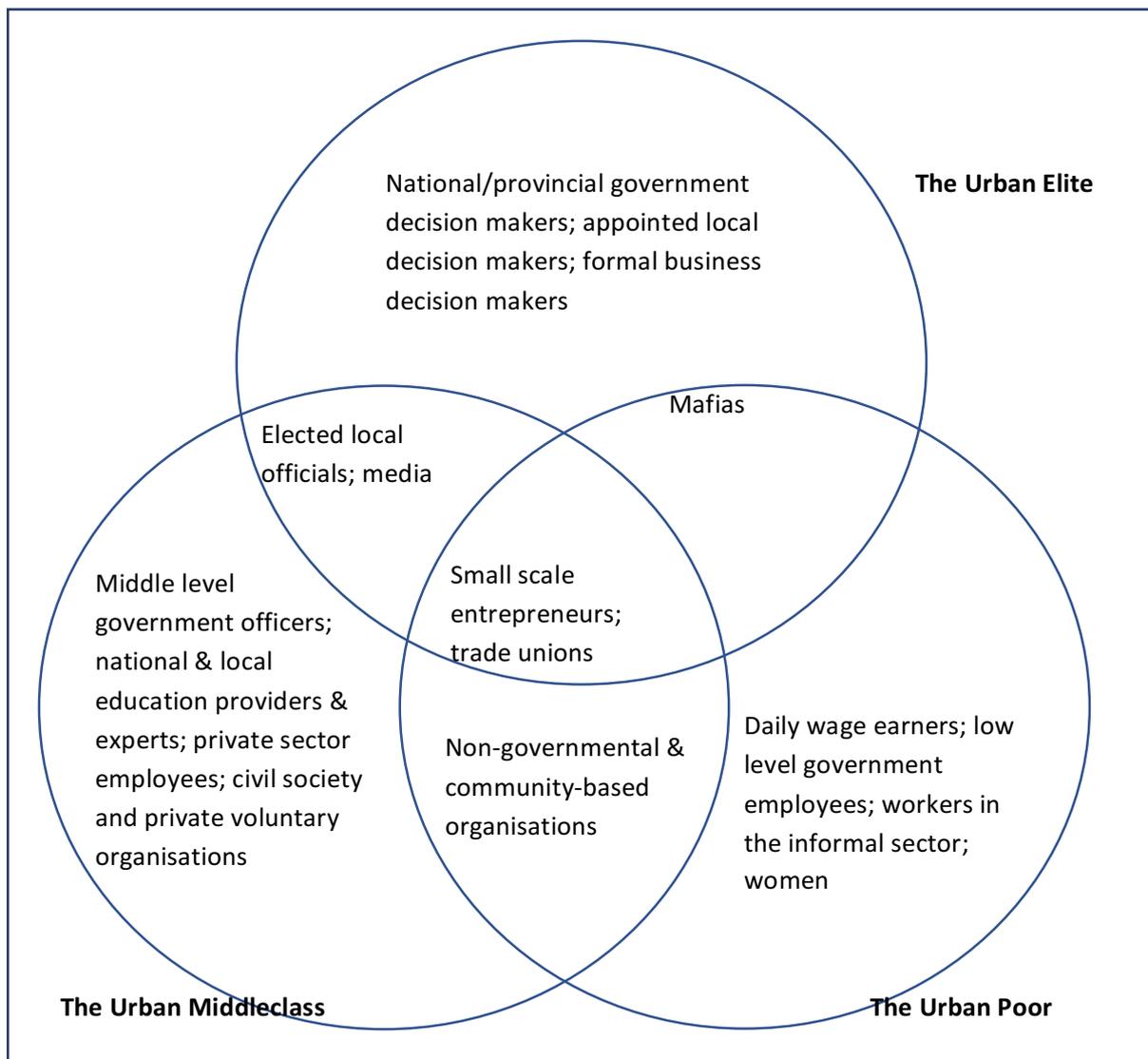
The sizes of the circles roughly depict their influence on citizens in various western countries. However, other countries may have a different distribution of power and different sectors (see Figure 2.3). In some countries, the role of the government can be very weak while transnational companies can hold significant power. The majority of countries are experiencing a power shift across borders and a growth in the private sector and hence some traditional tasks of government are being allocated to private corporations. Furthermore, in some cases, government has called upon the voluntary sector to come

forward and play its role in taking up the slack. A similar power shift has encompassed civil society; however, this paradigm shift is unclear so far.



**Figure 2.3: Power of Distribution**  
 Source: Graham, Amos, and Plumptre (2003)

Meanwhile, the Global Development Research Centre (2018) highlights similar actors in relation to governance. They conclude that as governance is a process through which decisions are made and implemented, it involves formal and informal structures and actors that make and enforce the decisions. Governments are one of the many actors, while other actors at the local level in particular in rural areas include authoritative landlords, unions of farmers, NGOs, the military religious leaders, cooperatives, banks and other financial establishments, and political parties. Media, lobbyists, internal donor organisations, multinational corporations play a significant role in decision making. Informal decision-making structures and informal advisors also exist at national level. In urban areas, the picture gets even more complicated (see Figure 2.4), where organised gangs and mafias can influence the process. Such influence and informal decision making often results in corruption (Gdrc.org, 2018).



**Figure 2.4: The Urban Actors Involved in Governance**

Source: The Global Development Research Centre (2018)

### 2.11.2 The Zones of Governance

According to Graham, Amos and Plumtre (2003), ideologically, the concept of governance can be applied to any scenario of collective action. However, it is strategic in nature as it involves the decision-making process; i.e. who should be part of the decision-making process and the capacity in which they

perform. Furthermore, the concept of governance is applicable in four zones: the global space; the national space; organisation space; and community space.

The governance in “global space” or “global governance” addresses issues that are beyond the scope of a single government (Graham, Amos and Plumptre, 2003). Thakur and Langenhove (2006: 233) view global governance as “cooperative problem-solving arrangements on a global plane” which comprises of complex relationships among countries and organisations at state and non-state level. Through these arrangements common interests are agreed, rights and responsibilities are outlined and disagreements are arbitrated. In this context, Higgott (2005) sees global migration as the “way” in which governance actors including citizens, the public and private sectors, multinational corporations and civil society make an effort to resolve conflicting interests through a joint decision-making process across a range of domains, beyond a country’s border.

However, Chandler (2003) argues that the existing institutions and processes of global governance are neither coherent nor legitimate. He further claims that citizen’s participation in the democratic process has been eroded, as decision making has now been shifted to organisations outside the national borders to global civil society. In particular, Hoos (2006) argues that the role of multinational corporations (MNCs) have undermined the interest of global governance. MNCs have access to decision makers at the national and global levels and therefore can prioritise their agendas and interests. Davis (2012) claims that consequently the practices of global governance do not seem to be that effective and empowered as acclaimed.

National space refers to governance within a country, which can be on many levels; i.e. local/urban, provincial or national (Graham, Amos and Plumptre, 2003). Wilde et al. (n.d.) in their UNDP guide use the term local governance to refer to the multiple governance challenges that prevail at the local level. It encompasses “decentralisation of policies and processes, the roles and inter-relationships of

different actors and institutions, local democracy and local government performance”. Similarly, Shah (2006: 1) understands local governance as “the formulation and execution of collective action at the local level”. Nonetheless, Olowu, Wunsch and Ayee (2004:84) argue that unclear policies for intra-governmental relations and lack of involvement of local citizens are major challenges for local governance (Ella.practicalaction.org, 2012).

Governance within the boundaries of an organisation is referred as organisational governance and includes activities, which are typically accountable to a board of directors. These include all categories of private, public, profit and not-for-profit organisations (Graham, Amos and Plumptre, 2003). ISO 26000 has defined organisational governance as: “A system by which an organization makes and implements decisions in pursuit of its objectives” (ISO.org, 2010). On the other hand, the American Society for Quality (ASQ) views governance as system that meets the organisational objectives and also looks after the interests of stakeholders (Asq.org, 2018). The governance concept becomes crucial when it comes to profit-making organisations. Management acts as an agent of shareholders and hence their responsibility is to maximise the wealth of the shareholders (Friedman, 1970). However, this may be done at the cost of other stakeholders and hence there is considerable debate around the idea of the corporate social responsibility which requires organisations to look beyond profit-making and fulfil their responsibilities towards other stakeholders.

Community space is the governance of activities at a local level, which usually does not hold a legal form and has no formal governing board (Graham, Amos and Plumptre, 2003). Rtmteam.net defines community governance as the set of processes through which decisions and plans are articulated and implemented that impact community life. Such decisions and plans can be made by private sector or public-sector organisations or even by citizens themselves.

### 2.11.3 Principles of Good Governance

The World Bank in 1989 used the term “Good Governance” for the first time in their report ‘*Sub-Sahara Africa: From Crisis to Sustainable Growth – A Long-Term Perspective Study*’. Since then it has gained popularity and now nearly all supranational organisations such as the IMF, UNDP and other bilateral agencies support projects that are related to good governance in developing countries (Qudrat- I Elahi, 2009). The concept of good governance is a “value-loaded concept”, which expects behaviour to be ethical (Bouckaert and Van de Walle, 2003). According to the OECD (2001, cited in Gyong, 2011), good governance encompasses eight characteristics:

*Participation:* The basis of good governance starts with the participation of men and women and this participation must be informed and organised. A balance should be maintained between freedom of speech and acts of an organised civil society.

*Rule of law:* Enforcement for a fair and impartial legal framework is a vital requirement of good governance that calls for an autonomous judiciary and an unprejudiced and corruption-free police force. Full protection of human rights, especially those of minorities, is also required.

*Transparency:* In this context, it means that rules and regulations are always followed when a decision is made and enforced and the information related to such decisions is freely, directly and readily accessible to all the stakeholders who may be affected by it. Using an appropriate medium to convey the information, a clear and comprehensive information should be provided.

*Responsiveness:* Institutions and the set policies, procedures and processes should be able to respond to the needs of the stakeholders within a reasonable period of time.

*Consensus oriented:* A society comprises of a number of actors having different opinions and interests and hence good governance requires a consensus between such actors so that they work together in

achieving the best interests of the broader community. It also urges for a strategic approach on sustainable human development and ways to achieve this development.

*Equity and inclusiveness:* The welfare of a society is dependent on the feelings of its actors or members. For the wellbeing of the society, it is important that the members have a sense of inclusivity, especially those who are vulnerable. Society should provide opportunities to such members of the society to improve so that they can improve their wellbeing.

*Effectiveness and efficiency:* Good governance expects that in meeting the needs of society, resources should be used at their optimal level, without any waste, and in a sustainable way without harming the environment.

*Accountability:* Good governance requires accountability of all institutions including government, private and civil society towards public and other stakeholders. Lines of accountability depend on the decision-making process; i.e. whether decisions or actions are taken internally or externally to an organisation and an entity will be accountable to all those who face the consequences of the decision or action and are affected by it. It is worth mentioning here that the rule of law and transparency are prerequisites to accountability; the rule of law and transparency should be in place before enforcing accountability.

OHCHR in its resolution 2000/64, identifies the key attributes of good governance as being transparency, responsibility, accountability, participation and responsiveness and made explicit links between good governance and human rights fulfilment (Ohchr.org, n.d.). On a similar basis, the IMF (2018) claims it “places great emphasis on promoting good governance when providing policy advice, financial support, and technical assistance to its member countries”. It declares good governance to be a key to economic development and outlines IMF’s programmes and initiatives that promote good governance. The IMF encourages its member countries to promote a transparent and stable economic and

regulatory environment that is favourable for private sector and manages public resources through improvements in public sector organisations.

## **2.12 THEORIES OF GOVERNANCE**

The concept of governance came to prominence in the 1990s. Theories of governance have different foci; some theories explain the decision-making process, others identify the roles played by different actors that are involved in the process of governing, while yet others explain how governance has evolved, is managed and can be improved. The field of governance is expanding and has presented a range of new theoretical concepts, while reviewing, revising and challenging old ones.

Importantly, the concept of governance is relatively uncontested across the academic disciplines being built upon common elements of accountability, authority, laws and rules. However, researchers in their related fields and according to their area of interest, have added a range of prefaces and variables to the concept of governance (Ansell and Torfing, 2016). Different theories of governance focus on different kinds of governance, and to date, no one comprehensive theory has evolved. These theories are analytical constructs and developing one requires strong empirical observations, solid deductive reasoning and a great deal of creativity and imagination but all aim to understand how societies are governed. Most theories of governance cover the following concepts either implicitly or explicitly: theoretical justification about the hypotheses that can be verified empirically and helps in defining the theory's scope and its validity; concepts that aim to support the analysis and objectives; theoretical principles and views that help in understanding and explaining trends and common themes; normative judgments that are based on specific standards and empirical generalisation; and forecasting that is supported by deductive and inductive reasoning methodologies. Like any other theory, the theories of governance cannot be falsified,

and they provide a base by which to conduct further research, develop hypotheses, make predictions, undertake a critical evaluation and test the theory empirically (Ansell and Torfing, 2016).

Although, numerous theories of governance have been presented over the years, this section explores the most relevant theories of governance to this research.

### **2.12.1 Stroker's Five Propositions of Governance Theory**

Stroker (1998) identifies five propositions of governance theory. First, governance is a “complex set of institutions and actors that are drawn but also beyond government” (Stroker, 1998: 19) that challenges the formal concept of government and implies that such doctrines are restricted and misleading. It also challenges the conventional perspective of government which sees the government as a “standalone” entity, separated from broader society. Governance denies the form of government whereby in a State there is only one centre of power and seeks to increase the involvement of private and voluntary sectors in the decision-making process, thereby serving the communities in a State. Sub-contracting, outsourcing, public-private partnerships and the engagement of non-public sectors in strategic decision-making are now a reality of public services in many countries. However, the legitimacy of policy implementation remains in question. Promoting participation, building sustainable relations and effectively utilising resources depends upon the legitimacy of the decision-making powers (Ewalt 2001). Consequently, Beetham (1991) proposes that those who are making decisions should comply with the established rules and shared values.

Second, “governance recognizes the blurring of boundaries and responsibilities for tackling social and economic issues” (Stroker, 1998: 21). The perspective of governance acknowledges the complexity of government systems and suggests shifting state's responsibilities to the voluntary and private sectors and predominantly to citizens. This shift blurs the boundaries between the private and public sectors that

results in an increase of voluntary and third sector organisations, including co-operatives, community-based organisations, NGOs, mutual and not-for-profit organisations. A range of social and economic activities is offered by these organisations and they typically operate in a “social economy” that is emerging between the public sector and market economy. Nevertheless, the blurring of these boundaries leads to increased blame game and scapegoating, especially when things do not go according to plan. The government can pass the burden of responsibility to the private sector for their wrong doings due to lack of accountability and responsibility (Ewalt, 2001).

Third, governance identifies the power dependence involved in the relationship between institutions involved in collective action: According to Stoker, the power dependence suggests: (a) institutions dedicated to collective actions depend on other organisations; (b) for the achievement of goals, negotiations take place between the organisations and resources are shared or exchanged; and (c) based on the “rule of game”, “context of exchange” and “resources of the participants”, the outcome of exchange is decided. However, under the governance concept, one organisation cannot take all the power as the outcome is a process of exchange. In collective action, accepting the power dependence implies that the involved parties understand that the result may differ from their intentions. The critical issue with power dependence is that it does not improve the government’s problem of unintended outcomes, instead it aggravates it. Furthermore, there is a tendency for barriers and challenges to coordination among institutions (Jennings and Ewalt, 1998).

Fourth, governance is about autonomous self-governing networks of actors: in governance, the outcome of partnership activity results in forming self-governing networks. These networks take over the activities of government and also influence the government in policy making. Such systems/networks are regarded as more powerful than regulations imposed by government. However, as these networks involve partnerships with other institutions whose resources and purposes are merged, the issue of accountability

becomes contested (Ewalt, 2001). These groups work for their own interests and ignore the interests of the wider community leaving government to resolve the issues. In addition, Milaward and Provan (2000) question that if networks take over government activities, most public programmes would no longer remain under government control, then how does government manage such programmes and entities.

Fifth, governance recognises that the capacity to get things done does not rest on the power of government. It views government as able to use new tools and techniques to steer and guide. Kooiman and Van Vliet (1993, cited in Stoker, 1998) identify that the tasks of government in governance include:

- a. De (composition) and co-ordination: in which the situation is defined, key stakeholders are identified, and effective connections are developed between the involved parties.
- b. Collaboration steering: this is concerned with influencing the relationship and driving it towards the achievement of desired results.
- c. Integration and regulation: this requires thinking and taking actions that are beyond one's sub-system, overcoming unexpected consequences and formulating systems that provide an effective coordination of all activities.

However, there is still a chance of failure of governance even in cases where government shows flexibility in driving collective actions. The reasons behind this failure may include tensions with civil society, leadership failures, scope and partnerships and conflicts among partners (Ewalt, 2001).

### **2.12.2 Collective Action Theory**

The collective action dilemma emerges when two or more parties come to a common decision but the decision leads to an outcome which is socially unacceptable. In Collective Action Theory, governance then makes an effort to resolve these dilemmas by introducing institutional actions either in the form of a top-down decree or bottom-up self-organising. Governance encourages co-operation, accountability

transparency and creates an environment that promotes collective action (Ansell and Torfing, 2016). From classical theories of collective action (Smith, 1776; Hamilton, 1787; Tocqueville, 1835) to neo-classical economic models of public goods (Samuelson, 1954; Oslon, 1965) to the new institutional economy and the political economy of collective actions (Ostrom, 1998; Axelrod and Hamilton, 1981; Aoki, 2001), collective action remains at the heart of scholarly activity. Although persuasive theories, such as the Prisoner's Dilemma and the Tragedy of the Commons, demonstrate that individuals become stuck in dilemma and fail to deliver to collective goods, empirical research provides convincing results that bottom-up self-organising and top-down governance and collaboration are possible even in the most challenging and difficult situations (Ansell and Torfing, 2016).

Ostrom (2007) drew attention to the reality that there is no one-size-fits-all approach in the case of governance. Instead, the challenge prevails for decision makers and strategists to propose alternative solutions (with their opportunity cost) and provide custom made governance arrangements specific to the problem. Furthermore, Hansen et al. (2005) explore collective and individual political actions of firms and conclude that very particular favours are sought by firms from government; for example, the awarding contracts or relaxation in regulations or even exemptions from certain rules. This aspect was overlooked by Olson. Such common interests encourage the firms to lobby and spill over into collective action.

### **2.12.3 Public Administration to New Public Management**

In the past, public services were seen as delivered by a bureaucratic organisation in which public servants usually would not meet the needs of users and which was usually referred as Public Administration (PA).

Hood (1991) summarises the characteristics of PA as:

- 1) Dependence on “rule of law”.
- 2) Administration focusing on pre-defined rules.

3) A significant role has been played by bureaucracy in policy making.

4) Incremental budgeting.

5) Supremacy of professions.

Hood (1991) is a classical formulator of NPM who proposes the use of a “managerial” approach to public services instead of an administrative or professional approach. This approach focuses on delivery, unit cost, performance management, competition and output control and uses the management of the private sector as a model for rendering public services. However, this approach is criticised from a number of perspectives. First, since the 1980s, societies have undergone immense changes at a very rapid rate and it has become very challenging for a single Public Service Organisation (PSO) to respond to the public needs on their own. Second, in the past few decades, pluralism has taken over and governments can no longer solely deliver public services. Therefore, partnerships or collaboration are required from different actors (Radnor, Osborne and Glennon 2016). Third, there is a potential risk of encouraging corruption as top officials may pursue their own interests due to a lack of accountability. Finally, it is argued that NPM fails to address the basic dilemmas of the public administration (Dunleavy and Hood, 1994).

#### **2.12.4 New Public Management to New Public Governance**

Given the constraints and criticism of NPM, a new concept, New Public Governance, emerged. It acknowledges that PSO cannot work in isolation and requires the interaction of a range of stakeholders including local communities, families, IT services, customers/users, financial resources, etc. Hence, the task calls for governing not only the PSO but also the complex system they generate by interacting with their stakeholders. As PSO deliver services, they should maintain a sustainable relationship with their users, look after their service delivery and also service design. Both NPM and PA perceives public services

as inactive and passive in nature, but the reality is different especially in the current era. Furthermore, neither PA nor NPM fit well with the new ideas of digital economy and e-governance.

Elson (2014) identifies six characteristics of the New Public Governance:

1. The involvement of private and other sectors in the decision-making process and in solving public service problems.
2. In order to solve complex social problems, government should improve coordination through dialogue and negotiation.
3. The formation of complex networks by involving stakeholders.
4. Based on a complex network which is grounded on resource sharing.
5. Trust and stability of networks.
6. Recognition and appreciation of the role of social public organisations.

Osborne (2010) views New Public Governance as a theoretical perspective on the management of actors involved in coproducing public services aimed at horizontal coordination and collaboration. The new governance theory does not focus on the issue of accountability when such networks are formed, but it emerges as a key issue, as there is no centre of power. The theory has also been criticised as being inefficient as it is pluralist in nature. Several examples are given in the literature where it is evident that major issues occurred because of pluralism and no major decisions have yet been taken (Elson, 2014).

## **2.13 MIGRATION GOVERNANCE**

According to the *UN International Migration Report 2017*, the number of international migrants has reached 258 million, making migration a global phenomenon impacting on home, host and, even, transit countries. The process is complicated and multi-dimensional involving a number of issues, including, but not limited to, access to health care facilities, social services, human rights, safety and security. The

dynamic nature of international migration has been recognised globally and now calls for an enhanced and effective coordination among the countries.

The beginning of the 1990s saw the coining of the term of ‘migration management’ urging countries to introduce new approaches to manage global migration. However, recently the concept has been changed to ‘migration governance’ (Crépeau and Atak, 2016). The UN General Assembly defines migration governance as “the migration policies and programmes of individual countries, inter-state discussions and agreements, multilateral forums and consultative processes, the activities of international organisations, as well as relevant laws and norms”. The Office of the High Commissioner for Human Rights defines migration governance as “International governance of migration can be understood as a process in which the combined framework of legal norms and organisational structures regulate and shape how states act in response to international migration, addressing rights and responsibilities and promoting international cooperation” (IOM, 2016).

The objective of global migration governance is to introduce regulatory measures that can handle the unsystematic migration process and change it to a more systematic and controlled process that is advantageous for all the involved parties (Ghosh, 2003). Governance of migration requires the development of policies by the individual countries, bilateral and multilateral dialogues and initiatives taken by international institutions. Hence, the notion of global migration governance demands transnational, multilevel cooperation among NGOs, the private sector and governments by adhering to agreed rules and regulations (Newland, 2010).

### **2.13.1 The Institutions of Global Migration Governance**

According to Betts (2011), formal global migration governance started in 1919 when the ILO was established. Thereafter, following the end of WWII, a number of institutional developments occurred. In

1950, the IOM and the UNHCR were established and started to play their role in the governance of global migration. The first Intergovernmental Consultation (IGC), Regional Consultative Process (RCP) in 1985 was followed by the UN Convention on the Right of All Migrant Workers in 1990 and the International Conference on Population and Development, Cairo in 1994. In 2002, the *Doyle Report* drew attention towards how lightly international migration was institutionalised with the UN, which led to the establishment of the Global Commission on International Migration (GCIM) in 2003. The First UN High-Level Dialogue on Migration and Development in 2006 was followed by the Second UN High-Level Dialogue on Migration and Development in 2013. Between these events, in 2007 the First Global Forum on Migration and Development (GFMD) was held and 2009 saw the launch of the International Catholic Migration Commission's (ICMC) 'Conversation'.

### **2.13.2 Multilateral Governance**

According to Bhagwati (2003, cited in Betts, 2011), within the UN, there was only one institution dealing with the issue of migration, the UN High Commissioner for Refugees (UNHCR). It oversees the 1951 Convention on the Status of Refugees and covers asylum seekers and refugees. At that stage, the 1990 UN Convention on the Rights of Migrations was the sole multilateral agreement within the jurisdiction of the United Nation in regards to international migration. However, in 2003, the GCIM was established and a special representative on migration development was appointed by the UN Secretary General. In addition, a Global Migration Group (GMG) was formed with the aim of leveraging cooperation across the body of the UN. It made efforts to improve collaboration between those institutions that offer services in the field of migration, such as the ILO, World Bank, IOM, UNDP, and UNHCR. However, unfortunately GMG has only been able to act as a source of information sharing.

The IOM, which was established in 1951, has grown rapidly since 1990<sup>4</sup> and came under the UN umbrella in 2016. Initially, a limited number of migrant-receiving countries became members but today it has become the most well-known organisation that works for international migrants. The IOM primarily acts as a service provider to different countries, advising them on managing and facilitating migration, providing migrants with health and counselling services and managing the mobility of migrants after the crisis/conflict has ended. The IOM plays a leading role as a facilitator to boost global cooperation on migration through the IOM Council and the Internal Dialogue on Migration (IDM). These initiatives projected IOM as a key player and not merely a small inter-governmental organisation.

In addition, the World Trade Organisation's (WTO) General Agreement on Trade in Services (GATS) strives for a fair treatment for individuals' movements across borders. Mode 4 of the GATS allows free temporary movement of sales persons, intra company transferees, business travellers and independent contractors across borders; however, there are certain conditions attached to such movement. Currently GATS Mode 4 is suspended. Furthermore, since its inception in 1919, the ILO has outlined a wide variety of principles and standards to which member countries have to adhere.

Despite the global multilateral organisations involved in global migration governance, it is developing as a "bottom-up" approach. In addition, a number of bilateral agreements have been negotiated that allow countries to develop policies that serve the interests of all stakeholders; for example, they decide on entry and exit arrangements, types of visas to be offered, temporary migrants, and special access. Examples of such bilateral arrangements include agreements between Spain and Morocco, the US and Mexico, and Australia and Indonesia.

At a regional level, examples include the EU, Association of Southeast Asian Nations (ASEAN) and North American Free Trade Agreement (NAFTA). In addition, RCPs have also emerged. Similarly,

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<sup>4</sup> At the time of writing IOM has 165 Member States and a further 8 states holding Observer status.

the Colombo process that started discussions on worker migration in South Asia was transformed to the Abu Dhabi dialogue in 2008. Another example includes the Intergovernmental Authority of Development (IGAD), which comprises six countries from East Africa to develop similar practices on labour migration. Indeed, the RCPs go beyond the regional level with examples of inter-regional RCPs, such as the Rabat and Tripoli summits of 2006 and 2007, which brought together EU and African countries to start the dialogue concerning mobility of people between the continents. Another example is the Puebla process which made an effort to establish collaboration between the states of Central America and NAFTA.

## **2.14 THEORIES OF INTERNATIONAL IMMIGRATION POLICY**

In the long term, immigration patterns can shape the social, economic and political behaviours of a country. Therefore, it is important that countries choose the right approach when drafting immigration policy. The theoretical approaches to the factors that influence the formation of immigration policies are discussed in the following sections.

### **2.14.1 The Marxist Approach**

According to Meyers (2000), the Marxist approach was initially formulated by Beard and Beard (1944), with other researchers, including Marshall (1973), Miles (1987) and Kerk et al. (1990, 1991), contributing to its development. According to these theorists, economics factors and class-based political processes are the main contributors when formulating immigration policies. The theory argues that investors bring in foreign workers in order that they can pay lower salaries, which helps the capitalists increase their profit margins. Marxist theory further asserts that international migration is set to increase in the long run as it favours capitalists who have always supported migration. According to the theory, society is split into two

main classes, namely, the capitalist and the working class. A person's association with the means of production decides the class to which (s)he belongs.

Thus, according to Marxists, immigration is a result of unfair and unequal growth across different sectors, different areas and different countries. The capitalist countries use immigration in many ways. They use overseas migrants to reduce the wages of the working class. The stock of migrants also acts as a source of supply which enables capitalists to expand their process of accumulating capital. Immigration also prevents profits from falling, as well as playing its role in preventing abrupt economic fluctuations. Some Marxists, especially Castells (1975), argue that migration helps in reducing the class conflict as migrant workers takes up positions that are at the bottom of an organisation. This helps native workers secure more non-manual jobs, in which the workers are less likely to take part in collective bargaining.

However, the Marxist approach has been criticised for not considering policies related to refugees for other than the economic reasons, such as the policy of the UK towards commonwealth citizens or US policy towards Chinese or Filipino immigrants. It also fails to explain policies on wars and other political forces for there is no explanation from Marxists as to why America failed to restrict European migrants during the economic recessions in the beginning of 1890s and during the World War I, also why some countries applied immigration restriction even though the demand for labour was on the rise (Meyers 2000).

Another criticism of the theory is that it does not provide an explanation for policy of immigration of "dissimilar ethnic origin". Marxist theorists believe that the state promotes migration from different backgrounds and races to grow the labour force, expedite formulation of classes and cause racially structured tense situations (Lipset and Marks, 2001). However, in reality immigration policies have not encouraged diverse immigration (Hardy, 2009). For example, in the 19<sup>th</sup> century, the Americans, Australians and Canadian governments restricted migration from China and Japan, on a similar basis in

1960s, the UK prevented coloured migrations and the US favours refugees from Cuba than from Haiti (Price, 1966; Solomos and Back, 1995; Meyers 2000).

#### **2.14.2 Domestic Politics: Interest Group and Partisan Politics**

According to Trachtman (2013), domestic politics models, also known as ‘society-centred’ approaches, believe that the State acts as an unbiased domain for the purpose of societal interest, in which interest groups vie to achieve their objectives. Policies are developed after consulting and negotiating with the relevant interest groups. Researchers, including Divine (1957), Zolberg (1981), Lemay (1987), Freeman and Betts (1992) and Meyers (2001), have applied the domestic policy approach in relation to immigration policies. They argue that in the partisan politics process, manifestos are presented by each political party before elections to allow the public to make its choice. When a party wins the election, it implements its promised manifesto. In the interest group political process, pressure or interest groups influence parties and other stakeholders to embrace their policies. The interest and pressure groups related to immigration policies include employers and ethnic groups that are pro-migration and anti-migration groups such as trade unions and nationalist groups. Unlike the partisan political process, in which policies follow the interests of the majority, in the interest group political process policies can reflect the attitudes of small but influential segments of society.

The domestic politics process approach to migration has been subject to criticism. For example, Zolberg (1981) indicates that most research has used the case study approach and has analysed it on a county-by-county basis, rather than looking at the bigger picture and outlining the key elements of immigration policy. In addition, the domestic politics approach is unable to explain refugee policies that are adopted in several counties, against the will of their citizens (Trachtman, 2013).

### **2.14.3 Institutional and Bureaucratic Political Approach**

This approach views the government as an actor that interacts at different state levels and formulates an immigration policy that is in the interest of the country and is not influenced by societal pressures or interest groups with the exception of refugees and the EU. Studies that adopt this approach include Dirks (1977), Abellaa and Troper (1983), Suyam (1991) and Calavita (1992). The institutional approach to migration segregates countries as “strong” and “weak”. Strong countries are those countries which adopt their policies according to the national interest, whereas weak countries are those that are influenced by their society or public and draft policies according to the will of their societies.

The institutional approach has been criticised for providing an unclear definition of “weak” and “strong” states (Skocpol, 1992). It is also not able to explain the policy on permanent immigration, where other external factors affect policy making. It is also unable to explain why different countries have similar policies on immigration, even though their societal and political institutions are different in nature (Meyers, 2000).

### **2.14.4 Summary of Theories of International Migration Policy**

In this section, the theories on immigration policy including the Marxist approach, domestic politics, and institutional and bureaucratic approach, were reviewed. Marxism outlines labour migration and illegal migration, and the institutional approach highlights policies related to refugees and migrant workers. Each of these theories has been subject to criticism. One important criticism is that most theories are applied to a situation related to a particular policy, or country or region or types of immigrations connected to them, such as the European Union or Western European countries, and, hence, their universal application is limited (Kusz, 2012).

Although each theory contributes to the literature on migration governance, there is still a lack of unified immigration policy as the existing theories are confined by their subject areas. Nevertheless, with the increasing number of migrants moving to industrialised countries, effective immigration policies are now becoming important elements on the national and international agendas. As immigration policies shape the migration patterns that can have a long-lasting effect on a country's culture, economy and politics, it is vital for governments to draft policies rationally. As Zolberg (1989:406) states “all the countries to which people would like to go restrict entry. This means that, in the final analysis, it is the policies of potential receivers which determine whether movement can take place, and of what kind”.

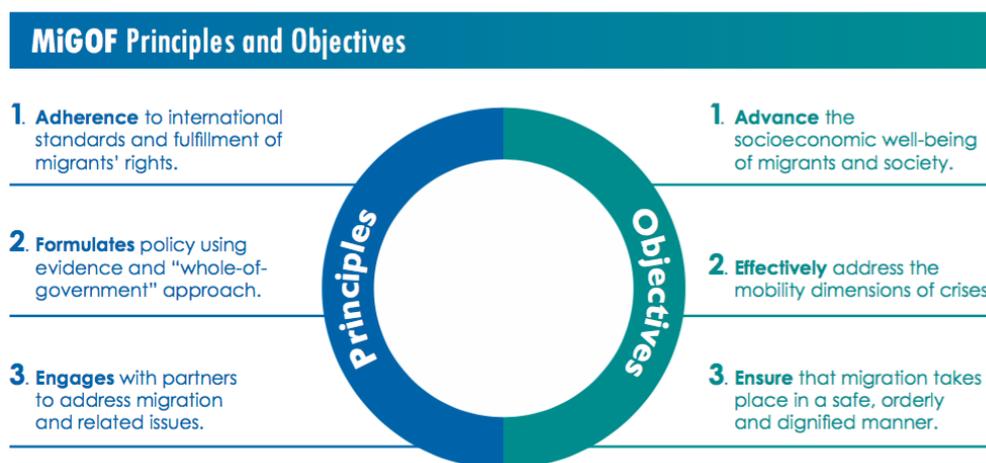
## **2.15 THE FRAMEWORKS OF GLOBAL MIGRATION GOVERNANCE**

There are two different frameworks available for global migration governance. 1)The IOM Migration Governance Framework which identifies three principles and three objectives for good migration governance and 2) The Migration Governance Index that comprises five domains and 22 indicators. This section explores both frameworks.

### **2.15.1 The IOM Migration Governance Framework**

According to the IOM (2016a), the IOM Migration Governance Framework (MiGOF) outlines key areas in order to aid planned and well managed migration. The definition of governance as provided by IOM “is the traditions and institutions by which authority on migration, mobility and nationality in a country is exercised, including the capacity of the government to effectively formulate and implement sound policies in these areas”. The MiGOF recognises the State as the main actor in dealing with national and international migration issues. Hence, the State has the right to control who should be admitted and allowed to stay. Other stakeholders play their part by interacting with the government and other related

parties about migration governance. However, the MiGOF does not formulate any new principles and only emphasises migration governance from the government’s angle. It puts forward the ‘ideal version’ for the governance of migration to which countries can aspire, through the support of the IOM.



**Figure 2.5: MiGOF Principles and Objectives**  
Source: IOM (Iom.int, n.d.)

The MiGOF outlines three principles and three objectives (see Figure 2.5). The three principles aim to maximise benefits of migration for all involved parties. These principles depict the “means” that ensure systematic structures are present in order to achieve the goals of good governance. In contrast, the three objectives do not involve formulation of any new policies, laws or regulations but ensure that migration is “governed in an integrated and holistic way” (Gfmd.org, 2017).

*Principle 1: Good migration governance would require adherence to international standards and the fulfilment of migrants’ rights.* Civilised and arranged migration is possible if international laws are followed. All humans have equal rights regardless of their country of origin or immigration status and their safety and security, self-respect and physical and physiological integrity must be preserved. Adherence to good migration governance calls for the identification and support of vulnerable migrants according to the prevailing human rights ideologies. The principle also urges criminal charges against individuals who are found guilty of forced labour and human trafficking. The victims of human trafficking

and other forms of forced labour should be able to receive just treatment in a fair way without any discrimination. This also highlights the rights of migrants that no restriction should be placed on the movement of an individual and they have the right to enter or exit any country at any time.

*Principle 2: Migration and related policies are best formulated using evidence and whole-of-government approaches.* When formulating migration policy, States must undertake a complete analytical approach identifying the advantages and threats of migrant mobility within the state. The legislation related to the mobility of migrants cannot work in isolation but impacts a range of areas from immigration to economic development and from commerce to human rights policy. Hence, good migration governance depends on a ‘whole-of government’ approach and not on one single department, by which all agencies who are linked to migration should play their role in formulating an effective migrant policy.

*Principle 3: Good migration governance relies on strong partnerships.* Migration, by its nature, involves a number of stakeholders, including migrants and their families, migrant-sending and receiving countries, government organisation, NGOs and the local communities. Good migrant governance aspires to ongoing cooperation, coordination and relationship building between all these actors at local, regional, national and international levels.

*Objective 1: Good migration governance and related policy should seek to advance the socioeconomic well-being of migrants and society.* A number of factors push individuals to migrate including economic and political instability, lack of opportunities, and lack of basic needs including education and health services. Individuals who migrate because of these push factors are more vulnerable to human trafficking and smuggling than those who choose to migrate. Good migration governance, therefore, promotes the development of economic and educational opportunities, political stability and access to basic facilities.

*Objective 2: Good migration governance is based on effective responses to the mobility dimensions of crises.* In 2015, 60 million individuals were displaced either because of natural or economic and political

crises. Such crises have a long-term impact and hence require concrete actions from the international community to prevent and deal with crisis, support forced migrants on humanitarian grounds and develop long term and robust solutions to terminate such movements. The international community should also be considerate to migrants and help them to recover from the crisis they have faced.

*Objective 3: Migration should take place in a safe, orderly and dignified manner.* This requires stricter border control to prevent illegal migration and taking effective health-related measures to ensure that disease does not spread, and the health of migrants and society is not jeopardised. Orderly and safe migration requires border agencies and immigration forces to work in collaboration with international agencies and share data to address any kind of terrorism, trafficking, criminal or smuggling activity.

## **2.15.2 Indices Relevant to Migration**

This section looks at a number of indices and databases which measure various aspects of migration and therefore help with the formulation of migration policy.

### **2.15.2.1 The Commitment to Development Index**

As we live in an integrated world where the activities of one country affect another, it is important to produce better public policies that assist in building a secure environment and help share prosperity among rich and poor countries. Through the framework of the Commitment to Development Index (CDI), countries whose actions have benefitted themselves and other nations can be measured. The CDI identifies areas of good practise and policies and encourages countries to learn from each other. The CDI ranks 27 of the world's richest countries on policies that affect the more than five billion people living in poorer nations, in the following areas (Center For Global Development, 2017):

- Aid: For most poor countries foreign aid acts as an important source of finance but very few countries spend the required 0.7 percent of gross national income (GNI) on aid. Sweden is the most generous country spending 1.09 percent of its GNI on foreign aid.
- Finance: FDI is the largest source of finance when it comes to developing countries. It can bring jobs, help in boosting the infrastructure and housing and provide overall growth to the country. Finland leads the chart in this area by scoring highest in sustainable support to investment and transparency in the financial sector.
- Technology: In this era, from medicines to telecom to energy, technology has improved our lives in a dramatic way. The CDI recognises governments that support research and development through policies which pass on innovations to developing countries. South Korea, Portugal, and Austria show the biggest commitment to development in the technology component.
- Environment: under this category, the CDI rewards those countries which decrease the emission of greenhouse gases, introduce high gas taxes, do not subsidise the fishing industry, cut imports of tropical timber that is harvested illegally and are committed to important international conventions. With gasoline taxes among the highest and, emission of greenhouse gases among the lowest, Slovakia leads the league in environmental policies.
- Trade: Where rich countries trade with poor countries, the rules of trade are usually decided by the rich country. The CDI scores countries that encourage trade with developing countries through low tariffs, fewer subsidies and an efficient import process. The Netherlands is rated at top place on trade, mainly because of its openness to trade in services and relatively fewer restrictions to imports.

- Security: Austria tops the league in this area as it is a significant contributor to internationally-sanctioned peace-keeping and humanitarian interventions. “The CDI ranks the countries based on their contribution to peacemaking and humanitarian interventions, for basing naval fleets where they can secure sea lanes, and for participating in international security regimes that promote non-proliferation, disarmament, and international rule of law”.
- Migration: Labour migration helps in poverty reduction as migrants send remittances to their home countries and migration also allows migrants to learn new skill sets. The CDI ranks countries for “accepting migrants and students from developing countries, sharing the burden of refugees and asylum seekers, embracing migrant-friendly integration policies, and signing up to important international conventions protecting the rights of migrants”.

#### **2.15.2.2 The Migrant Integration Policy Index**

“The Migrant Integration Policy Index (MIPEX) is a unique tool which measures policies to integrate migrants in all EU Member States, Australia, Canada, Iceland, Japan, South Korea, New Zealand, Norway, Switzerland, Turkey and the USA”. It has 167 indicators in eight policy areas for 38 countries. It was first published in 2004 as the European Civic Citizenship and Inclusion Index and was well received. The Index analyses the data of the participating countries and evaluates and compares the actions taken by these countries in promoting the integration of migrants. The project recognises and measures integration outcomes and related policies including factors that may impact the effectiveness of policies. It also outlines the existing and potential beneficiaries of policies. In addition, it educates and involves the main actors and encourages them to use indicators in order to improve integration of migrants through effective policy making and governance (Migrant Integration Policy Index, 2015).

### **2.15.2.3 The International Migration Policy and Law Analysis Database**

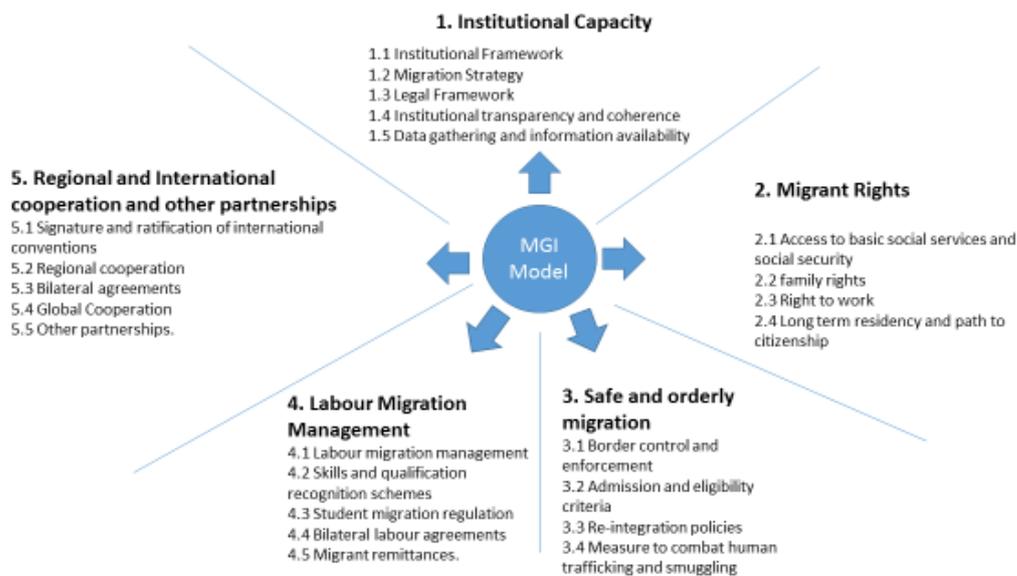
The International Migration Policy and Law Analysis (IMPALA) Database is a cross-national, cross-institutional, cross-disciplinary project on comparative immigration policy. The database uses quantitative and qualitative data, including naturalisation policy, immigration selection policy, illegal immigration policy and bilateral agreements, from OECD countries gathered over a period of time. Pilot data covers 10 years and 9 country cases including Australia, France, Germany, Luxembourg, Netherlands, Spain, Switzerland, the UK, and the USA (Impaladatabase.org, 2017).

### **2.15.2.4 The MGI Model Framework**

With the aim of promoting Sustainable Development by 2030, the UN General Assembly in 2015, agreed 17 Sustainable Development Goals (SDGs) with 169 accompanying targets. Extraordinarily migration was included as part of the global development policy and migration is now a prominent feature of Target 10.7 of the SDG that requires countries to “facilitate orderly, safe, regular and responsible migration and mobility of people, through the implementation of planned and well-managed migration policies”.

This raised the need to have a “consolidated framework” in order to analyse the migration governance structure of the countries to inform on the implementation of SDG. This led to the development of The Migration Governance Index (MGI), which was commissioned by the IOM and designed by The Economist Intelligence Unit (EIU) (IOM, 2016b). A multi-step process was followed in developing the MGI Framework, which was finalised in July 2015 by a panel of experts in London. The panel agreed on five domains that are regarded as the building blocks of the MGI. Each domain includes a number of indicators, which total 23 (see Figure 2.6). Initially, the MGI evaluated 15 countries through a scoring model across the five domains, using 73 qualitative questions to measure the performance of each country against the benchmarking framework of nascent, emerging, developed and mature. The pilot

countries were Bahrain, Bangladesh, Canada, Costa Rica, Germany, Ghana, Italy, Mexico, Moldova, Morocco, The Philippines, South Africa, South Korea, Sweden and Turkey. These countries were selected to reflect geographical diversity, levels of economic development, and a balance of receiving and sending countries.



**Figure 2.6: The MGI Model Framework**

Source: IOM

***Domain One: Institutional Capacity***

This domain assesses countries’ institutional frameworks, the existence of migration strategies, the existence of inward and outward migration governance legislation, and data availability and transparency. Institutional capacity is the first step towards building an effective migration policy. A country’s performance on institutional capacity is evaluated on the existence of public sector organisations, transparency in rules and regulations, standardisation of policies across the system and harmony between the strategies of migration and socioeconomic growth.

### ***Domain Two: Migrant Rights***

The second indicator assesses migrants' rights, as measured through access to social security, health services, education (primary, secondary and tertiary), family reunification rights, and rights to work, residency and citizenship. These indicators provide a picture about the quality of life of an immigrant in the destination country. In this domain, out of the 15 countries, 10 countries reached the category of "developed" or "mature". The most protected rights were the right to work and the right to long-term citizenship; however, social services (health, education) and family reunification are found to be more challenging to administer and finance.

### ***Domain Three: Safe and Orderly Migration***

Concerns over migrants' safety became a significant issue in 2011 after a large number of migrants tried to gain entry to European countries using unsafe means to cross the Mediterranean Sea. This domain aims to explore the aspects related to a safe, well-managed migration policy that includes the clarity of admission and eligibility of migrants, criteria quality and efficiency of border control, training of border staff, reintegration support for migrants and measures to combat human trafficking.

### ***Domain Four: Labour Migration Management***

Labour markets attract significant attention from policy makers when devising migration policy; this is equally applicable to host and home countries. Migrant-receiving countries need to consider whether the incoming immigrants will meet the requirements of their labour market, while the home countries must evaluate the effect of brain drain or loss of human resources on their economy. This domain aims to measure labour migration management, especially evaluating if governments link migration to State development programs, if they have adopted systems that can access, validate and recognise the qualifications and competences of immigrants and if these countries offer post-graduation job opportunities for overseas students.

### ***Domain Five: Regional and International Co-operation and Partnerships***

The last domain provides an analysis of the regional and international dimensions of migration. A rewarding and safe migration is only possible if all migrant sending and receiving countries join forces and cooperate with each other. Such collaborations can help to improve the quality of migrant management and governance by raising standards, improving the channels of communications and introducing frameworks to resolve emerging problems.

*i) International conventions, treaties and laws upholding standards and codes, such as for human rights and equal treatment.* The ILO Migration for Employment Convention, the Convention on Statelessness, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), the Convention on the Rights of the Child (CRC), and the Convention Relating to the Status of Refugees are imperative contracts and must be observed by the signatory countries.

*ii) Regional consultative processes, for example the Puebla Process, the Rabat Process, the Bali Process, the Abu Dhabi Dialogue and the 5+5 Dialogue:* These processes have united countries, which have the same interests, and share migrant corridors; for example, Asian countries and the Gulf states.

*iii) Bilateral agreements consisting of formal and semi-formal bilateral arrangements between migrant sending countries and migrant-receiving countries:* These arrangements set out codes of conduct relating to migration management including equal rights of migrants in all the signatory countries.

*iv) Global co-operation, notably involvement in the GFMD.* This is an informal, non-binding, voluntary, government-led UN initiative that seeks to “advance understanding and cooperation on the mutually reinforcing relationship between migration and development and to foster practical and action-oriented outcomes”.

Eleven out of the 15 pilot countries fell under the category of “mature” or “developed” and hence, it is evident that globally and regionally these countries are strongly engaged in developing and enhancing

cooperation towards a safer and productive migration. The most common form of such arrangements is seen in the 'voluntary initiatives', such as the GFMD, where states are not bound by the agreements. However, the outcomes varied in relation to observing international treaties and conventions.

## **2.16 CONCLUSION**

This chapter reviewed the literature on migration, governance, and migration governance, including the relevant theories. It is important to understand the concept of migration governance and its theories because this supports the researcher in building the foundations of a country specific migration governance framework in the UAE.

MGI is the only framework that attempts to measure governance globally; however, it is very challenging to produce one framework that suits all countries. After reviewing the literature of the international framework, the researcher highlighted that there are different types of migration and that each country has different types of migrants. Consequently, there are various factors to be considered before implementing or assessing the migration situation in a specific country. For instance, the UK and the USA attract student migrants, Lebanon is home to Syrian migrants fleeing from civil war, and the GCC has a huge volume of low-skilled worker migrants, especially when compared to their relatively small domestic population. Also, countries apply different legal systems, while developed countries tend to receive migrants but emerging countries tend to send migrants. As a result, it is necessary to understand the concept theoretically, and to understand the social, economic, and political drivers and outcomes when studying the development and implementation of migration governance, which is discussed in the next chapter. This helped the researcher to develop a migration index which will promote the sharing of good practice. The index will become an important tool in analysing countries' performance on migration

governance based on which countries will be in a position to take corrective actions to improve their administration of migration.

## **CHAPTER THREE:**

### **THEORETICAL AND METHODOLOGICAL FRAMEWORK**

#### **3.1 INTRODUCTION**

Before discussing the methodological design, it is important to restate the objectives of the study and the research questions, which justify the methodological choices. The aim of this study is to propose a balanced migration governance framework based on the identification of potential gaps in a range of migration governance factors. The proposed framework will support the authorities in the UAE in maximising the benefits of labour migration and minimising any associated costs, by understanding the extent to which the current legal and institutional instruments promote labour rights and address potential socio-demographic challenges. Therefore, this study seeks to achieve the following objectives: (i) to analyse the potential challenges faced by migrants in the UAE; (ii) with respect to objective (i), to evaluate the UAE's institutional capacity and strategy on migration governance in providing a safe and productive environment for migrant labour; (iii) with respect to objective (ii), to analyse the UAE's existing migration policies in comparison with international migration governance frameworks; and (iv) to examine the socio-economic outcomes of migration in UAE.

Therefore, this chapter outlines the theoretical and methodological framework that is employed to achieve the stated objectives, including critically reviewing the methodological issues in the related literature. Specifically, the discussion on the research design includes the methods of data collection, sample and sampling technique, interview/questionnaire design, the process of developing the migration governance index, the issues about validity and reliability and a consideration of research ethics.

### 3.2 THEORETICAL AND METHODOLOGICAL ISSUES

Theoretically, the need for migration governance policy arises from the selective determination of migrants, including their social and economic value, which leads to the host countries allowing the migrants in or encouraging them to leave (Shachar and Hirschl, 2014). The selection involves the creation of a favourable environment to incentivise the desired category—immigrants with the preferred skills and talent—while instituting higher legal barriers to deter those considered undesirable. According to Helbling (2016), the reasons for migration can be grouped as: economic reasons (i.e., labour immigration); social reasons (i.e., family reunification); humanitarian reasons (i.e., refugees and asylum seekers); and for cultural and historical reasons (i.e., co-ethnics).

However, the theories about immigration frameworks are mainly developed around labour migration, and for developed economies and democracies (Peter, 2014; Chin, 2016). In addition, the theories of immigration governance have also tended to focus on skilled labour, ignoring the migration of low-skilled labour, especially those migrating to non-OECD countries (Shin, 2016). Consequently, the existing migration policy metrics have fundamentally focused on skilled labour in advanced economies (Helbling et al., 2013, 2017; Peter, 2014; Shin, 2016).

Against this background, migration governance debates have led to the development of migration governance indexes, which use a range of metrics to produce comparable data for measuring progress made by countries in the development and application of governance frameworks. One of these indices is the Migrant Integration Policy Index (MIPEX), which measures policies to integrate migrants in all EU Member States and members of the Organisation for Economic Cooperation and Development (OECD) countries that are not members of the EU. The second of the indices is the Immigration Policies in Comparison (IMPIC), which creates a set of quantitative indices to measure immigration policies in all OECD countries between 1980 and 2010. The third index is the Migration Governance Index (MGI) which

uses five different domains to develop a policy benchmark to assess the extent to which national migration policies facilitate orderly, safe and well-managed migration in 15 countries.

However, there are questions about the relevance of these migration governance metrics to the UAE's migration policy development, with respect to their methodology, coverage, and effectiveness. Firstly, MIPEX and IMPIC are narrowly focused on specific migration policy domains and designed for industrialised, developed countries. Second, although the MGI attempts to broaden the policy domains, it suffers from over-generalisation, which makes its application to countries with a specific migration experience potentially ineffective; for example, in the UAE about 90 percent of the population are migrants. Third, the existing migration governance indices do not offer a meaningful contribution to the UAE's migration governance debate on how to strike a balance between the benefits and costs of migration according to its migration policy objectives.

Consequently, there is a need for an alternative, multi-dimensional approach to migration governance quality measurement that allows for an in-depth analysis of UAE-specific institutions, regulations and legal structures, as well as its socio-economic indicators. This will provide UAE policymakers with an informed understanding of the implications of the current national policies on migration governance, and where, if necessary, to introduce improvements to achieve the objectives of balancing the benefits and potential costs of migration.

### **3.3 RESEARCH PROCESS FOR DEVELOPING UAE'S MIGRATION GOVERNANCE INDEX**

Informed by research objectives and questions, the research strategy considered in this study is based on a multi-step process. The first step involves a detailed study of the historical and current developments in migration policy development and governance in UAE. This includes a thorough study of the law/decrees

that provide the legal basis for lawful entry into UAE, the institutional structure that provides the capacity for policy development and the monitoring of the implementation of existing migration policy.

The second step conceptualises the migration process in the UAE and the transmission mechanism through which the outcomes of the process are desirable or contrary to the migration objectives, based on the policy and theoretical expectations. The second step leads directly to the third step, which involves the construction of the migration governance dimensions to represent the concepts identified in step two. Three policy dimensions—institutional, legal, and socio-economic and demographic outcome dimensions—constitute the components of the index for measuring the UAE migration governance quality. Each policy dimension comprises a number of key indicators.

The fourth step involves designing and implementing the data collection techniques. There are four sources of data: (i) official national and international legal framework and institutional capacity documentation relating to migration governance in UAE; (ii) structured interviews with low-skilled migrants to help understand and evaluate the gaps in the relevant migration policy and its application; (iii) secondary data on social, demographic and economic variables to help analyse the benefits and costs of migration to the UAE; and (iv) the survey of independent experts with a knowledge of the political and legal history of migration governance in UAE, as a means of validating the findings from (i).

The fifth step involves using a systematic scoring system to rate policy indicators and incorporate into them the overall index. Each migration governance dimension has five indicators, each of which are assigned three possible scores, with the average of the score taken to rate the policy dimension.

### **3.4 RESEARCH PHILOSOPHY**

Research philosophies are the beliefs and assumptions that a researcher holds about the development of knowledge in relation to the research subject (Saunders et al., 2015). The researcher's philosophical

assumptions, broadly divided into epistemological and ontological, determine the research approach, and the methods of data collection and analysis adopted. In this section, the epistemological and ontological assumptions that inform the methodological choices in this study are discussed.

### **3.4.1 Epistemological Assumptions**

Epistemological assumptions relate to the researcher's view about the development of human knowledge, or the way in which the researcher explains his or her understanding of what is known and how it is known (Crotty, 2003). Put differently, epistemological assumptions are how the researcher justifies the sources and existing knowledge about the study subject, and the extent to which that knowledge is sufficient and consistent. Two main epistemological assumptions are considered in this study.

The first epistemological stance is constructionism. Constructionism epistemology arises where all knowledge is seen to be driven from human practices and, therefore, constructed through interactions between human beings and their world, which is then developed and transmitted within an essentially social context (Crotty, 2003). This means that reality, or meaning driven from it, is not necessarily discovered, but primarily constructed. The reason why constructionism, as an epistemological stance, is considered in this study is because of the nature of some of the research questions; namely, (i) what are the legal challenges and constraints that low-skilled migrants faced in UAE?; and (ii) how effective is the existing UAE legal and institutional structure in providing a safe, productive and mutually beneficial environment for migrant labour?. To answer these questions, the researcher has to study the experiences of the migrants. Therefore, the construction of meaning is driven within an essentially social context through interviews and interactions, which are reflected in the conclusion and form the basis for the development migration governance index.

The second epistemological stance that is considered in this study is objectivism. According to Crotty (2003), objectivist epistemology holds that meaning, and therefore meaningful reality, exists as such apart from the operation of any consciousness. It means that the beliefs of the investigator are thought to be separate from what is being investigated. The objectivist epistemology is relevant for the following research questions: (i) is there a relationship between migration and demographic imbalance?; and (ii) what are the effects of migration on national output and youth unemployment?. To answer these questions, the objectivist epistemology suggests that the researcher is separated from the objects that are being studied, the migrants and nationals. In this case, the socio-economic data is employed to assess the impact of migration on socio-economic outcomes. Therefore, the epistemological stance allows the researcher to estimate the impact of migration objectively based on the data, not through the subjective experiences of the migrants and nationals.

### **3.4.2 Ontological Assumptions**

Ontological assumptions relate to how the researcher deals with the realities that emerge in the process of study. In this case, the researcher is faced with the question: what is the nature of reality? The answer is provided by the assumptions the researcher holds about the way in which social systems operate, and their perceptions about a particular social view. There are two relevant aspects of ontological objectivism and subjectivism. While objectivism emphasises that social entities exist in a reality external to social actors, subjectivism posits that social realities are formed from the perceptions and consequent actions of those social actors concerned (Saunders et al., 2015).

First, in relation to the current study, objectivist ontology can be explained through the way the government of the UAE views what constitutes effective migration governance, based on the assumption that the government is an objective entity that aims to adopt an objectivist stance to the development and

implementation of migration governance framework. Therefore, the researcher, in order to demonstrate objectivism, can argue that the government has the constitutional authorisation that mandates it to develop and administer the governance framework of how a non-citizen can enter and exit the country. This view of the mandate of the UAE's government assumes that it holds across the world; while different migration governance approaches may be employed by different governments, the objective for effective migration governance holds across all governments.

However, the researcher can also assume a more subjective approach to the study of migration governance. For example, the researcher may view the universal, objective migrant mandate by governments as less important than the way in which the individual governments adopt a nationalistic approach in the development and implementation of migration governance policies. In this case, the underlying assumption is that individual governments approach migration governance with a view to addressing specific migration problems, such as security, economic or demographic.

Alternatively, the subjectivist researcher may approach migration research from the perspective of what is real to other social actors, given that social realities are created from the perceptions and consequent actions of social actors. This approach is consistent with Remenyi et al. who view positive ontology as the study of "the details of the situation to understand the reality or perhaps a reality working behind them" (1998, p.35). This alternative approach to the study of migration governance can be linked to social constructionism. In this case, social actors, such as the domestic worker migrants who are the research subject in this study, may place different interpretations on the situations in which they find themselves. Individual domestic worker migrants may have different experiences with their employers, and the legal and institutional entities responsible for migration policies and, thus, their interpretations of their experiences are likely to affect their actions and what they perceive as reality. Therefore, the assumption is that the domestic worker migrants not only interact with the regulatory entities, they also

attempt to make sense of their experiences through their interpretation of interactions and the meanings that they may draw from these interactions.

Therefore, the ontological assumption in this scenario relates to how the researcher perceives, as being meaningful, the socially-constructed interpretations and significances the migrants place on their interactions with the migration-related entities. Consequently, it is the role of the researcher to seek to understand the subjective reality of the migrants in order to be able to make sense of, and understand, their interests, expectations and actual outcomes in a way that is meaningful. This is also informed by the assumption that the government of the UAE, for example, has a reality that is separate from the reality of the migrant.

### **3.4.3 Summary Research Philosophy Assumptions in this Study**

The epistemological and ontological assumptions discussed can be summarised into the following research philosophies. The first philosophy is Positivism, which is common among natural scientists where natural events are observed in order to make universally consistent generalisations. When this philosophy is adopted for social science research, the social entities under study are assumed to be real in same way scientists think of the physical world (Crotty, 2003). The second philosophy is Interpretivism, which was developed as a critique to Positivism. Interpretivist philosophy contends that social entities, contrary to the assumption of positivist philosophy, are different from natural phenomena because they produce different social contexts to be studied (Crotty, 2003; Saunders et al., 2015). The third philosophy is Critical Realism, which focuses on the assumptions that researchers hold in explaining the observable events in terms of the underlying structures that shape the observations (Reed, 2005). The fourth philosophy is Postmodernism, which is employed in examining the importance of language and relations, with the focus on identifying alternative narratives, especially to promote marginalised views (Calas and

Smircich, 1999; Chia, 2003). The fifth philosophy is Pragmatism, which contends that the relevance of concepts is dependent on their usefulness in supporting a particular course of action (Kelemen and Rumens, 2008). For pragmatist researchers, studies begin with an identified problem, with the aim of contributing to the solution.

For the present study, I adopt the pragmatist research philosophy based on the justifications suggested by Saunders et al. (2015). While the debate on the appropriate research philosophy is often framed in terms of a choice between either the positivist or interpretivist research philosophy, Pragmatism argues that the most important determinant of the epistemology, ontology and axiology that a researcher adopts is the research question; i.e. one approach may be more appropriate than another for answering particular questions. This means that unless the research question suggests unambiguously that either a positivist or interpretivist philosophy is adopted, it suggests that the pragmatist's view is appropriate (as is the case in this research) by employing variations in the researcher's chosen epistemology, ontology and axiology. The pragmatist research philosophy also implies that mixed method approaches, both qualitative and quantitative, are appropriate for the present study.

The first application of the pragmatist research philosophy is the adoption of the positivist view, by assuming that data on migration, unemployment, demographic and economic activities are real, in the same way that a natural scientist assumes a natural object or phenomenon is real. The second part of the application involves using the existing political economy theory to develop a testable hypothesis with respect to the socio-economic data collected in order to test the relationship between migration and the socio-economic variables. This means testing the formulated hypothesis to ascertain if the theoretical prediction can be confirmed, or suggest a possible alternative theory, if it is rejected.

The third application, on the part of interpretivist philosophy, involves interviewing the selected domestic worker migrants about their different experiences with their employers and the legal and

institutional entities responsible for migration policies, and consequently how they interpret their experiences. The collation of responses about their experiences and their interpretation of the respective experiences constructs the realities on the effectiveness of legal and institutional entities with respect to migration governance.

### **3.5 RESEARCH APPROACHES**

There are three competing research approaches which a researcher can follow; deductive, inductive and abductive. In the deductive approach, researchers focus on explaining causal relationships between two or more phenomena, based on existing theory (Blaikie 2009). The main objective of the research is to develop a UAE-specific migration governance index, based on a proposed framework that balances the developmental needs of migrant labour, legal and institutional instruments to promote labour rights, and at the same time address any potential socio-demographic challenges. Thus, the study applies the deductive approach to formulate and test a hypothesis on the relationship between migration and socio-economic outcomes. To do this using deductive approach, quantitative data on the relevant variables were collected and analysed to assess if the predicted relationship holds.

Simultaneously, the inductive approach is also used; for example, when interviewing the domestic worker migrants with respect to the following objectives: (i) analysing the potential challenges faced by migrants in the UAE; and (ii) evaluating the UAE's institutional capacity and strategy on migration governance in providing a safe and productive environment for migrant labour. To achieve these objectives, the researcher studied the experiences of the migrant domestic workers, with the aim of constructing a social reality, or making sense of the experiences, driven within an essentially social context through interviews and interactions. These provide the foundations for the proposed balanced, effective migration governance through the development of the migration governance index.

Consequently, the present study adopts the abductive research approach, which combines both deductive and inductive research philosophies. The abductive approach moves from theory to data and vice versa, rather than consistently from theory to data as suggested by deductive approach, or consistently from data to theory as suggested by inductive approach (Suddaby, 2006; Van Maanen et al., 2007).

### **3.6 RESEARCH DESIGN**

The research's philosophical assumptions and approaches explained in Sections 3.4 and 3.5 suggest a mixed methods research approach, which is relevant for data collection and analysis, be used. The mixed method approach combines quantitative and qualitative data collection techniques and analysis procedures (Saunders et al., 2015). A major advantage of the mixed method approach, as suggested by Tashakkori and Teddlie (2003), is that it offers the researcher a tool to answer research questions that require both quantitative and qualitative data, or test hypotheses and corresponding inferences that may be derived from them. Quantitative methods support research questions that require numeric data, while qualitative methods support collection techniques that require non-numeric data (Saunders et al., 2015); both of which are relevant for this study.

Therefore, the key justification for employing mixed methods is that both quantitative and qualitative collection and analysis is essential for developing migration governance evaluation measurement. For example, the perceptions of migrants about their experience in the application of the existing migration policy may be better captured through qualitative data collection and analysis. More specifically, structured and open interview questions with domestic workers, who have experienced the application of migration rules and regulations, may be effective in understanding and analysing their daily experiences. Conversely, the effectiveness and socio-economic outcomes of migration governance policy may be better understood through the collection and analysis of quantitative data.

Therefore, this section contains a detailed discussion on the data collection process and techniques used in this study. Specifically, I start with a discussion about structured interviews, socio-economic data, and the development of the UAE's migration governance framework.

### **3.6.1 Structured Interviews for the Domestic Workers**

Achieving the objective of this research and answering the research questions requires appropriate data collection, including both primary and secondary data. This section explains the use of structured interviews as a primary data collection tool. According to Saunders et al. (2015), a structured research interview is based on predetermined and standardised or identical sets of questions to obtain relevant data. In this case, each person interviewed was asked to respond to the same set of questions in a predetermined order (De Vaus, 2014).

In this study, the research interview, conducted through an interviewer-administered questionnaire, was designed to collect descriptive and explanatory data about the views and experiences of migrants with respect to the migration process. The objective was to generate data about the effectiveness and limitations of the legal and institutional framework that governs the application of the existing migration system. The interview questionnaire questions contained both open ended or close ended questions.

### **3.6.2 Sample and Sampling Method**

A sample is drawn from a population and studied to make inferences about the whole population (Collis and Hussey, 2013). To determine the sample size, it is important to identify the sample frame, which comprises the total cases in the population from which the sample is estimated (Saunders and Lewis, 2012). The population in this study is the migrant domestic workers in the UAE. The reason for focusing

on this group is that they are likely to face disproportionate immigration rules, monitoring and enforcement and, therefore, need greater human and labour rights protection (ILO, 2005). There are at least 750,000 domestic workers in the UAE, with about one-quarter of them originating from The Philippines. Under the UAE's *Kafala*<sup>5</sup> immigration system, domestic workers fall under the authority of the Ministry of Interior, and not the Ministry of Human Resources and Emiratisation (Ministry of Labour), which oversees other foreign workers. As a result, domestic workers are excluded from national labour laws, leaving them vulnerable and exploited (Malit and Youha, 2013).

Furthermore, the international human and labour rights organisations have become more interested recently in Filipino domestic workers due to cases of forced labour and human trafficking (Human Rights Watch, 2014a, 2014b; ILO, 2014; Jureidini, 2014). In addition, data from the Philippine Labour Office (POLO) shows that there were at least 3,000 cases of Filipino migrant workers in 2014 who faced problems; most of whom experienced some form of human and labour rights challenges with respect to their role as domestic workers.

In this context, domestic workers provided the researcher with the research sample, as their opinion and practical experience with the legal system especially with migration legal and institutional structures could provide useful data in analysing the effectiveness of, and potential gaps in, migration governance policies in the UAE. More specifically, the target population comprises Filipino runaway domestic workers, sheltered in The Philippines Embassy in Abu Dhabi. This implies that the target population must have experienced the UAE's migration governance system in the following key circumstances: (i) a domestic workers must have gone through the process of obtaining working permit to enter and work in the UAE; thereby experiencing the migration process; and (ii) having run away from their workplace, the

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<sup>5</sup> The *kafala* migration system, introduced by the GCC countries in the 1950s, allows citizens or government agencies to sponsor migrant worker, usually the only means of entry, in which the sponsor assumes total legal and financial responsibility for the migrant worker.

domestic workers must have experienced how the existing legal and institutional structures work in terms of legal protections available to the migrants and the effectiveness of institutions, if they exist, responsible for enforcing the rights of migrant labour. At the time of data collection, there were approximately 100 runaway domestic workers at The Philippines Embassy in Abu Dhabi.

Having determined the sample frame, the next step was to select the appropriate sample size. Generally, there are two sampling techniques: random sampling, based on statistical probabilities; and non-random sampling technique. The probability-based sample selection is suitable for data collection techniques that require statistical inferences from sample results to be made about the population in general, while non-probability sampling is suitable for interview-based data collection techniques. Random sampling is normally used where a representative sample of the population is required, especially in the case where the population is heterogeneous. However, in certain cases, the suitable sample size can be a matter of convenience for either the researcher or the research participants. This requires the judgement of the researcher in selecting an appropriate sample (Saunders et al., 2015).

In this case, a non-probability sample selection was used for several reasons. First, the target population, the sheltered runaway domestic workers, are homogenous in terms of occupation and immigration status, which addresses the potential biases associated with non-probability sampling. Second, the legal status of the target population means their accessibility was formally restricted by the embassy. Third, the nature of the target population, where an individual may not be physically or emotionally willing or ready to participate in an interview, means that probability-based sample selection may not be appropriate.

While Saunders and Lewis (2012) recommend a minimum sample size of 12 for a homogenous target population, the researcher aimed for a substantially higher sample size in agreement with Creswell (2013), who recommends a minimum sample size of 30. Again, given the nature of the target population

and access restrictions, the research employed purposive sampling techniques. Under this technique, the researcher came to an agreement with The Philippine's embassy officials on including critical cases based on the following criteria: (i) the interviewees had to be physically ready and willing to be interviewed to share their experiences; (ii) the interviewees had to have an ability to understand and communicate in English; and (iii) the interviewees were voluntarily willing to participate and sign the consent form. Applying these techniques and criteria, a total of 60 domestic migrants were available to be interviewed using the interviewer-administered questionnaire.

### **3.6.3 Structured Interview Design**

The interview was designed to assess the perceptions of the effectiveness of the current migration policies by those who have experienced the implementation of the policies, and to identify the gaps in the existing migration policy where the legal framework is either inadequate or not available. The interview questions consisted of three categories and a total of 31 questions as shown in Appendix A. The first category contained questions designed to obtain demographic data, such as age, level of education, household dependency, marital status and immigration status. The second category contained Likert-scale type questions that can be converted to produce measures of the potential strengths and weaknesses of migration governance policy in the UAE. The Likert-scale type questions were used to generate categorical variables that can be converted to quantitative data. The data generated, alongside the categorical variables generated from the demographic questions, could be useful in examining, for example, whether certain experiences are associated with a particular demographic characteristic. The third category of questions provided the respondents with open-ended questions that are structured to survey their opinions about their experiences with the migration legal and institutional structures and potential limits or gaps in the required legal framework to generate qualitative data. In particular, the

questions attempted to establish if the necessary legal instruments currently exist for managing the migration process, and the extent to which they are enforceable. Also, the questions were designed to provide data that would be useful in establishing the effectiveness of the legal instruments and institutions when the participants experience situations where the laws and institution are expected to be operational.

#### **3.6.4 Creating a Conducive Environment for the Interview**

It is very important to understand the specific social and cultural attributes in the UAE and how these affect the research environment. In the UAE culture and values are not only important but are also a major consideration when dealing with women. Thus, certain considerations and limitations have to be acknowledged when interviewing female-to-female in contrast to male-to-female in Muslim countries, such as the UAE. Therefore, before I started interviewing runaway domestic workers who were sheltered, certain questions came to my mind: What will the interview place look like? What will their perceptions be about me as a local? How should I dress?

The interviews took place in a private meeting room; meeting distressed workers is very sensitive and complex and the only way to start was to break all boundaries by engaging in conversation on different topics before the serious discussion could begin, especially as most interviewees were silent and depressed. Therefore, I started talking about different topics, such as my visit to their home country, and making jokes when necessary to keep them engaged. Before the conversation started I provided them with proof of my identity and explained that their country's officials trusted me in order to give them a sense of being safe and secure. I found that they were afraid to reveal their real names and, therefore, I gave them the option to use a nickname of their preference to help increase their feeling of security.

How I look to others is important for me as an Emirati. The Sheila and Abaya is a common outfit for national women, and is the image of the employers in the household where the domestic workers were

employed. Therefore, I decided not to wear the Sheila and Abaya during the interviews in order to help create a friendly impression. In relation to gender sensitivity, women-to-women conversations are easier than male-to-female ones, especially when the content is personal, and some of the interviewees had been abused by men. Moreover, perceptions of men held by women in this context are different due to gender differences, particularly in a society that is characterised by male dominance such as in the Muslim world.

Indeed, when interviewing the distressed women there were times for silence and crying. The women needed physical contact, such as holding hands and cuddles, which would not work culturally in a Muslim country such as the UAE with a male interviewer. As I learned in one interview after another, gender played an important role in making the interviews successful, which is reflected in the research outcomes.

### **3.6.5 Secondary Data**

While the international labour theories explain the developmental needs for migrant labour, there are also corresponding theoretical predictions about the potential socio-economic implications. To achieve effective, balanced migration governance metrics, it is important to evaluate the relationship between migration and hypothesised socio-economic outcomes. More specifically, based on the theoretical framework and the UAE's migration objectives, this study is interested in how migration affects national output, unemployment dynamics, labour market skills, and demographic distribution. To perform this analysis, secondary data has been collected for the relevant variables such as net migration, gross domestic product (GDP), youth unemployment, skilled and low-skilled labour ratio, and demographic imbalance (i.e., the distribution of male and female in the population).

Data for GDP was obtained from the Penn World Tables (PWT, version 8.0), which is compiled by Feenstra et al. (2015). Data for population and the youth unemployment rate, measured as the number

of unemployed between the ages of 16 and 25 years as a percentage of total youth labour force, was obtained from World Bank's World Development Indicators (WDI) database. Finally, data on migration, skills ratio, and demographic trends are sourced from the UAE's government statistical database. The data collected was analysed to examine the potential relationship between migration and socioeconomic indicators.

### **3.6.6 Data Analysis Techniques**

The data collected from the structured interviews and the socio-economic data were generated in the form of different variables, including Likert-type categorical variables and numeric-based continuous variables. This means that different analysis techniques were required to analyse the data collected. For example, the Pearson product-moment correlation coefficient and regression model were used to examine the relationship between continuous variables from secondary sources—migration and the socioeconomic variables—and to test if the relationship is statistically significant. Also, Pearson's  $\chi^2$  statistic and Likelihood-ratio  $\chi^2$  statistic were used to examine the potential relationships between categorical variables collected from the interviews with the domestic workers.

#### **3.6.6.1 Pearson Chi Square and Likelihood Ratio**

The structured questionnaire designed for the interview of the domestic workers generated categorical variables, and, unlike numeric or continuous variables, required statistical testing that took it into account that the scale of variable generated is nominal or ordinal. A two-way tabulation of frequency counts of the categorical variable, alongside the measures of association such as the Pearson's  $\chi^2$  and the Likelihood-ratio  $\chi^2$ , were used to examine if there is a relationship between two categorical variables. The estimates of the statistic test and its associated p-value for Pearson's  $\chi^2$  can be specified as:

Let  $n_{ij}$ ,  $i = 1, \dots, I$  and  $j = 1, \dots, J$ , be the number of observations in the  $i^{th}$  row and  $j^{th}$  column and the row and column marginal can be defined as

$$n_{i.} = \sum_{j=1}^J n_{ij} ; n_{.j} = \sum_{i=1}^I n_{ij}$$

The Pearson's  $\chi^2$  statistic with  $(I - 1)(J - 1)$  degrees of freedom is:

$$\chi^2 = \sum_i \sum_j \frac{(n_{ij} - m_{ij})^2}{m_{ij}}$$

Where  $m_{ij} = n_{i.} n_{.j} / n$ .

The Likelihood-ratio  $\chi^2$  statistic with  $(I - 1)(J - 1)$  degrees of freedom is:

$$G^2 = 2 \sum_i \sum_j n_{ij} \ln \left( \frac{n_{ij}}{m_{ij}} \right)$$

Both the Pearson's  $\chi^2$  statistic and Likelihood-ratio  $\chi^2$  statistic test the independence, or association, of two tabulated categorical variables and if the observed differences are statistically significant. For example, the Pearson's  $\chi^2$  and Likelihood-ratio  $\chi^2$  statistics could be used to test if the domestic workers differ significantly in their experience of legal protection with respect to their level of education, the job recruitment channels or visa type used to enter the UAE.

### 3.6.6.2 Pearson Product-moment Correlation Analysis

Correlation is a method of statistical analysis employed to study the potential relationship between two variables. As a descriptive analysis technique, correlation analysis is particularly useful when a researcher wants to establish an initial relationship before using additional techniques such as regression modelling to estimate the causal relationship between the variables. This means the correlation does not measure causal relationships but provides a means of identifying where the potential relationship lies.

The correlation analysis is based on the Pearson product-moment correlation coefficient, which measures the strength and direction of the association that exists between two numerically measured, continuous variables. The Pearson correlation analysis produces the Pearson correlation coefficient, denoted as  $r$ . A Pearson correlation attempts to draw a line of best fit through scatter plots of data points and the Pearson correlation coefficient; therefore, it estimates the distance between plotted data points and the line of best fit. The Pearson correlation coefficient ranges from -1 to +1. A Pearson correlation coefficient of -1 means a perfect negative relationship between two variables, which suggests an increase in one variable is systematically associated with a decrease in the other variable, and vice versa. For example, a Pearson correlation coefficient -1 suggests that an increase in net migration is associated with, say, a decrease, in almost equal proportion, in the number employed nationals. This also implies that a value close to -1 means a strong negative association. In contrast, a Pearson correlation coefficient of +1 means a perfect positive association, where there is a simultaneous increase or decrease in the two variables. For example, a Pearson correlation coefficient +1 suggests that an increase in net migration is associated with, say, an increase, in almost equal proportion, in the number employed nationals. Finally, a coefficient of 0 means that there no systematic association between the two variables, implying that a value close to 0 indicates a weak association between the two variables.

The estimate of the product-moment correlation coefficient,  $\rho$ , is:

$$\hat{\rho} = \frac{\sum_{i=1}^n w_i (x_i - \bar{x})(y_i - \bar{y})}{\sqrt{\sum_{i=1}^n w_i (x_i - \bar{x})^2} \sqrt{\sum_{i=1}^n w_i (y_i - \bar{y})^2}}$$

Where  $w_i$  is the weights where specified, otherwise  $w_i = 0$ ;  $\bar{x} = (\sum w_i x_i) / (\sum w_i)$  and  $\bar{y} = (\sum w_i y_i) / (\sum w_i)$ . Also, the estimate of statistical significance level of the estimated product-moment correlation coefficient is calculated as:

$$p = 2 \left( n - 2, |\hat{\rho}| \sqrt{n - 2} / \sqrt{1 - \hat{\rho}^2} \right)$$

### 3.6.6.3 Basic OLS Regression Models

While the Pearson moment correlation analysis was used to examine the direction and the extent of association between migration variables and socio-economic variables, it is not appropriate for estimating, for example, the impact of migration on youth unemployment. To estimate the potential impact, Ordinary Least Square (OLS) basic regression models were employed to examine the relationship between migration, economic growth, unemployment and demographic imbalance. The regression model can be expressed as:

$$\text{socioeconomic Outcome}_t = \alpha_0 + \beta_1 \text{Migration}_t + \beta_2 \text{Control}_t + e_t$$

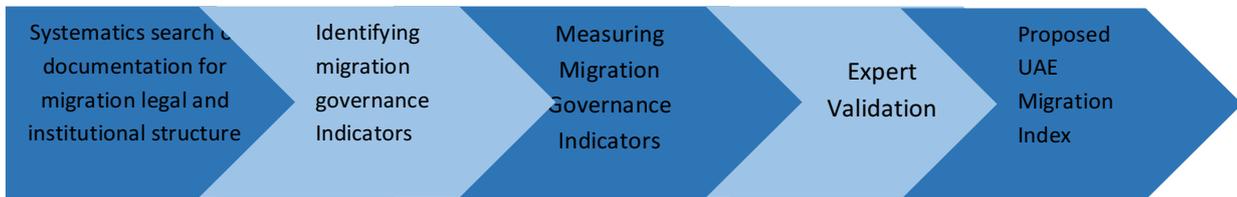
Where *socioeconomic Outcome<sub>t</sub>* represents annual changes in socioeconomic outcomes such as GDP growth rate, youth unemployment and demographic distribution; *Migration<sub>t</sub>* represents annual changes in net migration and *Control<sub>t</sub>* represent the other variable that can affect the relationship between migration and socioeconomic outcomes.

## 3.7 DEVELOPING THE UAE MIGRATION GOVERNANCE FRAMEWORK

As explained in Section 4.2, there is both a theoretical and practical need to develop an alternative, multi-dimensional approach to a migration governance framework that provides evaluation metrics for UAE-specific institutions, regulations and legal structures, as well as the socio-economic outcomes from migration policy. Also, the UAE-specific framework aims to provide UAE policymakers with an informed understanding of the implications of current national policies on migration governance, and, if necessary, create improvements to achieve the objectives of balancing the benefits of migration and potential costs.

Thus, the proposed UAE migration governance framework is based on both a qualitative and quantitative assessment of the legal and institutional structures that are intended, on one hand, to promote a migrant-friendly environment, and, on the other hand, socio-economic and demographic challenges that

can potentially arise from ineffective, unbalanced migration governance policy. The proposed framework is based on three dimensions: institutional, legal, and socio-economic outcomes. This process of generating data for developing a UAE-specific migration governance index is presented in Figure 3.1.



**Figure 3.1: Research Process in Creating Migration Governance Index**

To do this, the researcher conducted a systematic search and analysis of national and international migration laws/regulations as applicable to the UAE migration governance. This involved searching, collecting and documenting all regional, national, international laws that form the legal and institutional basis for migration governance policies in UAE. The second step involved the identification of migration governance indicators from the analysis of the documentation. The third step involved generating and measuring the migration governance indicators. The fourth step involved presenting the measured indicators to a team of experts on the UAE’s legal and institutional migration policy for evaluation and validation. This was undertaken in order to obtain an independent, expert view of the existence and capability of institutions charged with formulating, monitoring and enforcing migration policies.

Furthermore, the experts provided important information about how the policymaking input and output on migration governance in UAE is conducted which gave an insight into the process of formulation, application, and enforcement of migration policies, as shown in Appendix B. In addition, the expert view provided validations for the ratings of the UAE’s existing migration governance policies. It also allowed the researcher to meet the best practice in the development of migration-related indexes, such as MIPEX and IMPIC. Thus, the researcher considered the expert validation of UAE migration

governance indicators to be an essential part of the research process in developing UAE-specific migration index.

The following pen pictures give the background of the selected experts that provided validations for the ratings of the UAE's existing migration governance policies:

Expert 'A' has more than 20 years of experience in legal and migrant rights policy development and implementation. Expert 'A' has worked in many countries and presented many migration-related papers in conferences, as well as working in the formulation of policy on political matter such as immigration management and leading initiatives in labour market reforms and skills upgrading and recognition in the UAE. Expert 'B' has almost 25 years' experience in the field of labour skills recognition policy and reform, as well as labour market productivity initiatives. This expert is considered to be a leading expert in the field of training standards and policies related to labour skills improvement and social development resulting from improving their level of occupation certification. Also, the expert has been involved in many international training and skills upscaling projects aimed at reforming the labour market and migrant workers' skills recognition in the UAE.

Expert 'C' has more than 30 years of experience in migrants' law and contract rights policies and procedures, as well as labour mobility strategies and dynamics between countries. Having worked in more than four countries in relation to protecting migrants' rights, this expert is well known in the field of migration and development, as well as rights' protection. Expert 'D' has more than 20 years of experience in academia in relation to labour markets and studies related to migrants' rights and the economic factors impacting their quality of life in the UAE.

Expert 'E' has around 15 years' experience in labour market recruitment and the retention of migrants in developing countries such as the UAE, with experience in interviewing and negotiating migrant workers' rights and contracts. Expert 'F' has more than 35 years' experience in international

labour relations and has been involved in many meetings and conferences at the ILO and other international organizations such as International Organization of Employers and the G20. This expert has been involved in several projects and initiatives related to migration in UAE.

### **3.7.1 Validity and Reliability**

In this section, an assessment of the reliability and validity of the research methodology is provided, which outlines how potential problems or biases in the methods were addressed. Reliability refers to the ability of the research to generate the same findings to the same questions if the research is repeated (Hussey and Hussey, 1997). Also, it is important to assess the validity of data collection methods employed in this study. According to Saunders et al. (2015), a data collection method is valid when the procedure or procedures used to collect the data accurately measure what they are intended to measure and, subsequently, the analysis is appropriate for the data collected, and the findings reported are about what they profess to be about.

Consequently, Saunder et al. (2015) recommend testing the validity and reliability of data collection techniques before their implementation. This process involves using a small number of potential research participants, carefully selected as representatives of the target sample in order: (i) to determine the practicality of administering the instrument of data collection, including the logistics involved; (ii) to evaluate how appropriate and comprehensible from the respondents' perspective; (iii) to check the time available is sufficient for the completion of data collection; and (iv) to address any administrative, practical and reliability problems identified before the main study.

Three pilot studies were conducted in relation to the data collection techniques. First, the pilot for the structured interview of domestic women workers consisted of six respondents who were purposively sampled from sample frame of 100. The pilot study demonstrated that the interview questions contained

two (out of 31) questions that needed further explanation before the respondents were able to effectively respond. This problem was addressed by simplifying the two questions, which the respondents found easy and quick to answer. The findings from this pilot study ensured the questions did not contain any confusing items and to which the participants could respond with minimal support.

The second pilot study was conducted in relation to the expert validation. The process involved the initial completion of the structured questionnaire by two of the six identified experts on the UAE's legal and political policies relating to migration governance in UAE. This was done to ensure that questions could be understood and sufficient expert knowledge established. An analysis of the completed structured questionnaire showed 95 percent of the responses were similar, suggesting that the two experts have in-depth knowledge of the legal and institutional framework for UAE's migration governance and the questions could be understood. Finally, a pilot study on the collection of secondary data was conducted. The UAE's government statistical databases provided data sources for economic, social and demographic data. However, due to limited coverage, access and quality, independent databases, such as the World Bank and IMF, were sourced for a comparative review of the data.

### **3.8 ETHICAL CONSIDERATIONS**

In this section, I discuss the ethical issues that were considered and addressed to ensure best practice with respect to research ethics. According to the Social Research Association, the integrity and conduct of research, with respect to ethical considerations, is dependent upon the collective action or inactions of individual researchers, and the consequences of their actions or inactions on society at large (SRA, 2003). To ensure that the process followed in the study conforms to the required ethical standard, I adopted the following actions.

First, before conducting data collection process, I sought and obtained Durham University Institutional Review Board approval for the study. Prior to the actual interviews, the ethical approval from Durham University, along with the questions, were shared with The Philippine's embassy officials for initial review and approval.

Second, the informed consent form was provided and signed by the domestic workers interviewees to assure them that their participation was strictly voluntary, and the information provided would be treated with the utmost confidentiality. In addition to the consent form, I reminded the interviewees, at regular intervals that their participation was completely voluntary, and that they could withdraw consent and discontinue participation at any time (Appendix C).

Third, I ensured that an appropriate sampling technique was used, which was purposive. This was because the participants, who were runaway domestic workers, could be vulnerable to questions that necessitated them reflecting on their individual experiences, including physical abuse while working as a domestic servant. Given the vulnerable nature of the research subjects, I worked with officials from The Philippines embassy to establish criteria appropriate for the interviewees. Consequently, only runaway domestic workers who the embassy staff considered mentally ready to be interviewed, fully willing to complete questionnaire about their experiences, and who understood the need for and were willing to sign the consent form. The researcher, is, therefore, confident that no runaway domestic workers who were either psychologically or physically impacted by the research were included in the interviews.

Finally, these actions, including ensuring the anonymity of the research participants, are important in meeting a Durham University researcher's ethical obligations and responsibilities, as well as The Philippines embassy procedures and expectations.

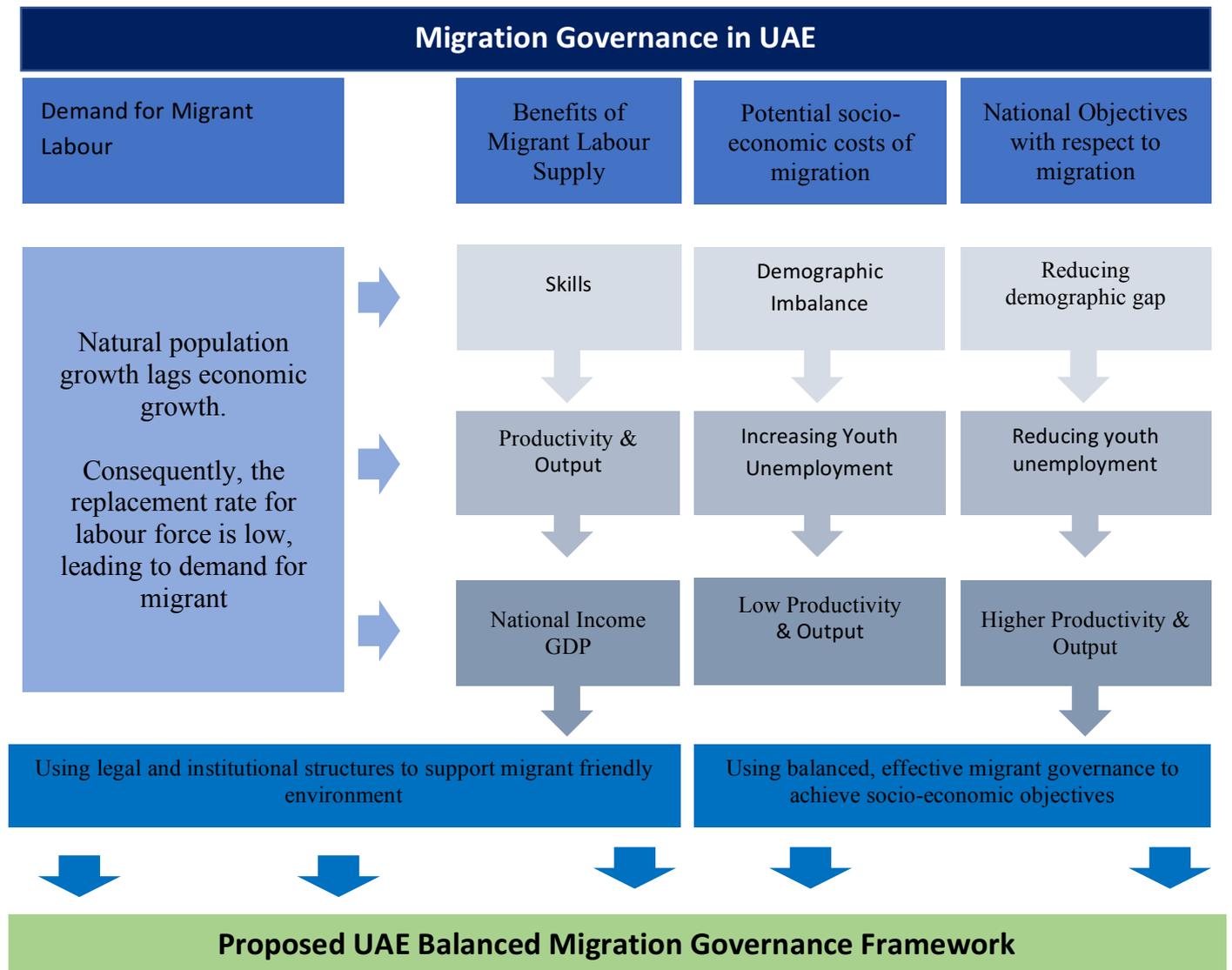
### 3.9 THEORETICAL FRAMEWORK

In the UAE about nine in ten people living the country are foreigners (UN, 2017). This is because the UAE's economy is dependent on foreign labour to support its economic activities. Therefore, there is a need for a unifying framework that explains why the economy is so dependent on the foreign labour, the implications of this dependency with respect to legal and institutional capacity to provide a migrant-friendly environment, and the management of migrant flows such that the resulting outcome is beneficial to both migrants and the national socio-economic objectives.

This section starts with a discussion of the labour market equilibrium, where the supply of labour is equal to the economy's labour demand to maintain productive activities. However, the dynamics of labour supply is determined by the natural population dynamics. In this context, the theory of demographic transition is used to explain why a country produces optimal natural population growth, or why it produces less than optimal natural population growth, or why it produces more than optimal natural population growth. This section discusses why the UAE is unable to produce, by means of natural population growth, the labour required for sustaining economic development, and why the migrant labour is needed. Given the demand for migrant labour, I also explain why a framework for governing/managing migrant labour is needed, especially the need for legal and institutional structures.

Furthermore, with the growing migrant workforce, the potential socio-economic costs associated with ineffective, unbalanced migration governance are also discussed. The thrust of the argument for balanced migration governance is that it should take into account both the development of legal and institutional structures, and the potential impact of migration on a country's socio-economic objectives. Therefore, relevant questions include: is migrant labour cheaper than local?, which may explain why locals, especially the young, may not be motivated to accept employment, given the possibility that migrant labour may have a negative impact on wages; are more male migrants labour likely to come to

the UAE relative to female migrant labour?, thereby, worsening the demographic imbalance and explaining why about 90 percent of employed workers are male; and is there a relative increase in low-skilled workers, with a negative impact on productivity and output growth?



**Figure 3.2: Proposed Balanced Migration Framework**  
 Source: Compiled by Author

Therefore, a key question is does the current migration governance take into consideration these national objectives<sup>6</sup>? If it does not, what balanced governance framework can be proposed? Thus, I propose a balanced migration framework that: (i) explains, theoretically, why the UAE is heavily dependent on migrant labour; (ii) describes the benefits of migrant labour in terms of manpower needed to support economic development and, therefore, the need for the development of legal and institutional structures to support a migrant-friendly environment to attract the requisite migrant labour; and (iii) explains the potential cost of migration with respect to key socio-economic indicators such as youth unemployment, demographic imbalance, and productivity and output growth, and why an effective migration governance framework should also include a component that evaluates the implications of migration on key socio-economic objectives. The theoretical explanation of the demand for migrant labour and need for balanced migration governance are summarised in Figure 3.2.

### **3.9.1 The Theory of Demographic Transition and Fertility Rate**

In a competitive economy, higher wages serve as an incentive for workers to offer their services for a wage, while lower wages provide incentives for firms to hire more workers. The balance between these opposing incentives results in labour market equilibrium, which determines wage and employment levels in the economy. However, a crucial factor in the equilibrium between labour demand and supply is the replacement rate, which means the rate at which the economy replaces its workforce.

The discussion starts with an explanation of why countries experience different fertility rates and, therefore, divergences in population growth. There are different theoretical explanations for this phenomenon, one of which is the theory of demographic transition. The theory, developed by Davis and

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<sup>6</sup> Relevant national objectives, under Emiratisation, as set out in *UAE Vision 2021* and *Abu Dhabi 2030*, include targets to lower youth unemployment, increase women's participation in the labour market and reduce the demographic imbalance (see The UAE Government, 2017; 2018).

Notestein (1945) posits that countries begin a development cycle which is characterised by high mortality and high fertility but move to a stage of development characterised by declining death rates and declining birth rates. In this theory, fertility rate, defined as the number of children that would be born to a woman over her lifetime if she were to survive through her reproductive years, is negatively related to per capita income, education attainment and standard of living. As income per capita increases, standards of living increase and education attainment, especially among women, increases, lower fertility rates are achieved (Caldwell, 1982).

Evidence from trends in global income, education attainment and population growth in the twentieth century support this theoretical proposition. According to Caldwell and Schindlmayr (2003), in this period, the global population more than doubled, but real global income multiplied by a factor of six, and real income per capita almost tripled. Also, life expectancy and educational attainment increased significantly in the developed countries, with the educational attainment of girls equalling that of boys (Caldwell and Schindlmayr, 2003). According to the theory, this explains why there are lower fertility rates in high-income countries relative to low-income countries. In fact, recent evidence for high-income EU countries suggests a reverse population growth, with fertility rates below the required replacement rate (Eurostat, 2016).

Applying this theoretical explanation to UAE, the changes in fertility rates can be explained. Globalisation-induced changing attitudes associated with higher labour market participation rate and higher education attainment by women may explain the declining fertility rates in UAE. For example, recent evidence suggests that women outnumber and outperform men in higher education, representing over 70 percent of university graduates (OHCHR, 2015; Policy Council, 2015). Also, the UN's human development report of 2013 for the UAE shows that between 1980 and 2012, the UAE's mean years of schooling increased by 5.3 years and expected years of schooling increased by 3.5 years (UNDP, 2013).

Correspondingly, the available statistics on UAE fertility rates from United Nation Development Programme show that fertility dropped from 6.5 in 1970 to 2.5 in 2005 (UNDP, 2010).

Furthermore, a study by the Policy Council (2015) on fertility and population growth in the UAE provides an additional explanation as to why the current fertility rate is not sufficient to replace the existing workforce. The study suggests that an increasing number of young Emirati women prefer choice in marriage partners, more egalitarian unions and fewer children. The study also finds that in the UAE extended families are now being traded for more nuclear family models. For men, unemployment rates as well as dropout rates mean that finding an appropriate spouse, and paying the high cost of marriage, are becoming ever more difficult, yet pressures on men to be the main breadwinner persist. For women, pressures to be responsible for bearing children, inculcating children with national values and culture, and participating in the economy can be overwhelming. All the while, the cost of having children in UAE is rapidly increasing.

Taken together, decreasing fertility rates and growing labour demand, means that the supply of migrant labour is needed just to compensate for a declining natural population growth. The direct implication of the demographic transition in the UAE, resulting from a significant decline in fertility rate, is the reliance of the UAE on migrant labour to provide the manpower needed to sustain developmental activities.

### **3.9.2 Supply and Demand of Migrant Labour**

The neoclassical theory of labour migration is employed to explain how the excessive demand for labour, as a result of the imbalance between the natural population growth rate and the growth of labour demand, is met by the supply of foreign labour through international migration. The major contributors of the neoclassical labour migration theory include Hicks (1932), Lewis (1954) and Harrison and Todaro (1970).

In this theory, wages serve as the primary determining factor, which implies that migration is caused by the geographical differences in the demand and supply of labour that results in the difference in wages between the countries that are rich in labour and those that are rich in capital. The theory also assumes that under the condition of 100 percent employment, a linear relationship between migration flows and wage differential can be seen (Bauer and Zimmermann, 1998, 1999; Messay et al., 1993; Borjas, 2008).

What emerges from the neoclassical theory explanation of international labour migration is that the demand and supply of migrant labour in the UAE is based on “Push-Pull factors”, where the push factors include higher rates of unemployment, high taxes, low salaries in the migrant labour sending countries, and pull factors from the UAE include high wages, higher employment rates, better health system, etc. The implication is that on the demand side, the UAE economy needs the migrant labour to support its economic activities, while on the supply side, the main reason of labour migration is to gain better economic opportunities, in form of better job prospects and higher wages.

However, the perfect competitive labour market assumption of the neoclassical theory of international labour migration may not be realistic. For example, under the neoclassical theory, the prospective migrants compute their present discounted value of expected returns in each possible destination including their country of origin. They decide to migrate to a destination if the returns, net of the discounted costs of movement, are larger than the returns in the country of origin; i.e. where they can maximise the present value of the future wage income and savings. Therefore, the theory assumes that, for a country such as the UAE, the higher the wages in the UAE relative to the migrant countries of origin, the higher the supply of labour, and as the labour supply increases relative to the labour demand, wages falls until equilibrium is reached. At this point, the supply of labour equals the receiving-country demand for labour. However, international wage differentials, as the main determinant of migrant labour supply, may not be effective in regulating the demand and supply of migrant labour.

For example, the UAE may not attract the right type of skills, or the relationship between wages and migrant labour may not be linear, leading to a scenario where the economy may attract more or less migrants than is actually required. Therefore, the international flow of migrant labour needs to be managed by the governments by regulating labour markets in the migrant-labour receiving country, as labour markets are the primary drivers of international labour migration. Thus, in the next section, the need for a migration governance framework is discussed, and why the proposed balanced migration framework is ideal for UAE migration specific experience.

### **3.9.3 Migration Governance**

In the case of the UAE, migrants constitute about 90 percent of the population, and, as explained in Section 4.10.2, the labour market may not be perfect in regulating the flow of migrants. Even if the labour market is perfect, the labour market outcomes may not be positive for UAE nationals in terms of labour market participation, and a governance framework may be needed to align migration with national objectives such a reduction in the demographic imbalance, youth unemployment and low-skilled labour, which may not be efficiently and effectively addressed through demand-supply labour market equilibrium.

#### **3.9.3.1 Migration Governance Framework: The Legal and Institutional Component**

There are two main reasons why the proposed migration governance framework is needed for the UAE. First, this migration framework can serve as a basis for providing a supportive environment to labour migrants. This is a crucial element in the migrant labour management for the UAE because its economy is migrant labour dependant. Creating a conducive environment will allow the country to attract and retain the necessary manpower to support economic activities. Consequently, adopting international labour and human right codes. alongside unilateral initiatives can be used to protect foreign workers. This will require

enacting relevant laws, rules and regulation, as well as establishing institutions that will develop, monitor and enforce migration rules.

In achieving the legal and institutional element of migration governance, the rules outlined by the International Labour Organisation (ILO), including the ILO's Migration for Employment Convention (1949) and Migrant Workers Convention (1975) provide a strong foundation. There are defined sets of provisions that signatory countries are required to follow and provide migrants with a minimum set of rights to access health facilities, have desirable working conditions, access provisions for legal status, have collective bargaining and the right to family reunification. While international conventions can be adopted, institutional capacity is required for their implementation and co-ordination in an effective migration policy. This means having dedicated institutions that focus on migration policy. In the case of the UAE, the Federal Authority for Identity and Citizenship (FAIC) takes this lead. The FAIC is responsible for dealing with issues of citizenship, passports, entry and residency status of foreigners, for developing the relevant policies and for ensuring the implementation of laws and regulations (Abu Dhabi ID, 2017).

### **3.9.3.2 Migration Governance Framework: Socio-economic Component**

The legal and institutional component of the migration framework focuses on supporting a migrant friendly environment through the enactment and enforcement of migrants' labour and human rights. The legal and institutional component has little to do with issues such as the quality and quantity of migrant labour and its potential impact on the native population in terms of demographics, labour market participation and skills substitution. For the UAE, the national socio-economic objectives, as contained in Abu Dhabi 2030 and UAE 2021, include achieving higher women labour participation rates, a reduction in the youth unemployment rate, attracting higher skilled labour relative to low-skilled labour, and generating higher productivity and national output.

The implication is that the migration governance framework should go beyond the legal and institutional structures that support a migrant-friendly environment and consider how migrant policies can be used to achieve the national socio-economic objectives. Thus, a framework that balances the need for the economy to attract the requisite labour supply with achieving the national socio-economic objectives will result in a balanced migration framework.

In summary, the proposed balanced migration governance framework for UAE is important in addressing the two issues with which effective migration governance must deal: the development of a legal and institutional structure to maintain orderly migration through creation of rules and enforcement; and the need to assess migration outcomes with respect to socio-economic outcomes. For the UAE, the proposed governance framework argues for the adoption of international conventions on migrants' rights, as well as domestic legal instruments to create an environment that attracts and retains skills necessary to achieve higher productivity and output. Legal instruments should include the adoption and enforcement of labour and human rights. Very importantly, the framework argues for migration policies to be aligned with national socio-economic objectives, including targets to reduce youth unemployment, increase productivity and growth, and reduce the demographic imbalance.

### **3.10 SUMMARY**

In this chapter, issues relating to the methodological choices and practice followed in this study were discussed. First, I discussed the methodological issues and the relevance of the existing migration governance framework with respect to the UAE's specific migration experience. Second, the research philosophical assumptions about the development of knowledge in relation to the research subject were highlighted. Third, the research approach followed was examined, and an explanation given as to why the abductive approach, which combines deductive and inductive approaches, is adopted. Fourth, I discussed

the mixed method approach of combining quantitative and qualitative methods, along with the analysis procedure used, including data collection techniques, sample and sampling technique, interview/questionnaire design, and process of migration governance index development. Sixth, the data analysis techniques, including Pearson's Chi-Square and the Likelihood-ratio test statistics for categorical variables, and the Pearson product-moment correlation coefficient and regression estimation models for secondary data, were introduced. Finally, the procedures followed to ensure validity and reliability of the methodology as well as ethical issues were considered.

## **CHAPTER FOUR:**

### **MIGRATION GOVERNANCE IN THE UAE**

#### **4.1 INTRODUCTION**

In the 20<sup>th</sup> century the UAE evolved from a series of impoverished sheikhdoms of the British Empire into one of the rich oil producers of the world, with high socioeconomic standards that are equivalent and, in some instances, better than in the West. Under the flagship of the UAE in 1970s, these sheikhdoms in the lower Gulf discovered the richest resource of the modern world “The Black Gold” which completely transformed the Federation and attracted huge numbers of immigrants. The massive oil boom has been the biggest contributor to developing the country’s infrastructure and making it one of the wealthiest nations in the world (Segarra, 2017). However, the development of the sheikhdoms has not been smooth. This chapter provides a brief overview of the historical development of the UAE, the massive influx of immigrants and the national and international treaties of the UAE pertaining to labour laws.

#### **4.2 HISTORY AND FORMATION OF THE UAE**

The messengers of Prophet Mohammad (PBUH) arrived in the region in 630AD and converted the region to Islam. However, soon after his death in 632AD, rebels started to challenge the authority of Islam as many chiefs in the region claimed Prophethood. These rebellions were ultimately quenched by Abu Bakr, the first caliph of Muslims, during a major battle that took place at Dibba (on the UAE’s east coast) during which nearly 10,000 rebels were killed. Shortly thereafter, in 637AD, Julfar (now called Ras Al Khaima) was used as a base to conquer Iran because of its strategic location. In 892AD, Islamic armies operating from Julfar used it for the conquest of Oman.

In the 10<sup>th</sup> Century, the Buyid dynasty took over control of the present-day territory of UAE and Oman. Julfar remained an important hub for pearl diving and port for dhows that were trading in the Indian

Ocean. By the 15<sup>th</sup> century, the area had developed strong commercial ties with the Kingdom of Hormuz on the Persian Gulf. However, these ties were adversely affected after 1498 when Arab navigation information was used by Vasco da Gama during circumvention of Cape of Good Hope (Abed et al., 2006).

The arrival of the Portuguese in the Gulf region in 15<sup>th</sup> Century was neither peaceful nor smooth and led to bloodshed with the Arabs, in particular the inhabitants of Julfar and the east coast ports of Dibba, Khalba and Khour Fakan. The Portuguese saw residents of Julfar as rich traders possessing outstanding navigation skills. In addition, as Julfar was famous for pearling many veteran jewellers visited the region in the pursuit of “Gulf Pearls” (Morton, 2016).

Bani Yas were descendants of Bedouins who settled themselves in the oases of Abu Dhabi and Dubai, harvested a number of date gardens and ultimately established forty settlements, a few of which remained occupied throughout the year. Until 16<sup>th</sup> Century, Liwa was the centre of social and economic activities but in the early 1790s Abu Dhabi became the hub of political activities when the chief of the Bani Yas group (the Al Nahyan Family) moved his residence from Liwa to Abu Dhabi. At the beginning of 19<sup>th</sup> century another of the branches of the Bani Yas, the Maktum family, moved to Dubai and established their rule over the area (Hurreiz, 2002; Al Askari, 2013).

Another tribal grouping, Al Qawasim, emerged as a local power in the early years of 19<sup>th</sup> century. They posed a threat to the European powers—Portuguese, Dutch and British—who were competing for control of the region. Britain ruled much of the area, which they used as a base for their trade with the rest of the world. The Qawasim built a fleet of some 60 huge ships that could accommodate twenty thousand soldiers (Al-Abed, Vine and Hellyer, 2005:47) and battled the British for nearly 20 years but were eventually conquered resulting in the supremacy of Britain in the region. The British authorities claimed that the vessels of the Qawasim were involved in piracy and the region became notorious by the name of “The Pirate Coast” (Onley, 2007).

After defeating the Qawasim, Britain signed a number of treaties with the Sheikhs of the various Emirates, which became known as “The Trucial States”. The agreements between Britain and the Emirates restricted the roles of the Sheikhs in building relationships with other countries and limited their authority to specific areas.

The economy of the lower Gulf States in 19<sup>th</sup> and early 20<sup>th</sup> centuries relied on livestock farming, especially of sheep and camel, fishing and date farming. In addition, pearl diving (also known as pearling) was a source of high seasonal income while associated activities including trading of pearls and building boats. Indeed, pearl diving was the primary economic activity before the oil boom although it reached its peak much earlier in the late 1890s. The wealth from pearling saw the start-up of small cottage industries such as tailoring and weaving. Pearling also attracted expatriate crewmen and a new system emerged called “*Amil*” in which the richer boat owners received a large portion of income, with the remaining amount divided among the crew. The captains of the boats acted as an intermediary and charged crewmen a very high rate of commission. However, the pearling industry started to decline from the early 1930s mainly due to fierce competition from cultured pearls produced by Japan and the worldwide depression. Consequently, the associated industries also started to decline and the economy’s dependence on one commodity turned out to be a disaster (Davidson, 2005).

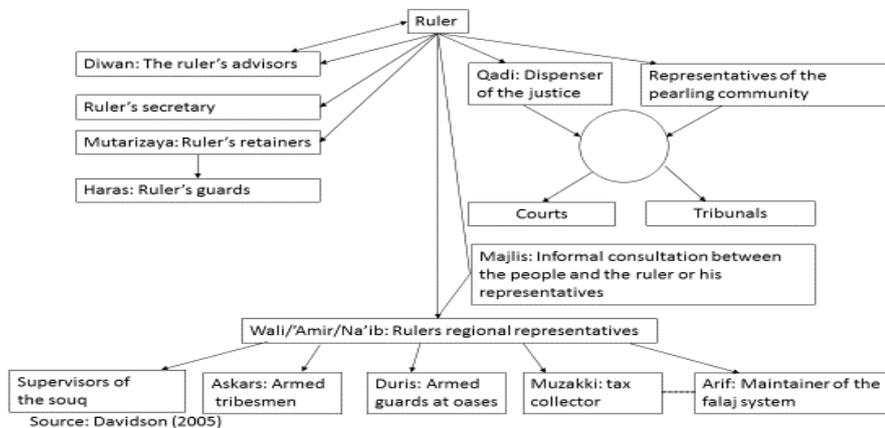
Before the British rule in the region and the boom of the pearl industry, the society of the UAE was heavily influenced by its nomadic lifestyle, to which the origins of the present social structure can be traced. The inhabitants were divided into well-defined tribes and lived on hunting in the desert or animal husbandry, either sheep herding or camel herding. The camel herding tribes (*sharif*) steadily gained dominance over the sheep herding tribes. The inhabitants of the lower Gulf maintained clear descent lineages, many of which are still followed today. Thus, within the tribal structure, authority and status are based solely on descent.

The success of the pearling industry introduced changes into the social structure of the area. Given the limited availability of resources in the region, the Bedu evolved a semi nomadic style. In the summer they would travel to the coast for fishing and later pearling, while during the winter they would herd their camels or sheep in desert, and for the remainder of the year would harvest dates. During the pearl boom, the Bedu invested in the *Amil* system, generating wealth and building houses, mainly in the coastal area. The locals who dealt in pearling became so powerful that rulers were selected based on their choices. As mentioned previously, the pearling industry also attracted expatriates to the Gulf for the first time including crewmen and divers who were offered attractive wages. In addition, the wealth from the pearling industry resulted in many merchants who settled in the ports of Abu Dhabi and Dubai, in particular in retailing, as locals restricted themselves to pearling and boat manufacturing which were regarded as respected professions. The population of foreigners continued to grow in the region and new socioeconomic groups were created. However, following the decline of the pearling industry, many of the expatriates left as activities run by the foreigners were impacted negatively (Hurreiz, 2002).

The traditional political structure of the lower Gulf was shaped by the geography of the region and the tribal system. This was based on control over the tribes and not the geographical area, which resulted in the evolution of a decentralised political system, in which the authority of the rulers was dependent on the support they received. The support was dependent of the rulers' capacity to subsidise the population. However, taxation became popular during the boom of pearling industry. As the population grew, the requirement of having a well-defined administrative system became inevitable. Figure 4.1 depicts a typical structure of *hukuma* (government).

During 1930s, the Trucial States attracted the attention of the British-controlled Iraq Petroleum Company (IPC) which signed a number of exploration agreements. The most relevant to this thesis was awarded in 1939 by Sheikh Shakhboub bin Sultan Al Nahyan of the Emirate of Abu Dhabi to Petroleum

Development (Trucial Coast) Ltd (PD(TC)), a subsidiary of IPC. In 1951, the first well was drilled at Ras Sadr located in north east Abu Dhabi, which was the deepest well drilled in the Middle East at the time. In 1954, the PD(TC) found oil in the south east of Abu Dhabi at Murban, which officially started production in 1963. In 1963, the PD(TC) was renamed the Abu Dhabi Petroleum Company. In 1953, British Petroleum (BP) one of the major shareholders in IPC was granted an offshore concession to a specially created subsidiary, Abu Dhabi Marine Areas Ltd. In 1958, the first well drilled in Umm Shaif hit substantial quantities of oil and started production in 1962 (Lea, 2001). Thereafter, oil and gas exploration of continued with many more fields discovered.



**Figure 4.1: Structure of *Hukuma***

Source: Davidson (2005: 18)

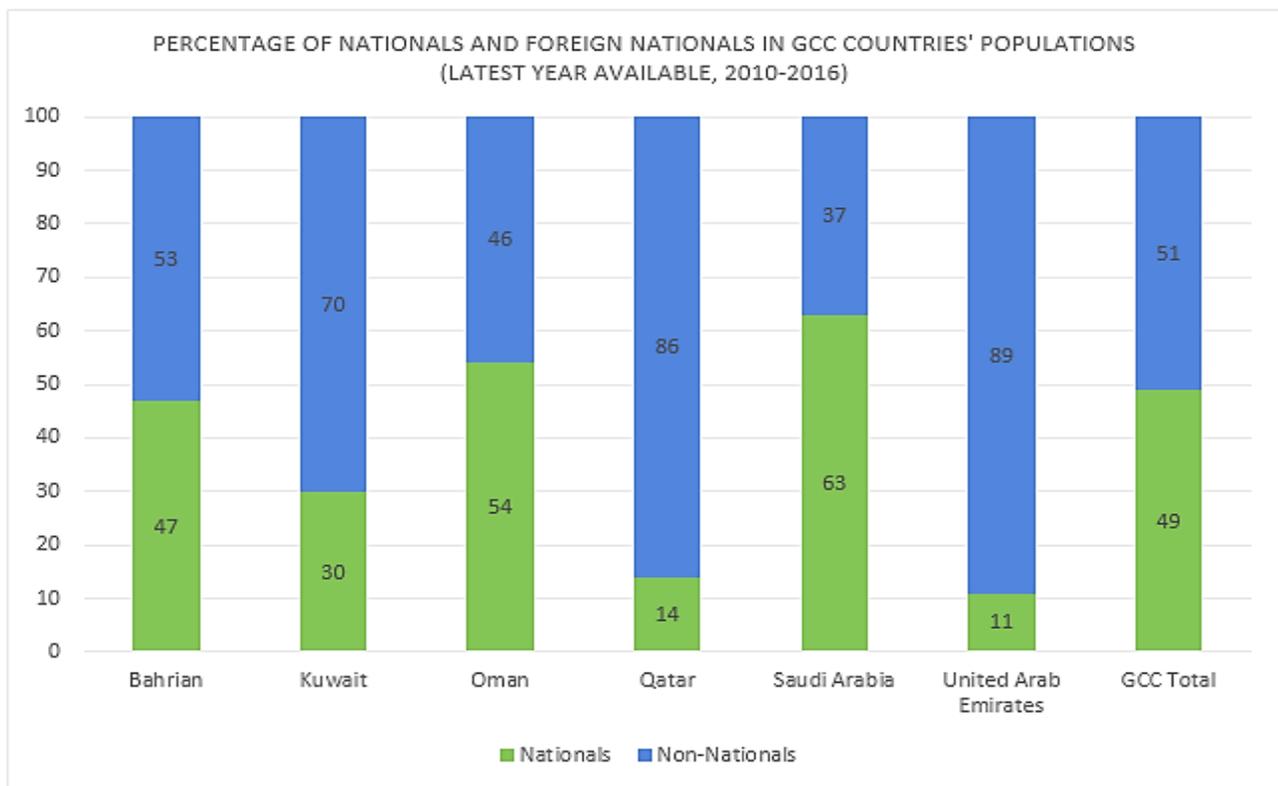
In January 1968, the British announced its withdrawal from the Gulf by 1971. This announcement prompted the ruling Sheikhs to consider the future of the Trucial States. Soon after the announcement, the then ruler of Abu Dhabi Sheik Zayed contacted the other Sheikhs and proposed a federation including not only the seven Trucial States but also Bahrain and Qatar. After considerable negotiations, the rulers of six of the Emirates, Abu Dhabi, Dubai, Sharjah, Ajman, Fujairah and Um al Qaiwain, agreed to join the Federation to be named as the United Arab Emirates, which came into existence on 2 December 1971, with Ras Al Khaimah joining on 10 February 1972. Bahrain and Qatar did not join the federation. The ruler of Abu Dhabi; Sheikh Zayed bin Sultan Al Nahyan became the first president of the UAE and was

continuously re-elected as president until his death in 2004. The ruler of Dubai, Sheikh Makhtoum bin Rashid Al Maktoum became the first Vice President and the Prime Minister of the UAE (Friedman, 2016).

### 4.3 THE HISTORY OF LABOUR MIGRATION IN THE UAE

#### 4.3.1 GCC Labour Migration

The six oil-rich Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE) are among the top receivers of temporary migrants in the world (Shah, 2013). As a result, non-nationals now comprise over 50 percent of the population (GLMM programme), with the UAE the most influenced as locals only make up 11 percent of the population (see Figure 4.2).



**Figure 4.2: Percentage of Nationals and Foreign Nationals in the GCC**

Source: Gulf Labor Markets and Migration (GLMM programme)

Eighty-five percent of the foreign worker force is low-skilled and predominately work in the construction and service sectors, while public sector jobs are dominated by nationals. Although the birth

rates in the GCC countries for locals are high, which is putting pressure on the governments to create more jobs for nationals, the majority of the locals are not willing to undertake blue-collar or unskilled jobs. It is estimated that by 2020, the population of the region will reach 50 million and in 2050 it will touch 65 million which means that the foreign labour workforce will remain a huge part of the GCC countries for a foreseeable future (GIZ/ILO, 2015). The UAE and Saudi Arabia accommodate the highest number of workers of Asian origin, of which majority are males. However, in recent years, the demand for female domestic workers has consistently increased (Shah, 2013).

The major reason for migration to the Gulf is that the workers coming from south east Asia earn 250-350 percent more than they do in their home countries. These migrants send money back home, which is used to pay school fees and help dependents set up businesses. According to one study, for an Indian family with a member working in the UAE, they are 30 percentage points more likely to start a business in India (Economist.com, 2017).

Although, the GCC countries have similar migration system regimes, it is important to shed light on the systems before going into more detail about the UAE migration system. Table 4.1 provides an overview of the key legal migration framework of the GCC countries (except the UAE) on six factors identified in the GLMM reports. ‘Entry and exit’ identifies the requirements for non-GCC nationals to enter the country and any deportation arrangements, ‘irregular migration’ outlines penalties, particularly for those involved in human trafficking, ‘rights and settlements’ summarises conditions for family unification and medical insurance, ‘labour’ provides major bilateral agreement between the country in discussion and other nations and ILO conventions ratified by the country, ‘citizenship’ outline the requirements of naturalisation/citizenship of non-GCC nationals and ‘international protection’ identifies rights of political refugees and the 1951 Convention relating to the status of refugees.<sup>7</sup>

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<sup>7</sup> The 1951 Refugee Convention defines the term ‘refugee’ and outlines the rights of the displaced, as well as the legal obligations of States to protect them and is ratified by 145 state parties (UNHCR, 2018).

<b>GCC Countries</b>	<b>Entry and Exit</b>	<b>Irregular Migration</b>	<b>Rights and Settlement</b>	<b>Labour</b>	<b>Citizenship</b>	<b>International Protection</b>
<b>Bahrain</b> (Zahra, 2018a)	<ul style="list-style-type: none"> <li>- Valid passport or travel document</li> <li>-Valid visa</li> <li>-Deposit (may be required, for foreign employees, employer is required to submit either a depot or an undertaking to bear the cost of deportation)</li> </ul>	Involvement in human trafficking carries imprisonment or fine ranging from 2,000 to 10,000 BD. Harsher penalties may also be applied	<ul style="list-style-type: none"> <li>-Medical examination</li> <li>-Residency permit</li> <li>-In case of cancellation of a residency permit, the individual may not be eligible to apply for another permit for 52 weeks</li> <li>- employers are legally required to display the procedures to be observed in case of injury at work or outside</li> <li>- Dependants of an immigrant may be allowed to join them in case, if they meet the income requirements.</li> </ul>	<ul style="list-style-type: none"> <li>-Bilateral agreements in the form of Memorandum of Understanding (MoU) with the Republic of the Philippines on Health Services Cooperation and a Memorandum of Understanding with India</li> <li>- Ratified 10 ILO Conventions</li> </ul>	-May be granted upon request if certain conditions are met including 25 years of legal residency in the Kingdom, good conduct, Arabic fluent, owing a real estate	<ul style="list-style-type: none"> <li>-The extradition of political refugees is prohibited under article 21 of the Constitution.</li> <li>-Bahrain has not acceded to the 1951 Convention relating to the status of refugees.</li> </ul>
<b>Kuwait</b> (Zahra, 2018b)	<ul style="list-style-type: none"> <li>-Passport</li> <li>-Visa</li> </ul>	- Involvement in human trafficking carries up to 10 years of imprisonment and a fine of 3,000 to 10,000 KD. This can increase to 20,000 KD and 15 years of imprisonment	<ul style="list-style-type: none"> <li>- Residence permit is issued for a maximum period of five years.</li> <li>- Dependants of an immigrant may be allowed to join them in case, if they meet the income requirements</li> <li>- The employer is required to pay for the health insurance of non-national</li> </ul>	<ul style="list-style-type: none"> <li>- Bilateral agreements with: Indonesia in the form of MoU, Sri Lanka in the form of Trade Union Agreement on Worker's Rights, Egypt in the form of Technical cooperation concerning Labour Force Movement.</li> <li>- 19 ILO Conventions ratified.</li> </ul>	Nationality may be granted by Decree upon the recommendation of the Minister of Interior if a person Lawfully residence for 20 consecutive years, no involvement in crime, earned lawful income, good character,	<ul style="list-style-type: none"> <li>-The extradition of political refugees is prohibited under article 46 of the Constitution.</li> <li>-Kuwait has not acceded to the 1951 Convention relating to the status of refugees.</li> </ul>

			employees. It is a mandatory requirement before a residence permit is issued.		knowledge of Arabic language, a born Muslim or converted to Islam for at least five years before grant of naturalisation	
<b>Oman</b> (Zahra, 2018c)	-Passport, valid travel document -Visa	-Illegal migrants are departed at their own expense or at the expense of those who employed them or aided in their entry. - Human trafficking: imprisonment for three to seven years and a fine of 5,000 to 100,000 riyals. This may go up to fifteen years of imprisonment and a fine up to 100,000 riyals	- A reunification visa can be obtained on the request of local sponsor for the spouse and children of an overseas immigrant. -No legal requirement of medical insurance of overseas employees	- Bilateral Agreements: Memorandum of Understanding between the Ministry of Overseas Indian Affairs in the Republic of India and the Ministry of Manpower in the Sultanate of Oman in the field of Manpower (November 08, 2008); MoU between Oman and Sri Lanka in the fields of employment and training (June 22, 2014); Memorandum of Understanding between the Sultanate of Oman and Bangladesh on Manpower Cooperation (May 10, 2008). - International Agreements: 4 ILO Conventions ratified.	Citizenship may be granted to foreign nationals who legally stayed for 20 consecutive years, possess good conduct, free from any disease, no crime record, not in breach of trust or honour, fluent in Arabic and would give up current nationality	-The extradition of political refugees is prohibited under article 36 of the Constitution. -The 1951 Convention Relating to the Status of Refugees is not acceded by Oman
<b>Qatar</b> (Zahra, 2018d)	- Passport -Visa -Visa upon arrival for certain countries plus fees	-Anyone found guilty of human trafficking can receive imprisonment of up to seven years. -Forced labour carries imprisonment of up to six months and fine of	-Dependants of an immigrant may be allowed to join them in case, if the income requirements are met -Non-nationals are prohibited in strike	-Bilateral Agreements regarding labour migration include: Bangladesh (1988/2008); Pakistan (1992/2008); Nepal (2005/2009); Iran (1991/1999); China (2008); Gambia (2010);	Naturalisation may be granted after 25 years of continuous residence and is subject to meeting the other	-The extradition of political refugees is prohibited and conditions for granting political asylum are to be established by law (Article 58, The

		up to 3,000 QAR or either of the two penalties.	and union participation	India (1986); Morocco (1981); Sudan (1981/2010); Somalia (1983); Tunisia (1981); Turkey (1986/2009). -International Agreements regarding labour migration include: 6 ILO conventions ratified	conditions satisfactorily	Permanent Constitution of Qatar). No law implementing this provision has been enacted thus far. -The 1951 Convention relating to the status of refugees is not acceded.
<b>Saudi Arabia</b> (Zahra, 2018e)	-Passport, valid travel document -Visa	-Imprisonment and deportation - Human trafficking: imprisonment up to 15 years and fine up to 1,000,000 Saudi Riyals - Harsher penalties may also be applied	-Foreign workers face deportation for any union or strike activity. -Healthcare insurance is responsibility of the sponsor	- Bilateral Agreements: Philippines (2013), Sri Lanka (2014), India (2014). - International Agreements: 15 ILO Conventions ratified	-May be granted upon request if certain conditions are met including 20 years of residency, loss of connection from the home country, loss of nationality, good conduct. -Different rule for a Muslim child under the age of seven who does not have any adult family member	-Asylum may be granted only in cases of public interest. -The 1951 Convention relating to the status of refugees is not acceded

**Table 4.1: GCC Legal Framework on Migration**

Source: Compiled by Author

### **4.3.2 History of Migration in the UAE**

The UAE has a multinational labour force, the roots of which can be traced back to the pre-modern era and pre-oil boom. The strategic location of the Emirates has been an important factor in attracting a diverse workforce from the Indian sub-continent in the east, the Arab region to the north and west, and Africa in the west. According to Pearce (2014), the flows of immigration to the UAE can be divided into three major influxes: 1) The Pearling Boom; 2) The Oil Boom; and 3) The Development of Dubai. Although Pearce (2014) refers to the development of Dubai as one of the main reasons of migration influx, nonetheless the development of other Emirates, especially Abu Dhabi and Sharjah also attracted a very high number of immigrants. Hence in the following sections, the development of these three Emirates in relation to the influx of immigrants is discussed.

#### **4.3.2.1 The Pearling Boom**

The first influx of foreign workers was a result of the boom in the pearling industry and associated businesses at the end of 19<sup>th</sup> and beginning of 20<sup>th</sup> centuries. These foreigners mainly came from Persia, India and Africa. The migrants took the jobs that local Bedouin were unwilling to undertake or did not have the necessary skills. During the boom, the region relied heavily on seasonal expatriate workers, in particular slaves from eastern Africa and south Asia, for diving. Other than the slaves, workers from these countries took opportunities in the industries related to pearling, including blacksmithing, boat manufacturing and trading. These expatriates earned better wages than were available in their home countries. Indian merchants who settled in the Gulf exported pearls and imported rice, sugar and cloth. Some of these merchants settled permanently in the region. However, the global depression, World War II and invention of cultured pearls by Japan adversely affected the pearling industry in the Gulf and many expatriate workers returned to their home countries (Leonard, 2005; Pearce, 2014).

#### **4.3.2.2 The Oil Boom**

The second mass influx of the foreign laborers started after the successful exploration of oil and gas reserves. In 1962, when Abu Dhabi first started to export oil, one-half of its population was reported to be comprised of expatriates (Dulovicova, 2016). 1973 saw a further boom in the oil industry as the oil price quadrupled in a couple of months, attracting even more foreign workers to the newly established UAE. The new leadership in the UAE invested oil revenues in a major programme of infrastructural development, included building a road network, the development of residential and commercial areas, and a modern communication system. The recently established government also invested in building world class social services in health and education (Al-Sayegh, 1998). This rapid modernisation required foreigners from labourers to educationalists to engineers (Malit and AlYouha, 2013), but the majority of the workforce came from Bangladesh, India, Indonesia, Pakistan, The Philippines and Sri Lanka. Furthermore, the migration outflows from these sending countries rose constantly during the 1990s and 2000s (Shah, 2013).

#### **4.4 THE DEVELOPMENT OF THE MAIN EMIRATES**

Abu Dhabi, Dubai and Sharjah are the most populous emirates of the country. Given the rapid development of the three emirates, these became a popular destination for immigrants and now accommodate almost half of the migrant population (De Bel-Air, 2018). In 2014, the nominal GDP of Abu Dhabi was AED960bn, while that of Dubai was AED338bn and Sharjah was AED113.89bn (latest figures available from Government.ae. website). However, based on IMF data availability, in 2016, the GDP for Abu Dhabi and Dubai contributed 56.9 percent and 30.6 percent, respectively (cited in Bibolov et al., 2017).

#### **4.4.1 Abu Dhabi**

Abu Dhabi derives its massive revenues from oil exports and international investment, giving it one of the world's highest per capita incomes. From the start of the 21<sup>st</sup> century, Abu Dhabi started to diversify its economy concentrating on building high-grade cultural centres to promote tourism, residential and infrastructural projects. Among these developments is that of Al Reem, Al Yas and Sadiyaat Island, the construction of Sheik Zayed Mosque, the expansion of Port Zayed shipping centre and the World Trade Centre. Sadiyaat Island is now a centre for tourism after The Louvre Abu Dhabi was opened last year. Other major projects in the pipeline include a new airport terminal (Midfield), a nuclear power plant, a USD7bn tram and metro system and new site for all government offices and universities. These massive projects continue to attract to thousands of migrant workers at all skills levels (Abu Dhabi World, 2013; Encyclopaedia Britannica, 2018).

#### **4.4.2 Dubai**

Previously Dubai was known as Debai. In 1822 it had a population of 1,200 which more than doubled to 3,000 in the mid-1800s. A large number of immigrants moved from Abu Dhabi to Dubai due to its high levels of acceptance of immigrants. Dubai gained further importance in the region due to Persian instability in the 1870s and again in 1925, when many Persian families, especially merchants, migrated to Dubai. In 1904, Dubai opened a free trading port that attracted migrants from the Indian sub-continent, Afghanistan and Bahrain and by early 1930s Dubai had a diverse population comprising of different social classes and ethnic groups (Elsheshtawy, 2013).

Dubai continued to attract international attention; the first consignment of Toyota cars was imported in 1955, its first airport was inaugurated in 1959 and in 1960 it revealed its masterplan for the development of the Emirate. When oil was discovered in 1966, all contracts fell under the British who

brought labour from Pakistan and India and by 1968 the population of Dubai comprised 50 percent of expatriates (Elsheshtawy, 2013). A number of mega projects were planned after the discovery of oil and the leaders of Dubai invested massively in developing the infrastructure. In the 1990s, Dubai unveiled its *Strategic Plan, 1993-2012* to become a leading metropolitan city in the world, and this again involved attracting skilled and unskilled migrant labour. Over the years, Dubai has expanded geographically, and the built-up area of Dubai City increased from 396.2 square km in 2003 to 976.6 square km in 2015. Because of its lack of oil, it introduced numerous residential projects that allowed expats to buy apartments at affordable rates, promoted tourism, built mammoth shopping centres, constructed attractive theme parks and other tourist attractions. Today, Dubai's Al Mahktoom airport is the world's busiest airport in terms of passengers, and sixth busiest cargo airport, Burj Khalifa is the tallest building in the world, and Dubai Mall is one of the largest shopping malls in the world. These gigantic projects required and will continue to require foreign workers (Elessawy, 2017).

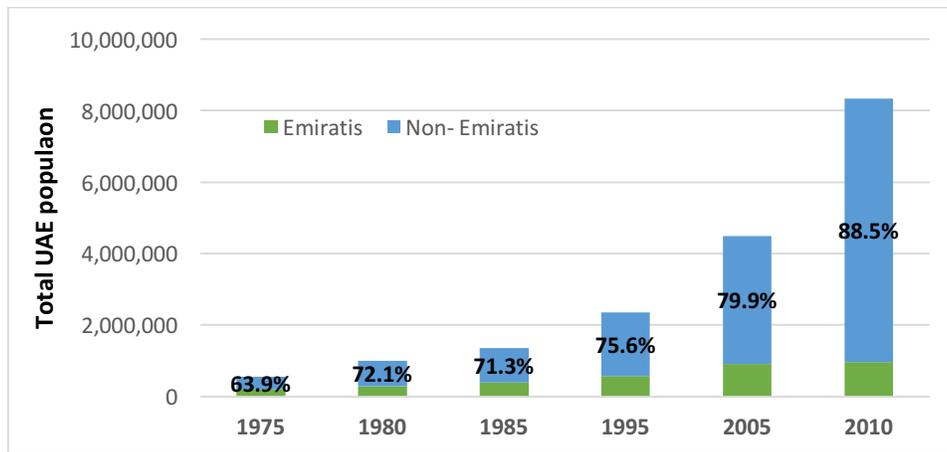
#### **4.4.3 Sharjah**

The rapid development and modernisation of the Emirate of Sharjah started after oil exploration in 1970s. Since then, the Emirate has developed as a contemporary and thriving city (Sharjahmydestination.ae, 2018). In November 2017, the government approved a landmark project, the Sharjah Beach Development, whereby 3.3 kms of beach are to be developed into a world class public space that will not only boost tourism but will also assist in improving the quality of life of the residents (Khaleej Times, 2017). In January 2018, Sheikh Dr Sultan bin Mohammed Al Qasimi launched three mega real estate projects worth USD740 million including world class hospitality, housing and retail facilities (ArabianBusiness.com, 2018). The government of Sharjah is keen to further improve tourism; one project is "The Heart of Sharjah" which is a cultural heritage site and is currently being restored to mirror Sharjah back in the

1950s. The project is expected to be completed in 2025 with a high-end hotel, restaurants, conventional and modern markets, museum, children’s play areas, art galleries, archaeological sites and commercial offices. After completion, the site is expected to be a major tourist attraction (Sharjah Investment and Development Authority, 2018).

#### 4.5 DEMOGRAPHICS OF UAE MIGRANTS

Since its formation in 1971, the UAE has conducted five censuses at the Federal level in 1975, 1980, 1985, 1995, and 2005. As of April 2015, the last comprehensive population census available was that of 2005. In 1975, non-Emiratis totalled 356,343, about 64 percent of the population. However, 35 years later the figure had soared to 7,316,073, representing 88.5 percent of the population (see Figure 4.3). Between 2005 and 2010, the local population grew by 2.8 percent, while the expatriate population grew by 16 percent (De Bel-Air, 2018).

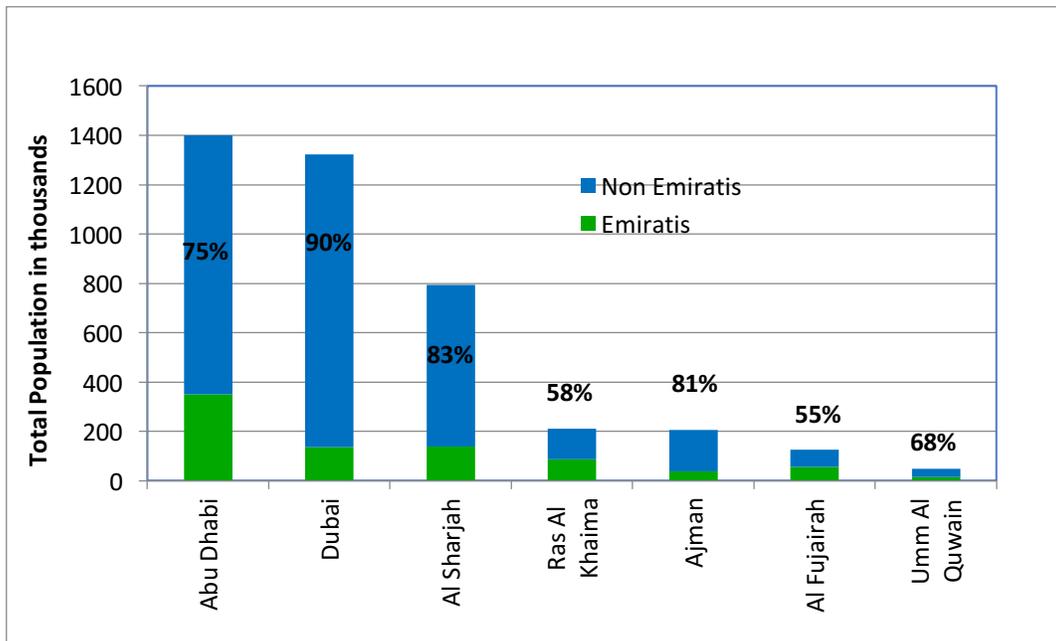


**Figure 4.3: Population and Proportion of non-nationals, 1975-2010**

Sources: De Bel-Air, (2018).

Each Emirate has a different demography of population, partially because of the different development paths selected by these Emirates. According to the census of 2005 (see Figure 4.4), Abu Dhabi and Dubai were the most populous Emirates, comprising about two-thirds of the total population.

Fujairah had the lowest percentage of expatriates, at 55 percent, while Dubai had the highest percentage of expatriates at 90 percent of the population.



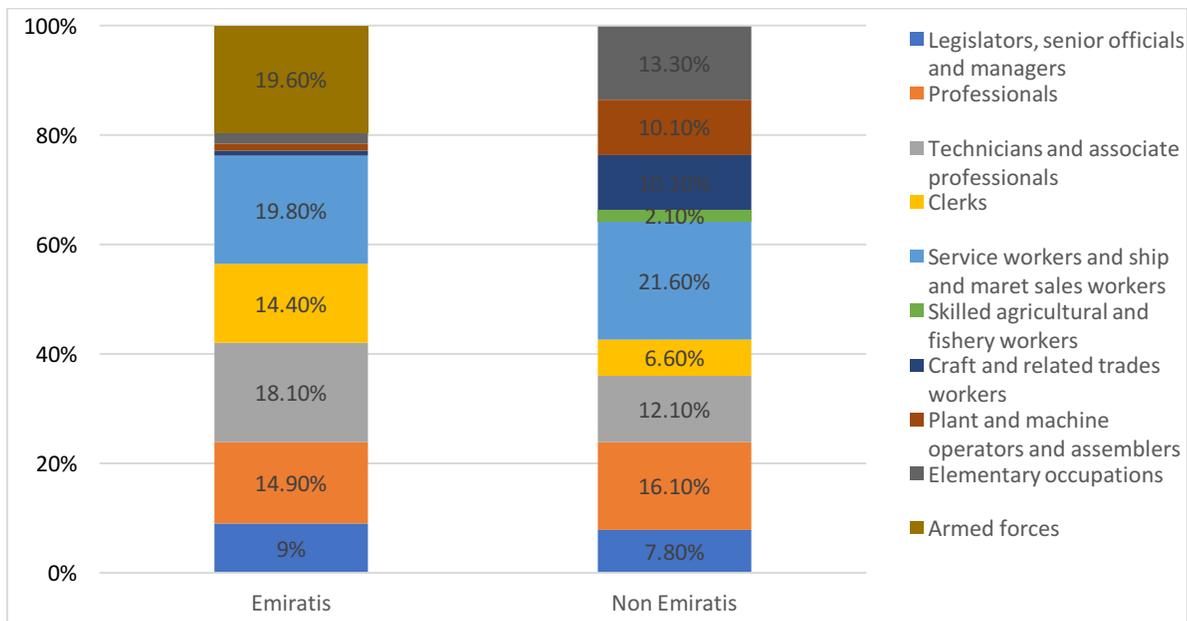
**Figure 4.4: Population by Emirate**

Source: De Bel-Air, (2018).

According to the UN report (2017), as cited in Pew Research Center’s *Global Attitudes Project* (2018), Indians topped the chart of “migrant stock by origin” with a total population 3,310,000, followed by Bangladesh (1,040,000), Pakistan (950,000), Egypt (860,000), and The Philippines (540,000).

In terms of the sectoral distribution, in 2009 the public sector comprising both the Federal and Emirate levels accounted for 90 percent of total Emirates employed, and 15 percent of expatriates. Another 15 percent of expatriates worked in the domestic sector, a further 65 percent in the private sector and the remaining 5 percent expatriates were either undocumented or in the free zones. By 2016, nationals comprised 78.5 percent of the workforce in the public sector and 8.3 percent in the private workforce, while 73 percent of expatriates worked in the private sector, 13 percent in domestic work and 6 percent in public sector, with the remainder undocumented or working in the free zones. Due to the “demographic imbalance”, expatriates dominate almost every occupational level. In the UAE, foreign employees work

in diverse industries at various levels, unlike in other GCC countries where the majority of expatriates occupy blue-collar or low skilled jobs. For example, from Figure 4.5 around 24 percent of foreign employees in the Dubai were in managerial positions with the nationals from western countries occupying the upper strands of the occupations. In contrast, 61 percent of Asian workers work in blue-collar jobs, while only 15 percent are managers or work in other related professional fields. Workers from Arab countries, occupy positions in almost every field and show the same distribution as in any other Gulf country (De Bell Airs, 2015).



**Figure 4.5: Employed Population by Nationality**  
 Source: De Bell Airs (2015)

#### 4.6 PUSH AND PULL FACTORS OF MIGRATION: THE CASE OF THE UAE

As discussed previously, push and pull factors influence labour flows between countries. Pull factors are referred to as positive features of a country that attract migrants, whereas push factors are regarded as the negative conditions that force or prompt an individual to leave the home country. In relation to the UAE, push factors encompass poor economic conditions, political instability and turmoil, wars, insecurity, and dense population, which adversely impact the lives of millions of residents of the UAE’s neighbouring

countries, including Syria, Somalia, Jordan, Palestine, Egypt, those on the Indian sub-continent and The Philippines. Pull factors in the UAE include its fast-paced development in the 1970s and 1980s which offered significant work opportunities. The main pull factors for both skilled and unskilled labour include higher rates of pay, well-established education and healthcare systems, a tolerance of immigrants, and world class facilities for personal enrichment (Khalaf and Alkobaisi, 1999).

#### **4.6.1 Pull Factors**

In many ways, the massive migration of labour to the Emirates is directly related to the oil boom since the 1970s. With the oil boom, wealth was injected in the economy as the leadership aspired to developing the country into a modern and highly urbanised economy. However, the newly established Federation faced significant challenges in relation to a shortage of workers at all skill levels because of the small population, the unskilled local labour force, the negative attitudes of society towards the participation of women in economic development and not accepting blue-collar jobs. This massive demand of labour was seen as an opportunity by other countries that had a surplus supply of labour. Consequently, they encouraged their nationals to migrate to the UAE for work and to send remittances to the home country (Khalaf and Alkobaisi, 1999).

Other pull factors include high income, job opportunities and the low crime rate, which are discussed in the following sections.

##### **4.6.1.1 High Income**

The oil-rich state offered employment to workers, at all skills levels; for highly skilled migrants it offered high and lucrative packages and for those low-skilled workers who were unemployed or underemployed it offered better salaries than were available in their home countries. Overall, the UAE offers much higher

salaries to the workers in comparison to what they receive in their home countries which acts as a principal pull factor of labour migration not only in the UAE but in the Gulf region as a whole. For example, housemaids, unskilled labourers and cooks from Sri Lanka earn 12 times more salary in the Gulf, while during the early 1980s, the salary of a school teacher from Egypt was USD700 per year in their home country but the same teacher would have saved at least USD12,000 per year while teaching in a school in the Gulf. Arguably, the income received by unskilled labourers or farmers from India and other neighbouring countries is more than their ministers receive in the country of origin (Owen, 1985). Furthermore, the situation remains the same even after three decades. According to Numbeo as cited in Azzeh (2017), the average monthly net salary in Morocco, Algeria and Egypt are USD402, USD295 and USD161 respectively; however, the average salary in Gulf countries is USD3,000. Martin (2016) determines that earnings of Indians were 2.5 times greater in Kuwait than in India, while Gamburd (2010) concludes that Sri Lankan domestic workers earn two to five times more in the Gulf than their home country.

#### **4.6.1.2 Job Opportunities**

The following are the main sectors that have created job opportunities for immigrants:

##### ***Real Estate and Construction***

Following the boom in the oil industry, the construction sector was the first that saw a massive influx of migrants. Mega projects of construction and infrastructure development were initiated that attracted labour, mainly from the Indian sub-continent (Khalaf, 1992).

##### ***The Health Sector***

The government has invested huge sums in health and social services, which turned out to be another pull factor of immigration. There is a high demand for nurses and doctors and with the continuous expansion of the facilities and increasing medical tourism the demand for these professions has grown

over the years. Immigrants from western countries tend to occupy managerial positions, whereas Filipinos and Indians hold positions as nurses (Malit and Naufal, 2017).

The UAE healthcare sector is expected to grow at a predicted compound annual rate of around 8 percent during the period 2016 to 2022 reaching USD19.5bn by 2020. The main factor contributing to this expansion is population growth as birth rates are rising, and the average life expectancy is increasing among the native population, with the result the native population of Emiratis is aging and is expected to double from 5.2 percent to 11 percent by 2030. At the same time, the population of expatriate workers is also increasing adding further demand to this sector. Unhealthy lifestyles are also stimulating demand in the sector, with a high pervasiveness of chronic diseases that are mainly caused by unbalanced diet, smoking and sedentary behaviour. According to The World Health Organisation's *World Health Statistics 2015* report "it is estimated that 33.8 percent of adult men and 45.1 percent of adult women in the UAE are clinically obese". Consequently, diseases like diabetes, cardiovascular complications and cancer are on the rise. A final major factor contributing to the growth of the medical sector in the UAE is medical tourism.

In the very near future, there will be even greater demand for medical experts in the UAE health sector. The Health Authority of Abu Dhabi (HAAD) has predicted that by 2022 the Emirate of Abu Dhabi alone will need 4,800 new doctors and 13,000 new nurses, similarly the Director General of the Dubai Health Authority estimated in 2015 that Dubai will need 7,323 more doctors and 8,510 nurses over the next decade, contributing to a major pull factor of migration (Usuaebusiness.org, 2016).

### ***The Education Sector***

The State has also invested heavily in the education sector with the aim of moving towards a knowledge-based economy. The schools in the Emirates offer world class education in an international setting and higher education is also booming. In its five-year plan *Education 2020 Strategy*, the Ministry

of Education (MOE) introduced major qualitative improvements in the education system. According to the website of the MOE it aims to introduce “smart learning programmes, new teachers' codes, licensing and evaluations systems, as well as curriculum revision, including teaching math and science in English, are all part of the strategy”.

In the strategic plan the government aims to reform the teaching system, including introducing its own system of licensing teachers called ‘Teacher and Educational Leadership Standards (TELS UAE) and Licensing Programme’, and overhauling the curriculum to prepare students for future challenges, while at the same reinforcing the national values. There is also a strong emphasis on the STEM (science, technology, engineering and mathematics) curriculum, vocational qualifications and leadership and planning skills at the higher education level. A further improvement is to assess school quality in order to ensure that schools are providing quality education which is on a par with the framework of performance standards and indicators. Although the Ministry of Education already regularly rates schools’ performance, further advancements are being introduced. All these improvements in the education sector require skilled and professional workers from outside the UAE, including managerial, academic, and administrative and support staff.

### ***The Theme Parks Sector***

Dulsco, a leader in the MENA region for human resources and waste management solutions, predicts that the rise of the theme parks industry will boost the migration of skilled workers in UAE (MENA Herald, 2016). This sector is expected to play an important role in developing the tourism industry and will require skilled staff at every level (MENA Herald, 2016).

### 4.6.1.3 The Low Crime Rate

The crime rate in the UAE is one of the lowest in the world; indeed, according to some surveys (e.g. Numbeo), the capital city Abu Dhabi is the safest city on the planet. The low crime rate is one of the pull factors for immigrants as they feel safe and secure in the Emirate. Table 4.2 shows the results as extracted from the report *International Statistics on Crime and Justice* issued by the European Institute for Crime Prevention and Control affiliated with the United Nations in 2010 (Harrendorf, Heiskanen and Malby, 2010).

<b>Crime</b>	<b>Police recorded cases/100,000 population</b>
Drug related crime	23.0
Drug trafficking	2.0
Assault	53.7
Rape	1.7
Robbery	13.2
Burglary	54.7
Motor vehicle theft	14.3
Kidnapping	1.9

**Table 4.2: Crime Rates in the United Arab Emirates, 2006**

Source: Harrendorf, Heiskanen and Malby, 2010.

### 4.6.2 Push Factors

As previously explained, push factors encourage an individual to migrate to another area. Immigrants coming from Bangladesh, India and Pakistan comprise approximately 90 percent of the UAE's private sector workforce. These three countries share similar problems including but not limited to inflation, high crime rates, poor economic conditions, lack of job opportunities and political unrest. These and other political and economic factors push the residents from this region to emigrate, while immigrants from other MENA countries tend to leave because of wars, low wages, inflation and high population density.

This section identifies the factors that push individuals from the Indian sub-continent, North Africa and other Middle Eastern countries to migrate to the UAE.

#### **4.6.2.1 Pakistan**

Pakistan is the sixth most populous country in the world with a total population of 193.2 million (Data.worldbank.org, 2018). According to a UN report (2017), as cited in the Pew Research Center's *Global Attitudes Project, 2018*, there are 950,000 Pakistani migrants in the UAE. Higher levels of inflation and unemployment are the main push factors for Pakistanis. The inflation rate stands at between 10 percent to 22 percent per year and the rate of unemployment has always been above 5 percent since Pakistan's independence in 1947. In order to address the issue of unemployment, the government of Pakistan has made agreements with the Gulf States to export skilled, semi-skilled and unskilled labour (Ali et al., 2014).

#### **4.6.2.2 India**

India is the second most populous country in the world with a total population of 1.324 billion (Data.worldbank.org, 2018). Indians comprise the highest number of migrants in the UAE, 3,310,000 (Pew Research Center's *Global Attitudes Project, 2018*). Although India's economy is growing the country lacks basic facilities such as clean drinking water, sewerage, electricity and infrastructure (Narayan, 2011). Moreover, people from the religious minorities in India are more likely to migrate internationally (Connor, 2017) given the extremist activities and low tolerance for other religions (The Washington Post, 2013).

#### **4.6.2.3 Bangladesh**

There are 1,040,000 citizens of Bangladesh residing in the UAE (Pew Research Center's Global Attitudes Project, 2018) making them the second most represented group of migrant workers. According to Datta (2004), poor economic conditions, the slow pace/absence of industrialisation activities, social insecurity, and the unstable political situation (supporters/workers of the losing party fear torture from the winning party) are the major push factors for emigrants. Moreover, natural disasters occur regularly in Bangladesh, especially in the north of the country. Farmers lose their crops due to flooding and heavy rains leaving them in financial crisis and because of the weak economic conditions they do not receive State support (Farhana, Rahman and Rahman, 2012).

#### **4.6.2.4 The Philippines**

Immigrants from The Philippines totalled 540,000 in the UAE in 2017 (Pew Research Center's Global Attitudes Project, 2018). Unemployment remains a major challenge for the country; more students graduate each year but unfortunately no new jobs are created to use their talent. Another factor related to unemployment is poverty; because of the unequal distribution of wealth and high rate of population growth poverty remains a major challenge. The Philippines also has a high crime rate, in particular kidnapping, which is believed to be spurred by the high levels of poverty (Micoso and Dela Vega, 2018).

#### **4.6.2.5 Lebanon**

According to the Pew Research Center's *Global Attitudes Project, 2018*, there are 40,000 Lebanese residing in the UAE. The major push factor for Lebanese is political instability. The country has faced numerous wars and conflicts, including a long-running civil war which saw many of the middle class

emigrate, and has a dysfunctional political system. Even when the country is stable, economic factors and limited job opportunities push migration (Tabar, 2010).

#### **4.6.2.6 Egypt**

According to the UN report 2017, as cited in Pew Research Center's *Global Attitudes Project, 2018*, there are 860,000 migrants from Egypt in the UAE. High unemployment rates among the educated youth, and a lack of job opportunities, particularly for males are the main push factors for Egyptians. Since the 2011 revolution, there has been fear of further political instability and an increased lack of security which is pushing Egyptians to migrate to safer countries (Amer and Fargues, 2014).

### **4.7 THE GOVERNANCE SYSTEM OF THE UAE**

The UAE has a federal system that combines elements of traditional and modern leadership which has given the country its national identity and kept it politically stable. Each Emirate has its own local government that is based on the traditional monarchical structure, ruled by Sheikhs of the royal families. They hold significant authority and are independent in making economic and social decisions for their populace. When it comes to Federal matters of administration, each Emirate's rights are proportional to its status and power relative to the other Emirates; hence Abu Dhabi and Dubai are the main powers. However, the appointment of the President and Prime Minister are made by consensus. Both local and Federal level government lack representative political institutions but a citizen is able to discuss his/her problems directly with the local leader in the *majlis* (council) (Uaecabinet.ae, 2018a).

#### **4.7.1 The Executive**

The executive authority lies with the Federal Supreme Council (FSC), which comprises the President, Vice-President, Prime Minister, and cabinet. The FSC holds the supreme power in policy making and is the highest constitutional authority and approves Federal legislation. The members include rulers of all the seven Emirates and the council elects the President and Prime Minister from them. The head of state is the President, who serves a five-year term and is elected or reconfirmed by the FSC. The current President is Sheikh Khalifa bin Zayed Al Nahyan who is also the ruler of Abu Dhabi. The Vice-President is appointed by the President, but approval is needed by the FSC. Currently, this position is held by the ruler of Dubai Sheikh Mohammed bin Rashid Al Maktoum (Uaecabinet.ae, 2018).

#### **4.7.2 Local Government**

The Constitution (Article 122) outlines the relationship between the Federal and local governments allowing room for power distribution (Appendix D). Even today, the traditional political system of *majlis* holds a significant position in the governmental structure of the UAE, as it is through this that citizens can ask their rulers/leaders to resolve their issues. As a tribal system is followed in the UAE, the leadership of an Emirate goes to the tribe that is preeminent and active in politics; the leader (Emir) is then selected and on most occasions a son of the previous emir is selected (Gorgenländer, 2011).

#### **4.7.3 The Federal National Council**

“The Federal National Council (FNC) is the consultative council, the parliamentary body of the UAE” (Government.ae, 2018f). It is comprised of 40 members; 20 of whom are appointed by the Emir of each Emirate according to their quota (see Table 4.3) and 20 are elected by the nationals of the UAE through an electoral college. The main functions of the FNC include: approving, revising or rejecting draft Federal

laws, examining the draft law of the annual general budget, considering international agreements and treaties and reviewing and recommending general subjects related to the affairs of the Federation. Importantly, the FNC is a member of the International Parliamentary Union (Abudhabi.ae, 2018a).

<b>Emirate</b>	<b>No. of Members</b>
Abu Dhabi	8
Dubai	8
Sharjah	6
Ras Al Khaimah	6
Ajman	4
Fujairah	4
Umm Al Quwain	4
<b>Total</b>	<b>40</b>

**Table 4.3: FNC Quota by Emirate**  
 Source: Government.ae, (2018f)

**4.7.4 The Judicial System**

The UAE’s code of law combines Islamic law and civil law, although each Emirate incorporates both laws in a different way; for example, Dubai is more relaxed in relation to Islamic law, while Sharjah is stricter. The Supreme Court is the highest Federal court and the President of the UAE appoints the judges following approval by the FSC. The constitution guarantees the independence and autonomy of the judiciary (government.ae, 2018a).

**4.8 INSTITUTIONS FOR MIGRATION GOVERNANCE IN THE UAE**

The institutions that are responsible for migration governance in the UAE include: Ministry of the Interior; the Ministry of Human Resources and Emiratization (MoHRE); the Federal Authority for Identity and Citizenship (FAIC); and each Emirate’s General Directorate of Residency and Foreigners Affairs. These are discussed in the following sections (see Table 4.4 for a summary of the roles of each institution); however, the free zones have different visa system in the UAE. In addition, it is important to take account

of the challenges caused by multiple institutions across the country that regulate and facilitate the State's position in response to migrants and migration.

Prior to 2018, low-skilled migrant workers experienced overlapping responsibilities between institutions for processing and issuing their visas, employment contracts and their rights. For instance, domestic foreign workers were dealt with by the Ministry of Interior (MoI) in relation to visas and national identity cards, the Ministry of Health for medical tests and the health insurance company for the health insurance card, while non-domestic foreign workers dealt with the MoI, Ministry of Labour (now MoHRE) and FAIC. This resulted in tensions between employers and workers on one side and the State and private sector recruitment agencies on the other side. As a consequence, the workers were victims of the conflict between the requirements of the recruitment agencies and the employer over recruitment costs. Therefore, the UAE government introduced changes to reduce the impacts of multiple institutions which resulted in shifting the responsibilities from the private to the public sector for dealing with expatriate workers. These changes meant the employer now only dealt directly with MoHRE and FAIC. However, despite the new changes, the overall picture of migration governance in the UAE remains incoherent and lacks an overarching vision with the respect to providing a migrant-friendly environment.

The recent changes initiated to overcome the challenges between migration bodies included:

1. Presidential Decree No. 3 of 2017, amending the Federal Law No. 2 of 2004 establishing the Emirates Identity Authority (Appendix E) and replacing it with the Federal Authority of Identity and Nationality. The decree also transferred all the affairs of the Directorates of Naturalisation and Passports from the MOI to the new Authority.
2. Effective from 2018, the MoHRE cancelled all domestic worker recruitment agencies and replaced them with 'TADBEER' centres that are supervised and inspected by MoHRE. Also, the Ministry introduced 'TASHEEL' centres for non-domestic workers seeking visas. Thus,

the MoHRE became responsible for the entire process of pre-visa issuance, such as job offers, job contract approval, work permit approval, contract terms enforcement, and complaints handling.

3. On 14 June, 2018, the UAE Cabinet approved decisions in regard to visa including:
  - Job seekers who have overstayed their visa but wish to work in the country will be allowed to apply for a six-month visa.
  - Individuals who entered the UAE undocumented (illegally) will be given the opportunity to leave voluntarily with a ‘no entry’ stamp for two years given that they provide a valid return ticket.
  - Transit travelers will be exempt from all entry fees for the first 48 hours and their transit visas can be extended up to 96 hours.
  - People who wish to renew their visas can do so without having to do a ‘visa run’ by leaving and re-entering the country and for free.

#### **4.8.1 The Ministry of Interior**

From the inception of the UAE, it was agreed that the function of security would be headed by a Federal authority. The formation of the MoI, with responsibility for internal security, soon after the establishment of the Federation was evidence that the government would not compromise on the security of its constituency and its residents. All seven Emirates were in agreement for integrated policing and security agencies, which have played a significant role in maintaining and enhancing security throughout the country and making it one of the safest places on the planet.

<b>Institutions</b>	<b>Pre-arrival</b>	<b>Upon Arrival</b>	<b>Visa processing</b>	<b>Visa Issued</b>	<b>Visa Transfer</b>	<b>Visa Cancellation</b>
Recruitment Agencies in Sending Country (RAS)	Job offer received from UAE and communicated to worker, then worker accepts or rejects offer	No rules as the agencies have been paid.	No rules	No rules	No rules	No rules
Recruitment Agencies in UAE (RA)	Send job offer to recruitment agency in sending country and process accepted job offer	Process temporary work permit and send to RAS or worker. Worker brings copy to airport.	Guide worker to do medical test, health insurance, and National ID card	Act on behalf of employer if contracted to process visa at FAIC	Act on behalf of former and new employer if contracted by them.	Act on behalf of employer if contracted to undertake the service
Employer	Seek RA to recruit worker and submit job offer to RA.	Send original temporary work permit with representative to receive and clear the worker out of the airport.	Pay fees to RA OR pay to worker to get medical test certificate health insurance card, national ID card	Pay all due fees Receive the passport on behalf of worker	Approve worker transfer to another employer by submitting transfer application form to FAIC Might ask worker to pay the cost of transfer	Must approve and submit visa cancellation application to FAIC
Ministry of Human Resources and Emiratisation	Issue temporary work permit and validate job offer via online system	No rules	Issue job contract and labour card after worker got his/her visa from FAIC	Inspection on employer work condition Enforce Health and Safety in workplace Enforce Wage Protection electronic transfer system Receive workers and employer complaints and appeals Issue fines if job contract violated Renew job contract and labour card	Approve new job offer and contract Issue new work permit and labour card Validate and protect the rights of both workers and new and former employers	Cancel contract and labour card Issue wage protection satisfaction certificate Retain position quota for employer Inspect employer workplace before approving replacement worker
Federal Authority for Identity and Citizenship (FAIC)	No rules	Validate work permit and airport to allow worker to enter the country	Issue national identity card after worker gets medical certificate and health insurance. Issue employment visa.	Renew National ID Card and Employment Visa	Issue new visa and National ID card	Cancel visa and National ID card Issue clearance letter if needed
Ministry of Health	Attest health certificate in UAE embassies	Issue health certificate and vaccination if needed	No rules	Renew health certificate	Issue new health certificate if transfer happened in the last six months of employment contract	No rules
Health insurance companies	No rules	No rules	Issue health insurance card	Renew health insurance cards	Issue new health insurance card	Cancel insurance card
Ministry of Interior	Their rule is taken over by FAIC	Rules by FAIC	Rules by FAIC	Receive and investigate any crimes or wrong doing by workers or employers	Rules taken by FAIC	Enforce worker 30 days permit after cancellation to retain legal visa status. Track illegal workers with no visa
Ministry of Justice	No rules	No rules	No rules	Established Labour Cases Specialised Court	Deal with any worker or employer violation or dispute	Deal with all illegal and no visa workers cases Appoint attorney for those who do not afford

**Table 4.4: Employment Visa Issuing System by Institution in the UAE**

Source: Compiled by Author

Several functions fall under the MOI requiring significant resources and a highly skilled police force to ensure peace and security for the residents and visitors of the country. The leadership of the country has invested heavily in physical and human resources to fight crime and enhance security. The major functions performed by the Ministry, include enforcement of peace and security, regulating police forces, undertaking affairs related to naturalisation and residency and managing the traffic system. The main roles of MoI include:

- Protect state security;
- Create, organise and supervise police and security forces;
- Conduct all affairs related to naturalisation and residency;
- Regulate road traffic; and
- Provide protection and security of establishments and property (Government.ae, 2018e).

#### **4.8.2 The Ministry of Human Resources and Emiratisation**

The Ministry of Human Resources and Emiratisation was established in 1971 and consists of four main sectors: Labour Sector, Inspection Sector, Policies and Strategies Sector, and Supporting Service Sector. The Ministry aims at qualifying and preparing the UAE business market through enabling national human resources to work in the private sector, and to establish a comprehensive system for protecting labour rights, while safeguarding employers' interests in addition to providing excellent customer services. It was known before as Ministry of Labour (Abudhabi.ae, 2018b).

The MoHRE issues work permits for migrants, which are applied for by the prospective employer applies using a variety of online services.

Under Article 1 of Ministerial Decree No. 766 of 2015, an employee whose employment was terminated (Appendix F) because of expiry of his/her contract, whether limited or non-limited can get a new work permit when s/he wishes to join new employment. If the employee is in the UAE, s/he must maintain a status which allows him/her to transfer his/her residency to a different sponsor. An employee can also get a new work permit for all limited and non-limited contracts if:

- it is determined that the employer has failed to meet the legal and contractual obligations, including but not limited to failure to pay wages for more than 60 days
- MoHRE confirms that the employer has not provided work due to the firm being inactive for more than two months and if the worker reports to the ministry during this period.
- the final ruling in a labour case (which MoHRE referred to the Labour Court on the basis of a complaint) is in favour of the employee and where the case pertains to early termination or outstanding wages which are less than two months of dues for end of service (Government.ae, 2018b).

The MoHRE is also responsible for overseeing the employer-employee relations and maintaining labour rights for the private sector. It covers the labour laws that have the following main provisions (Government.ae, 2018c):

- Working hours;
- Official leave and vacations;
- Wages protection system (WPS);
- End of service benefits;
- Safety at work place;
- Accommodation; and
- Insurance.

#### **4.8.3 The Federal Authority for Identity and Citizenship**

The FAIC was created in 2004 under the name ‘Emirates Identity Authority’ through Federal Law No. 2, 2004 in order to establish the ‘Population Register and Emirates Identity Card Program’. Its functions included capturing and recording of personal data on a secured database, sharing it with relevant authorities, issuing Emirates Identity Cards for every person required to register with a unique number and electronic chip that contains the data. Its mandate is:

The Federal Decree-Law No. 2 of 2004 stipulated the establishment of ICA as a federal government authority with legal personality and independent budget. It undertakes registering population data and issuing Emirates ID cards. The Federal

Decree-Law No. 3 of 2017 amended the aforementioned Federal Decree-law. The terms of reference and powers assigned to Ministry of Interior, in terms of nationality affairs, passports, entry and residence of foreigners in the State and contained in the laws, regulations and decisions in force, shall be transferred to ICA, so that ICA are entitled to:

- Registering personal data for the whole population in the state and saving the same at the electronic databases in coordination with the competent authorities
- Registering the vital statistic data and connecting the same to the personal data
- Issuing Emirates ID cards consisting of the unified number, readable data and the data saved on the electronic chip to be dealt with before all authorities
- Upgrading data
- Providing individuals' identity confirmation and identification services before all federal and local government authorities and any other entities in addition to determining the applicable means in this regard in accordance with the executive regulations.
- The right to request the required data and information which may serve the objectives of ICA from the competent authorities in the state.
- Setting the general policy in terms of nationality affairs, passports, entry and residence of foreigners in the state in coordination with the competent federal and local authorities and implementing the same after being approved by the Cabinet
- Proposing draft laws related to nationality affairs, passports, and the entry and residence of foreigners in the state
- Preparing regulations, laws, rules and procedures governing nationality, passports, entry and residence of foreigners in the State and issuing them in accordance with Law
- Deciding the applications related to the establishment of the original or dependent nationality, loss or recovery of nationality in accordance with the Nationality and Passports Law and its Executive Regulations
- Proposing the ports designated for entering or leaving the state and a Decree of determining the same shall be issued by the Cabinet
- Issuing, renewing or withdrawing the regular or temporary passports after giving them in accordance with the Nationality and Passports Law and its Executive Regulations
- Setting the rules governing the procedures and conditions for residents of the State to obtain entry permits for foreigners residing outside the State and submitting them to the Cabinet for issuance
- Deporting, detaining of foreigners and the issuance of permits to deport foreigners in accordance with Law
- Proposing fees related to nationality affairs, passports, entry and residence of foreigners in coordination with local authorities and submitting them to the Cabinet for issuance
- Collecting and documenting data, information and statistics related to nationality affairs, passports, and the entry and residence of foreigners in the state
- Representing the State in Arab, regional and international conferences and meetings whose activities are related to the nature of the ICA's work and following-up the implementation of the decisions issued in coordination with the competent authorities in the State
- Any other duties assigned to ICA by the Cabinet (ICA, 2018a).

According to the ICA:

The Federal Decree-Law No. 3 of 2017 is a significant and important turning point in the work of ICA after it was decided to change its name to be "Federal Authority for Identity and Citizenship" and to add new functions to its Terms of Reference namely citizenship Affairs, passports, entry and residence of foreigners in the state, and transfer the terms of reference and powers assigned to the Ministry of Interior to ICA in this regard.

- Federal Decree on Establishment of the Federal Authority for Identity and Citizenship
- Federal Law No. (17) Of 1972 concerning Nationality and Passports
- Federal Law No (6) for 1973 Concerning Immigration and Residence
- Federal Decree-Law No. (2) of 2004 establishing Emirates Identity Authority
- The Executive Regulations of the Federal Decree-Law No. (2) of 2004 establishing the Emirates Identity Authority
- Federal Decree-Law No. (9) of 2006 regarding the Population Register System and Emirates ID Card
- The Executive Regulations of the Federal Decree-Law No. (9) of 2006 regarding the Population Register System and the Emirates ID Card
- Federal Decree-Law No. (9) of 2015 amending the provisions of Federal Decree-Law No. (9) of 2006 regarding the Population Register System and Emirates ID Card
- Federal Decree-Law No. (3) of 2017 amending the Federal Law No. (2) of 2004 establishing the Emirates Identity Authority (ICA, 2018b).

The structure of the ICA is detailed in Appendix G.

#### **4.8.4 The General Directorate of Residency and Foreigners Affairs**

The General Directorate of Residency and Foreigners Affairs (GDRFA) of each Emirate works closely with the MoHRE in issuing work visas to foreigners (Government.ae 2018b). This section provides examples of the roles of the GDRFAs from Abu Dhabi and Dubai.

In Abu Dhabi, the Department of Naturalisation and Passports was established in 1966 which granted citizenships and issued passports for its residents. In 1972 and 1973, Laws No. 17 and 6 came into force in order to regulate the nationality, passports, immigration and residency affairs in Abu Dhabi. Then, in 2009 the MoI unified the names of all the Departments of Naturalisation and Residency in UAE to the General Directorate of Residence and Foreigners Affairs. As of today, the GDRFA-Abu Dhabi is responsible for reviewing, revising and implementing the laws related to the entry and exit of foreigners, participating in the

publication of Federal orders involving entry, residency and exit of expatriates and liaising with other concerned authorities on such matters (Abudhabi.ae, 2018c). The strategic objectives of the GDRFA-Abu Dhabi include:

1. Promote safety and security;
2. Make Roads more Safe [sic];
3. Promote Civil Safety and Protection;
4. Ensure Readiness in tackling Incidents;
5. Promote Customer Satisfaction with delivered services;
6. Ensure the delivery of all administrative services according to the quality, efficiency and transparency standards; and
7. Instil the culture of innovation in the corporate performance environment (Adnrd.ae, 2018).

See Appendix H for the structure of GDRFA-Abu Dhabi.

The GDRFA-Dubai is part of the UAE's MoI and regulates the entry and exit of foreigners to and from Dubai. In 1972, the Central Immigration Department and the Ports and Borders Department were merged to form the MoI, and Federal Law no. 17 was promulgated to regulate naturalisation and passports (Dnrd.ae, 2018a). The Strategic Goals (2017-2021) of the GDRFA-Dubai are:

1. Enhance the General Directorate of Residency and Foreigners Affairs' reputation in the community
2. Deepen the loyalty of the General Directorate of Residency and Foreigners Affairs' employees
3. Improve the customers' relations with the General Directorate of Residency and Foreigners Affairs'
4. Maximize the benefit from the partners of the General Directorate of Residency and Foreigners Affairs'
5. Increase the innovative services of the General Directorate of Residency and Foreigners Affairs'
6. Develop the policies & regulations of the General Directorate of Residency and Foreigners Affairs'
7. Boost the efficiency of executing the General Directorate of Residency and Foreigners Affairs' programs
8. Simplify the processes and procedures of the General Directorate of Residency and Foreigners Affairs' and maintaining their results
9. Establish a culture of innovation in the General Directorate of Residency and Foreigners Affairs'
10. Develop leadership & specialist cadres of the General Directorate of Residency and Foreigners Affairs'
11. Maximize the benefit of the General Directorate of Residency and Foreigners Affairs' facilities & ensure its sustainability

12. Increase the reliability on smart technology in the General Directorate of Residency and Foreigners Affairs'
13. Increase the efficiency of utilizing financial resources in the General Directorate of Residency and Foreigners Affairs'
14. Rationalize the General Directorate of Residency and Foreigners Affairs'
15. Increase the General Directorate of Residency and Foreigners Affairs' revenue (Dnrd.ae, 2018b).

See Appendix I for the structure of GDRFA-Dubai.

## **4.9 ACQUIRING WORK IN THE UAE**

Workers who seek jobs in the UAE have to go through the visa process. Before exploring the visa process, it is essential to touch upon the sponsorship system (*Kafala*) as part of the migration system in the UAE. This section explores the sponsorship system, work visa process, types of employment contracts in the public and private sectors, and the visa system in the free zones.

### **4.9.1 The *Kafala* System**

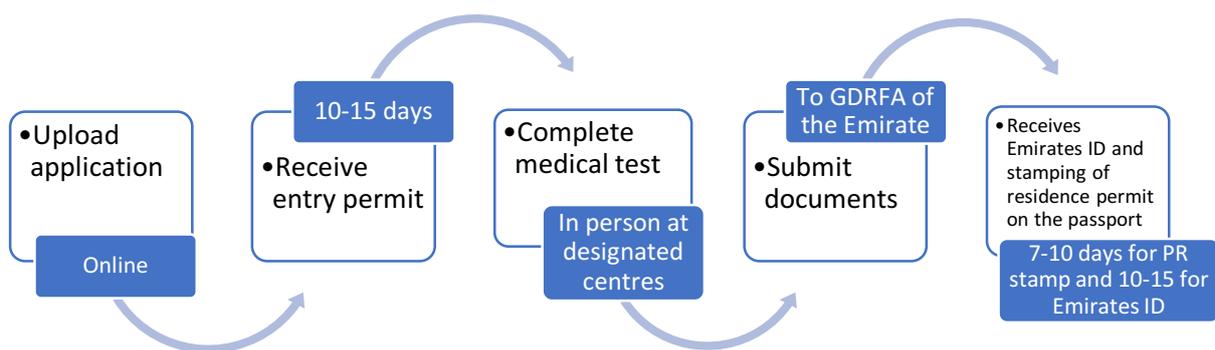
The *Kafala* system allows for an individual migrant to be sponsored by a citizen or by a company rather than the state. According to Parrenas and Silvey (2016) on 1 January 2016, the UAE introduced extensive reforms to the *Kafala* system. The new changes include: workers can now seek employment after their contract expires without any penalties; with the mutual consent of employer and employee the employment contract can be terminated; and employees can unilaterally terminate the contract by providing at least one month's notice and meeting all other legal requirements. This benefited many migrants, but Emiratis were excluded from these reforms and the old rules of *Kafala* still apply to them.

The *Kafala* system has been criticised by international human and labour rights organisations and watch dogs. However, from the perspective of the Gulf countries the system has three main objectives:

- i) it provides a continuous low-cost supply of affordable labour in the private sector;
- ii) it tends to regulate “the perceived impact of immigration on the culture and perceived national identity of the population”; and
- iii) by restricting the worker’s right, the system eliminates the potential security concerns of citizens who are in a minority in their own country (Roper and Barria, 2014).

#### 4.9.2 Work Visa Process

The work visa is acquired through MoHRE and the GDRFA of the relevant Emirate. According to Ministerial Decree 764 of 2015 (Appendix J), it is mandatory that the employer and employee sign the employment offer. The main aim is to help the worker understand what they are being offered and what they are expected to do. Moreover, provisional approval for entry clearance of an expatriate cannot be granted until the worker’s signed employment offer (that conforms to the Standard Employment Contract) is presented to the Ministry (Government.ae, 2017a). The process of obtaining a work visa can be divided in two steps (see Figure 4.6).



**Figure 4.6: Work Visa Process**

Source: Compiled by Author

In step one, the process starts by securing a work permit (pink visa) for an emigrant from the MoHRE. With this permit an individual can enter the country but it expires after two months of its issuance date. In step two, after the worker enters the UAE, the employer is

required to complete a number of processes within 60 days. These include a mandatory medical examination, applying and obtaining a resident identity (Emirates ID), processing the labour card and getting a work residence permit stamped on the employee's passport. Once this process is successfully completed, the employees can then sponsor their family members to join them in the UAE (Government.ae 2018b).

#### 4.9.3 Types of Employment Contracts

The type of contract an employee receives differs according to the sector in which they work.

In the public sector:

Contracts for public sector are governed by Cabinet Decision No. 13 of 2012 regarding Executive Rules for Decree under Law No. 11 of 2008. Articles 9 to 16 of the decision provide for the following types of contracts:

- Full-time employment contract
- Part-time employment contract
- Temporary contract
- Special contract.

**Full-time employment contract:** Full time employment contract requires an employee to work to full hours or days and in return receives the compensation as per the position including allowances.

**Part-time employment contract:** Part-time employment contract requires employees to work for limited hours out of total working hours and in return they receive compensation proportionate to the hours worked. Moreover, they also have right to receive other perks and allowance commensurate to their position.

**Temporary employment contract:** In case of a temporary contract, the worker is employed for full working hours but the contract is limited only for three months, however it is renewable for similar timeframe. The employee is entitled to receive salary and other allowances as per the job title/position.

**Special contract:** Through a special contract, an individual is appointed by a minister in a highly ranked position either in the ministry or in any other organisation for a period of two years. The contract can be renewed after its expiry. The employee receives salary and allowance from the ministry's budget and they don't exceed the maximum limit defined by the ministry (Government.ae, 2017).

In the private sector, there are two types of contract according to the UAE Labour Law No. 8 of 1980:

**Limited term contract (fixed term):** This type of contract is valid for two years and it automatically gets cancelled upon expiry, unless renewed.

**Unlimited term contract:** It is an open and flexible contract that is usually given to the employees in the UAE. Employer or employee can terminate this contract at any

time either with mutual consent or by giving one or three months notice as outlined in the contract. In case where the contract was terminated without following the legal process, the affected party can claim for damages (Government.ae, 2017).

Regulations pertaining to contracts differ in the Free Zones, which were established to encourage and attract foreign investment. All seven Emirates have free zones; however, each zone has its own authority which defines the rules applicable in that zone. Foreign investors can own 100 percent of the firm, with easy start up procedures and straight forward labour and immigration rules. Work permits and residency visas for employees in the free zone are granted by the respective Free Zone Authority. These employees are generally not governed by UAE Labour Laws. The following is an example from the Hamriyah Sharjah Free Zone.

- In first instance, the visa is applied only for the individuals whose name appear on the trade license of business.
- The minimum age limit is 18, and maximum age limit is 60 for an employment visa application in the free zone; however, where an applicant's name appears in the trade license special approval can be granted.
- For employment visas, it is a mandatory requirement for women, professionals and individuals who hold managerial positions to provide attested academic credentials.
- An employee whose visa is issued from the Emirate's Free Zone Authority is only allowed to work with the sponsored company and he/she must seek special permission for working outside the free zone.
- Acquiring the visa is the same process as previously explained; however, the employees working in the free zone are required to have an access approval or identity card.

In most free zones, companies are subject to quotas that are imposed by the Free Zone Authority. If firms wish to increase their quotas, they can either move to larger office space or they can apply for an application for an increased visa quota which is subject to approval from

the Free Trade Authority. For example, the quota set by the Free Zone Authority, the Dubai Multi Commodities Centre, is dependent on the size of the office held by the firm:

- Flexi desk - up to 3 visas
- Serviced office - 4 or 5 visas depending on the size of the office
- Physical space - 1 visa for every 9 square metres (Government.ae, 2017d)

Termination of an employment contract follows specific rules (see Appendix K):

**Fixed term contract:** As per the UAE Ministerial Decree (765) of 2015 a fixed term contract can be terminated:

1. When the term outlined in the contract has expired and it is not renewed
2. If both parties agree with a mutual consent to end the contract
3. In case of termination of the contract either by the employer or the employee certain conditions should be met e.g. fulfilling the notice period or compensating the other party in case of early termination of contract.

**Non-fixed term:** In case of non-fixed term employment contract, it can be terminated on the following grounds:

1. when both parties mutually agree to terminate it
2. when one of the parties terminate the contract by giving notice of at least one month or maximum three months
3. when once party terminates the contract, and compensates the other for early termination of contract
4. when an employee violates labour law rules under article 120 (Srivastava, 2017)

Once the employment contract is terminated, an employee's work visa is cancelled, and they are granted a "grace period" of 30 days to leave the country or to obtain a new residence visa.

After the grace period expires, if an individual does not leave the country or change their visa status, they are fined or deported (Government.ae, 2017c).

Expatriate employees in the UAE can be banned from entering the country or being employed for a certain period of time depending on the nature of violation. Bans can be divided into two main categories, immigration ban or residence ban and labour bans. Where an employee absconds from work or fails to report to work for a prolonged time, the employer can report such employees to the immigration authorities who can put an immigration ban on the individual. There are 2 types of labour bans:

1. Six Month Labour Ban: This is an automatic ban which is imposed when an employee leaves the job without any legitimate reason. Every worker is automatically banned for

six months under Ministry of Labour rules unless they fall under certain categories of exemption e.g. employer status, education and salary. This ban does allow the individuals to enter the UAE on a visit or tourist visa.

2. One-year Labour Ban: This is imposed if an employee has not completed his/her limited labour contract, such as when an expatriate employee leaves a government job, breaks the terms and conditions outlined in the contract or loses a case against their employer.

In this case the individual is not allowed to enter the country (Machado, 2017).

#### **4.10 LEGAL REFORMS IN THE UAE**

According to the government, the UAE continually strives to improve and protect the labour rights, which is one of its priorities (Mofa.gov.ae, 2018). At the time of writing, the country had ratified nine ILO conventions related to worker rights (Ilo.org, 2018) and has implemented a number of laws to promote workers' rights including but not limited to recruitment, health and safety, housing, timely payment of wages, working hours, annual holiday etc. (Uaesdgs.ae, 2018). The following sections outline the major reforms of UAE laws in relation to labour rights and wellbeing.

##### **4.10.1 International Pressure and Labour Reforms**

A number of reports published by the international organisations and the media built pressure on the UAE to introduce changes to the labour laws and regulations. In chronological order, these reports included:

- In September 2003, at the time of the Annual Meeting of the World Bank in Dubai, Human Rights Watch criticised the government of the UAE for not responding to the rights of labourers migrating from South Asian countries (Human Rights Watch, 2003).

- In 2004, in their Annual Country Report, the US Department of State quoted extensive cases of violations of human rights (US Department of State, 2005).
- In 2004, following the death of five workers at the Dubai Airport terminal construction site, the *BBC* highlighted a number of challenges faced by construction workers. These included non-payment of wages, no right to change employers and not leaving the country without employer's will (news.bbc.co.uk, 2004).
- In December 2005, a report submitted by the Indian consulate in Dubai to the Government of India brought into focus numerous issues faced by blue-collar Indian workers in the Emirate. These issues included late payment of wages, long working hours, early termination and alteration of contracts. It was also testified by the Consulate in a later report that in 2006, 109 blue-collar Indian workers committed suicide in the UAE (Academic Dictionaries and Encyclopedias, 2018, Aljazeera.com, 2007).
- On 21 March 2006, angry workers rioted at the construction site of Burj Khalifa and damaged offices, vehicles, IT and construction equipment. They were furious at their work conditions and poor wages (Whitaker, 2006).
- In October 2007, there was another strike by migrant workers and the police made several arrests; however, a few days later almost everyone involved in the strike was freed (news.bbc.co.uk, 2007).
- In 2009, Human Rights Watch reported that migrant workers who were building the prestigious The Louvre Abu Dhabi were subjected to serious human rights violations (Human Rights Watch, 2009).
- In 2010, a publication by Human Rights Watch drew attention towards the poor plight of construction and domestic migrant workers stating, "The UAE's economy

stumbled in 2009 and the human rights situation worsened, particularly for migrant workers” (Human Rights Watch, 2010).

Following the labour strikes and international pressure, the UAE started to introduce labour reforms, some of which are identified below.

#### **4.10.1.1 Midday Break and Working Hours**

As a consequence of strikes and the negative coverage in the news media, the UAE government decreed and enforced a “midday break” for construction workers in 2008, to ensure that workers could avoid the summer heat (US Department of State, 2008). Another Ministerial Decree No. 401 of 2015 concerning the ‘Determination of Midday Working Hours’ for jobs performed in open areas was implemented (Appendix L). According to this decree, no worker should be present at the work site between 12:30 pm and 3.00 pm and employers are responsible to provide reasonable shelter for workers in which to rest during this time. This decree also restricts daily working hours to eight hours but stipulates that if a worker works extra hours then s/he should be compensated with an overtime payment (Ilo.org, 2015a). Penalties are imposed on the employers who do not comply with the midday break rule. Where workers are found to have worked during the designated midday break, the employer could be fined AED5,000 per worker up to a maximum of AED50,000 (Khaishgi, 2016).

#### **4.10.1.2 Labour Contracts and Changing Employers**

Before 2011, migrant workers were left at the mercy of their sponsor upon the expiry of their employment contracts. The sponsor/employer could curtail the options and choices of future employment of their employees and could opt to send workers back to their home countries (Al Ubaydli, 2016). However, labour reforms implemented on 1 January 2016 through three Ministerial Decrees in 2015 (No. 764, No. 765 and No. 766) strengthened protection for

workers. The first decree made it mandatory for employers to issue job offers to prospective employees in a language they could understand. The second law allowed the workers to seek a new job if their existing employer had not met the stipulated terms and conditions of the contract or if the worker and employer had terminated the contract through mutual consent or if the employee had served the required notice period. Under the third law, those employees who had lawfully terminated their employment contract were allowed to work with a different employer in a new job (Government.ae, 2018a; Human Rights Watch, 2018).

#### **4.10.1.3 Protection of Domestic Workers**

The UAE has introduced numerous reforms with the aim of enhancing domestic workers' rights. To this end, in September 2017, the President signed Federal Law No. 15 of 2017 related to domestic workers that warranted one rest day per week, 30 days of paid annual leave, a provision for sick leave and 12 hours of rest in a day (Appendix M). It also gave workers the right to keep the possession of their personal documents, including passports. This law also permitted the workers to terminate their employment contract, if the employer had violated any terms and conditions of the contract. Within the jurisdiction of the law, authorities are now permitted to inspect recruitment offices, workplaces and residences where workers are employed. The law also included clauses that spell out penalties for violations (Human Rights Watch, 2018; Export.gov, 2016; Knowledge.leglobal.org, 2017).

In April 2018, during the 45th session of Arab Labour Conference, five GCC countries, the UAE, Saudi Arabia, Bahrain, Kuwait and Oman, agreed to design a unified policy on foreign domestic workers. It was agreed that standard regulations on transfer of employment, minimum wages and contracts would be established (Al Wasmi, 2018).

#### **4.10.1.4 Recruitment Agencies**

The recruitment process for migrant labour workers starts in their countries of origin. However, UAE recruitment agents charge recruitment fees from these workers (Ghaemi, 2006). To pay the recruitment and processing fees, these workers from poor economic background agree to salary deduction schemes that take away a sizeable proportion of their wages (Agunias, 2012). However, according to UAE law, recruitment firms cannot charge workers any fees related to their hiring or travel expenses. If such fees are paid, the Ministry of Labour can require the recruitment agencies to reimburse them. According to Ministerial Resolution 1283 of 2010, recruitment (Appendix N) firms are required to register with the Ministry of Law and deposit a guarantee. If a firm defaults under the resolution, this guarantee can then be used to settle outstanding sums. Moreover, individuals who have convictions for human trafficking crimes are not permitted to set up a recruitment agency, even if it is a partner of legal entity (Mofa.gov.ae, 2014; McGeehan, 2015).

#### **4.10.1.5 The Wage Protection System**

In order to address the issue of non-payment of wages, the UAE government introduced the Wage Protection System (WPS) in July 2009 by Ministerial Decree No. 788 of 2009. Through this system, workers are able to receive their wages through an electronic system, via the Central Bank. All employers are required to subscribe to the system or face penalties. The WPS system allows the MoHRE to monitor the payment of wages, identify employers who default on their payment and take necessary action against them (Ilo.org, 2015b). The MoHRE issued Ministerial Decree No. 739 of 2016 concerning the Protection of Wages. This new decree not only reinforces the requirement for employers to subscribe to WPS but also outlines revised penalties in cases where employer fail to pay their employees on time (Dowding, 2016; Isgar and Singh, 2016). In the case of non-adherence to the WPS, the company's account with the

Ministry is suspended and it is no longer able to hire staff and issue visas (Hepworth, 2018). The WPS was identified as good practice by the ILO in 2016 as “the first of its kind in the Arab world that reflects the UAE’s pioneering role in the region to address conditions of foreign workers”. As of October 2015, approximately 3.5 million workers are paid through the WPS (Ilo.org, 2016).

#### **4.10.1.6 Legal Support**

The UAE government has set up offices in the courts that offer legal support to workers facing employment disputes with their employers. Labour care units have also been established throughout the country. These provide protection to migrant labourers and educate workers on their rights. A 24-hour hotline has also been set up, through which workers can lodge complaints about their employers (Government.ae 2018a; Khaleejtimes.com, 2014). The government has also signed Memorandums of Understanding with the major labour sending countries including India, Pakistan, Bangladesh and Sri Lanka to enhance labour rights. (Emirates 24|7, 2018; Gulf News, 2009; Binsal Abdul Kader, 2018; Gulf News, 2018).

#### **4.10.1.7 Workers’ Accommodation**

A further response of the government to the criticisms occurred when the UAE cabinet published the ‘*Manual of the General Criteria for the Workers’ Accommodation*’ in June 2009. The manual provides the minimum standards to be followed in relation to the facilities provided to migrant workers in line with international standards and maintaining environment and health and safety laws (Government.ae, 2018b; Gulfmigration.eu, 2009). The Ministry undertakes inspections of these accommodation complexes to ensure compliance (Export.gov, 2016). The MoHRE introduced initiatives for labour happiness under the umbrella of the UAE National Programme for Happiness and Positivity including Best Labour Accommodation, Happiest

Work Environment, Happiest Bus and Happiness SIM (mobile SIM card). The idea behind awarding the best labour accommodation was to encourage the employers to conform to the requirements of the Manual (Government.ae, 2018c).

#### **4.10.1.8 Combating Human Trafficking through Legislation**

The UAE has proactively taken several measures to combat human trafficking. It is a regional pioneer in enforcing an extensive anti-human trafficking law through Federal Law No. 51 in 2006 (Appendix O). In 2007, through formation of a National Committee to Combat Human Trafficking (NCCHT), it ensured that the law was effectively enforced. The NCCHT now represents the country at international level conferences related to human trafficking. In 2009, the UAE ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol) and in 2013 it modified its law to conform with the Palermo Protocol. More amendments were made in February 2015 to enhance support for victims and the safety of witnesses. According to the Law, there is a minimum fine of AED100,000 and a minimum of five years' imprisonment for transgressors (Government.ae, 2018d; Unelections.org, 2015; Ohchr.org, 2018). The US Department of State in its 2014 reports acknowledged the efforts and initiative of the UAE in combating human trafficking (State.gov, 2014).

#### **4.11 CONCLUSION**

Since its foundation in 1971, the UAE has come a long way, not only in its economic development but also in migration governance. From a relatively unknown desert country, it has evolved into a country offering some of the best facilities in the world and one that is paving a new way for ensuring migrant's rights in the region. The UAE is home to more than seven million migrants who constitute approximately 83 percent of the total population. Labour

migration has played a major role in advancing the UAE into one of the most economically developed countries in the world in per capita terms. However, such a high number of immigrants brings its challenges. Nonetheless, the government has taken various valid measures to govern immigration. Various departments and ministries, in particular the MoI and the MoHRE, play a vital role in managing huge numbers of immigrants. Although previously the UAE was notorious for not fulfilling labour rights, especially those related to blue collar and domestic workers, the authorities have introduced a number of laws to safeguard workers' rights. These include improving access to justice, compulsory holidays and a midday break, streamlining the WPS, improving accommodation facilities and combating human trafficking. The laws also set out heavy penalties in the case of non-compliance.

To date, the UAE has ratified nine ILO conventions and has drawn up agreements with the major labour-sending countries to protect worker's rights. Although these may be considered baby steps, they show the commitment of the country's leadership towards an effective governance regime of labour migration and protecting labour rights. The Emirate's efforts towards reducing its dependency on oil as the main source of national income, diversifying the economy and building a sustainable economic development model require it to continue to depend on foreign labour for the foreseeable future. The country has built upon past policies, developed new approaches and is currently working on a comprehensive approach to deal with the challenging nature of the massive migrant labour inflows. It is against this background that this research creates a new framework for the governance of migration in the UAE.

## CHAPTER FIVE:

### IMPACT OF MIGRATION ON THE UAE

#### 5.1 INTRODUCTION

At the heart of the growing migration debate in UAE is how the current migration system affects the economic, social and demographic outcomes. For example, the UAE's Ministry of Labour, now the Ministry of Human Resources and Emiratisation, argues that reform of migration policies is central to addressing unemployment and the participation of nationals in the labour market (Ministry of Labour, 2011). This argument is based on two statistical estimates in the Labour Force Survey of 2009 by the UAE's National Bureau of Statistics. First, the Survey's estimates suggest that unemployment among UAE Nationals is about 14 percent, increasing to about 25 percent for youth unemployment (Ministry of Labour, 2011). Second, the Ministry of Labour's analysis of skills distribution of 3.8 million foreign workers, shows that 50 percent of migrant labour is unskilled and a further 29 percent low-skilled (Ministry of Labour, 2011).

In addition, there is also a growing debate about the social cost of the high level of foreign labour, given that the business-friendly fiscal policies in UAE means that the government, not the private companies through taxes, bears the cost of social provision. Aggregating the cost on energy subsidies, use of public services and infrastructure, security and social risk, the available estimate puts the social cost per migrant worker at AED11,559 (USD3,147.06) per year (Al Awad, 2010). The social cost can also be demographic; the increasing number of male migrants, who are unable to qualify to bring their spouses to the country because of the minimum salary requirement, is leading to a growing demographic imbalance.

Furthermore, the potential impact of migrant labour on labour market outcomes and government expenditure raises the question of productivity of the migrant labour. The

argument is based on the economic theory that increasing the demand for low-skilled migrant labour may have a negative impact on labour productivity and, therefore, economic growth. For example, Al Awad (2010) argues that while cost low-skilled labour reduces the overall labour cost for the economy, it may also affect the productivity of the aggregate economy, leading to a lower average output per worker.

Consequently, the importance and nature of the debates on the potential impact of migration on economic, social and demographic outcomes require empirical analysis to provide answers. However, systematic and objective research on the evaluation of the social and economic impacts of migration does not exist (Fargues and Shah, 2014). This empirical analysis is, therefore, an attempt to fill the gap in the literature, by providing statistical analysis using available country-level data to examine the potential impact of migration on key social economic outcomes: unemployment rates; demographic distribution; and economic output or productivity.

Empirical analysis of migration outcomes with respect to unemployment, demographic distribution and economic growth requires socio-economic data, generally collected through labour force surveys, censuses and national accounts publications. However, the key social data, including population figures and demographic characteristics of the resident population, is limited in the case of the UAE. For example, a federal census originally due to be carried out in April 2010 by NBS was eventually cancelled. As a result, key statistics are often based on estimates by different national and international statistical agencies, with international agencies questioning the reliability and accessibility of UAE key data (IMF, 2014; De Bel-Air, 2015). For example, while the World Bank estimates the population of UAE for 2008 and 2009 to be 6,894,278 and 7,666,393 respectively. The UAE's National Bureau of Statistics estimates the corresponding figures to be 8,073,626 and 8,199,996, a difference of 17.1 and 6.9 percent, respectively (NBS, 2015; World Bank, 2017).

Mindful of the problems associated with availability and accessibility of relevant data for UAE, I have sourced data for the present analysis through reputable statistical databases. More specifically, the population characteristics and economic growth data are sourced from the World Bank's Development Indicators database, youth unemployment data is obtained from the Federal Reserve Bank of the United States' statistical database; migration data is sourced from The United Nations Development Programme's (UNDP) statistical database. Economic growth is measured as the annual growth rate of GDP per capita, youth unemployment is measured as the proportion of 15 to 24-year-olds who are available to work at the prevailing wage but unable to find work, migration is measured as the difference between immigrants and emigrants, and demographic imbalance is measured at the ratio of females-to-males in the population.

For the statistical analysis, the Pearson correlation coefficient and Ordinary Least Square (OLS) basic regression models are employed to examine the relationship between migration and economic growth, unemployment and demographic imbalance. The correlations help to identify the direction and strength of association between migration and the socio-economic variables, and the regression analysis is used to estimate changes in the socio-economic outcomes with respect changes in migration. The statistical analysis contributes to the empirical analysis necessary for developing the evidence-driven migration governance index for the UAE. The sample period for the data used in the analysis, based on data availability, is from 2011 to 2016.

## **5.2 SUMMARY STATISTICS**

Summary statistics are used to examine the mean, standard deviation, minimum and maximum values of the variables (see Table 5.1). The summary statistics show that the mean net migration into the UAE is about 150,090 per year over the sample period (2011-2016), with

minimum and maximum net migration of 110,020 and 190,000, respectively. This shows that, on average, more than 150,000 people are added to the population of the UAE each year, suggesting that migration is a significant source of population growth. This is not surprising given that UAE's population grew by 77 percent from 5,242,032 in 2006 to 9,269,612 in 2016 (World Bank, 2017). Also, the summary statistics show that the mean youth unemployment rate is 11.57 percent, with minimum and maximum unemployment rates of 11.44 percent and 11.82 percent, respectively. This suggests that youth unemployment, although high, remains relatively stable over the sample period.

Variable	Mean	Std. Dev.	Minimum	Maximum
Net Migration ('000s)	150.09	30.05	110.02	190.00
Youth Unemployment Rate (%)	11.57	0.15	11.44	11.82
Demographic Distribution	0.09	0.01	0.08	0.10
GDP per Capita Growth (%)	2.60	1.10	1.43	4.55

**Table 5.1: Summary Statistics**

Furthermore, the summary statistics show that the mean demographic distribution is 0.09, with minimum and maximum of 0.08 and 0.10 respectively. This means that, on average, there are about 9 females for every 100 males in the population, which suggests a significant demographic imbalance. Finally, the summary statistics show that, over the sample period, the average growth rate of real GDP per capita is 2.60 percent, with the minimum and maximum growth rate of 1.43 percent and 4.55 percent, respectively.

### **5.3 RELATIONSHIP BETWEEN MIGRATION AND SOCIO-ECONOMIC OUTCOMES**

The statistical analysis starts by exploring possible connections between trends in migration and each of youth unemployment, demographic imbalance and economic growth. The Pearson correlation coefficient is estimated as a first step towards establishing the relationship, if any,

between migration and the socio-economic outcomes. Each of the variables is paired with the migration variable. The results are presented in Table 5.2 through to Table 5.4.

### 5.3.1 The Correlation Analysis between Migration and GDP per Capita Growth

The Pearson correlation coefficient between migration and GDP per capita growth, and the associated statistical significant level are presented in Table 5.2. The correlation coefficient of -0.996 implies a strong, negative correlation between net migration and GDP per capita growth, which is also statistically significant. This result suggests that there is a negative association between migration and economic growth, i.e. the higher the migration level, the lower the rate of growth of GDP per capita, and vice versa. The fact that the correlation coefficient is approximately one suggests an almost perfect association between migration and economic growth. However, further analysis, in the form of regression analysis, is needed to make a meaningful statistical claim about the relationship between migration and economic growth.

Pearson Correlation Coefficient	Statistical Significance	Degree of Freedom
-0.996	0.002***	2
***: Denotes statistical significance at 1 percent.		

**Table 5.2: Correlation between Net Migration and GDP per Capita Growth**

### 5.3.2 The Correlation Analysis between Migration and Demographic Distribution

Table 5.3 shows the Pearson correlation coefficient between net migration and the ratio of female-to-male population, as well as the associated probability of statistical significance. The reported coefficient of 0.906 implies a strong, positive correlation between net migration and demographic distribution, and the associated p-value suggests this estimate is statistically significant. The positive association means that the higher the net migration, the higher the differential between the male population and female population in the UAE, and vice versa. Again, since the correlation coefficient only indicates the direction and strength of association

between migration and demographic imbalance, the quantification of any potential impact of migration on the demographic imbalance requires regression analysis, which is discussed in a later section.

Pearson Correlation Coefficient	Statistical Significance	Degree of Freedom
0.906	0.047**	2
**: Denotes statistical significance at 5 percent.		

**Table 5.1: Correlation between Migration and Demographic Distribution**

### 5.3.3 The Correlation Analysis between Migration and Youth Unemployment

Finally, the results of the correlation analysis and the associated statistical significant level between migration and youth unemployment are presented in Table 5.4. The correlation coefficient of 0.05 suggests a weak positive association between migration and youth unemployment, but it is statistically insignificant; i.e. the higher the net migration level, the higher the youth unemployment, although the association is not meaningful or statistically significant. Consequently, the correlation coefficient of 0.05, which is close to zero, suggests a potentially zero relationship between net migration and youth unemployment, but, as with the previous correlation coefficient results, regression analysis is employed to estimate the effects of net migration, if any, on youth unemployment.

Pearson Correlation Coefficient	Statistical Significance	Degree of Freedom
0.050	0.475 <sup>n</sup>	2
<sup>n</sup> : Denotes statistical insignificant at conventional levels		

**Table 5.2: Correlation between Net Migration and Youth Unemployment**

## 5.4 THE EFFECTS OF MIGRATION ON SOCIO-ECONOMIC OUTCOMES

In this section, the regression analysis is employed to estimate the effect of migration on socio-economic outcome variables. This is because the correlation coefficient used in Section 5.3 only measures the association between variables but does not measure the effects of one

variable on another. Therefore, the regression model is used to estimate the effect, if any, of changes in migration level on the socio-economic outcomes. More specifically, the regression model can estimate, say, a one percentage point change in GDP per capita growth as a result of, say, a one thousand increase in net migrants. It is important to note that two assumptions are implied by a regression model: (i) there is a linear relationship between migration and, say, GDP per capita growth; and (ii) and this relationship is additive. In summary, linear regression estimates how much, say, GDP per capita changes when net migration changes by one unit.

#### 5.4.1 The Effects of Migration on Economic Growth

First, the estimates of the relationship between migration and economic growth, by regressing net migration on GDP per capita growth, controlling for skills ratio (i.e. the ratio of unskilled-to-skilled workers), are presented. The reason for including the skills ratio as a control variable is because the majority of migrants in the UAE are low-skilled (Ministry of Labour, 2011). Therefore, excluding the ratio from the regression model may lead to spurious results. The regression estimates for the relationship between migration and economic growth are presented in Table 5.5.

Variables <sup>D</sup>	Coefficient	Standard Error	<i>p</i> -value
Net Migration	-1.036***	0.064	0.004
Skills Ratio	-0.022***	0.001	0.005
Constant	4.344**	4.068	0.004
***: Denotes statistical significant at 1 percent level **: Denotes statistical significant at 5 percent level <sup>D</sup> : The dependent variable is the GDP per capita growth			

**Table 5.3: The Regression Estimates of the Effects of Migration on Economic Growth**

Table 5.5 shows that the estimate for the coefficient on net migration with respect to GDP per capita growth is -1.036, and the *p*-value of 0.004 suggests that the estimated coefficient is statistically significant. The negative, significant coefficient on net migration suggests that migration has a negative impact on the economic growth of UAE. Quantitatively,

the estimates suggest that an additional one hundred thousand net migrants will result in about a one percentage point decrease in GDP per capita growth. In addition, the estimate for the coefficient on the skills ratio with respect to GDP per capita growth is -0.022 and, given the  $p$ -value of 0.005 is statistically significant. Finally, the estimated regression constant is 4.344 and the corresponding  $p$ -value of 0.004 suggests that the estimate is also statistically significant. Statistically, the estimated constant implies that GDP per capita will grow by over 4 percentage points if net migration and skills differentials were zero.

There is a growing debate about how migrants entering the UAE impact on aggregate productivity. However, the estimated negative impact of migration on economic growth is not surprising, because of the lower productivity associated with unskilled labour. The lower productivity is a potential channel through which migration affects the level of economic growth.

The recent evidence suggests that productivity levels in the UAE have been in decline over the years, especially in the non-oil sector of the economy, with the lowest level of productivity observed in the construction sector and large decreases also observed in the service sectors, such as restaurants and hotels, and business services (Al Awad, 2010). Comparatively, the UAE lags behind other small countries with a higher ratio of unskilled-to-skilled labour migration. For example, while the UAE's labour productivity for 2008 was about AED212,000 (USD58,000), it was around AED392,000 (USD107,000) and AED435,000 (USD118,000) in Norway and Luxembourg, respectively (Al Awad, 2010). Overall, the regression results suggest that unskilled migration may be hindering economic growth in the UAE.

### 5.4.2 The Effects of Migration on Demographic Distribution

Second, to examine the potential effects of migration on the growing demographic imbalance in the UAE, a regression model is estimated with the ratio of female-to-male population as the dependent variable and net migration as the independent variable (see Table 5.6).

Table 5.6 shows that the coefficient on net migration with respect to ratio of female-to-male population is -0.003 with a correspondent *p*-value of 0.0004 which suggests the estimated coefficient is statistically significant. The negative, significant coefficient on net migration suggests that migration has a negative impact on the demographic distribution of UAE. Specifically, the estimated coefficient suggests that an additional one thousand net migrants will lead to a decrease in 3 females for every 100 males in the population. Also, the estimated regression constant is 0.136 and a corresponding *p*-value of 0.004, which suggests that it is statistically significant. The estimate suggests that a zero net migration results in the ratio of female to male in population of 0.136, or approximately 14 females for every 100 males in the population, which is significantly higher than the average of 0.09 over the sample period.

Variables <sup>D</sup>	Coefficient	Standard Error	p-value
Net Migration	-0.003***	0.0004	0.004
Constant	0.136**	0.006	0.000
***: Denotes statistical significant at 1 percent level **: Denotes statistical significant at 5 percent level <sup>D</sup> : The dependent variable is the ratio of female-to-male population			

**Table 5.4: The Effect of Migration on Demographic Distribution**

The channel through which migration leads to demographic imbalance in the UAE can be easily explained. For example, almost 70 percent of migrant workers in the UAE are male, dominating most private sector jobs, apart from domestic jobs which are dominated by a much smaller female population (Malit and Al-Youha, 2013). Furthermore, the existing migration policy places limitations on family reunion, which is determined by income levels. According to UAE government migration policy, males who are employed in the UAE can sponsor their

immediate family members, such as their wife, subject to conditions which include minimum salary of AED4,000 (USD1,089) or AED3,000 (USD817) plus accommodation, making it difficult for a significant number of male migrants to qualify for bringing in their spouses (UAE government, 2017). The estimated regression coefficient on net migration with respect to demographic distribution clearly shows that migration is the significant driver of demographic imbalance, measured as the ratio between female and male workers, which has worsened by about 35 percent from 2011 to 2016.

### 5.4.3 The Impact of Migration on Youth Unemployment

Finally, the estimates of the impact of migration on youth unemployment are presented in Table 5.7. In this case, youth unemployment is the dependent (outcome) variable, while net migration is the independent variable in order to estimate how changes in migration affect youth job prospects in the UAE. Also, the skills ratio, or the ratio of unskilled-to-skilled workers, is included in the regression model to control for the potential impact of low-skilled migration on youth unemployment.

Variables <sup>D</sup>	Coefficient	Standard Error	<i>p</i> -value
Net Migration	0.004	0.053	0.950
Skills ratio	0.001	0.001	0.475
Constant	9.132	3.393	0.115

<sup>D</sup>: The dependent variable is the youth unemployment rate

**Table 5.5: The Impact of Migration on Youth Unemployment**

Table 5.7 shows that the coefficient on net migration with respect to youth unemployment rate is 0.004 but the *p*-value of 0.950 (greater than 0.05) means that the estimated coefficient is statistically insignificant at conventional levels. The positive regression coefficient suggests a potential positive relationship between higher migration levels and higher youth unemployment. However, the associated *p*-value also suggests that this

relationship is not meaningful or statistically significant. This result contrasts with the UAE Ministry of Human Resources and Emiratisation, which argues that the growing youth unemployment rate may be driven by the increase in the net migration, especially low-skilled migration, which the Ministry argues may be driving down wages and discouraging nationals, especially the youth, from seeking employment in the private sector (Ministry of Labour, 2011).

To further examine this claim, the ratio of unskilled-to-skilled labour is added to the regression model. The results reported in Table 5.7 shows that the estimate for the coefficient on skills ratio with respect to net migration is 0.001 and is again statistically insignificant at conventional levels. These results imply that although higher net migration may potentially lead to higher youth unemployment, the estimated p-value indicates that any change in unemployment rate as a result of increase in migration rate is insignificant.

## **5.5 DISCUSSION OF THE EFFECTS OF MIGRATION IN THE UAE**

In this section, the findings from the regression results are discussed and the potential implications explored. First, the correlation analysis of the relationship between migration and economic growth rate suggests a significant negative association. Given that correlation only indicates direction of associated and not causality, a regression model is employed to further explore this relationship and quantify the potential impact of migration on economic performance of the UAE's economy.

The findings from the regression analysis suggests a statistically significant negative impact, whereby an increase of one thousand in net migration into the UAE, on average, will result in a reduction in the GDP per capita growth by about one percentage point, after controlling for the potential impact of low-skilled migration. The fact that the results suggest a negative impact even after discounting for the effects of the skills' composition of migrants is

particularly interesting. As such, it is important to understand the channels through which migration may impact on economic performance. According to Orefice (2010), the main transmission mechanism is the human capital distribution of the migrant population; the higher the low-skilled levels in the migrant population, the worse the labour productivity level and, therefore, the lower GDP per capita growth.

The concept that explains the relationship between migration and productivity is the capital-labour ratio, which, when the optimal ratio is identified, gives the most efficient combination of capital and labour in the economy. The illustration of how migration affects the economic performance, can be achieved by assuming that the capital accumulation is constant, which implies that an increase in net migration, leads to an increase in labour inputs and, therefore, a reduction in capital per labour and output per labour. However, this negative impact can be minimised, or partially offset, if the migrants are primarily high-skilled. But where the migrants are primarily low-skilled, as in the case of the UAE, the negative impact of migration on labour productivity holds.

What this explanation demonstrates is that the economy of a migrant-receiving country will potentially gain—have a higher per capita GDP—if the migrant inflow is mainly skilled labour, as this increases the productivity of the available capital. However, the reverse is the case if the migrant workers are mainly low-skilled, and hence are less productive, which not only reduces capital-labour ratio but also reduces the efficiency of capital.

The implication of low-skilled migration can be further illustrated by the findings of Kangasniemi et al. (2012). The study considers data over the period 1996 to 2005 in order to analyse the impact of skilled and low-skilled migration on productivity in the UK and Spain at the industry level. The evidence for Spain from the study suggests that migration may have a negative impact on productivity. The study finds that productivity decreases as more migrants join the sectors examined, especially where the migrants are, on average, less-skilled than

Spanish workers. For the UK, the study finds that the negative impact of low-skilled migrants offsets the positive impact of skilled migrants on labour productivity.

Furthermore, Orefice (2010) examines the productivity effects of migration in 24 Organisation for Economic Co-operation and Development (OECD) countries from 1998 to 2007. The study finds that inward migration has a significant impact on the productivity of the host countries, with estimates of the relative impact achieved by differentiating between the impacts of high-skilled migrants and low-skilled migrants. The findings from the study suggest that high-skilled migrant labour has a positive impact on the productivity, or per capita GDP, of the host country. In contrast, the findings suggest an increase in low-skilled migrant labour, on average, leads to a decrease in per capita income, which results in the production process shifting towards less productive, more labour-intensive production ones. Overall, the study finds that increasing inward migration by one percent, in the short run, leads to 0.69 percent decrease in per capita GDP. The study also concludes that the higher proportion of skilled migrants relative to low-skilled migrates may minimise the negative impact of migration, highlighting the strong impact of low-skilled migration on productivity.

This finding clearly highlights the potential negative impact of low-skilled migration on economic performance. With about 80 percent of migrant labour in the UAE low-skilled or unskilled, the implication is straightforward: effective migration governance should be designed to attract skilled migrants who will improve the productivity of the UAE's economy. However, transiting from a low-skilled to a high-skilled economy is liable to pose a major challenge; for example, the on-going infrastructural development requires significant labour inputs, many of which will be undertaken by low-skilled, migrant labour. Furthermore, as Al Awad (2010) shows, the construction sector has the lowest level of productivity in the UAE's economy, which highlights the potential policy challenges for balancing the primary needs of economy and boosting its productivity.

Second, this chapter also examines the potential impact of demographic imbalance, which is a key concern of policymakers in the UAE, due the potential social and economic cost implications. In the case of UAE, the imbalance is the significant difference between the male and female population. Using the ratio of female-to-male population, this chapter investigates the impact of migration, if any, on the distribution of females and males in the UAE. The findings suggest that migration has a significant negative impact on the demographic distribution of UAE population. More specifically, the estimated regression coefficient, suggests that the share of females in the population will decrease by three for every 100 males in the population, if the net migration increases by one thousand.

This finding clearly shows that migration has a fundamental implication for the relative composition of females and males in the UAE's populations. For example, while the UAE national composition is evenly balanced between males and females with males comprising 50.7 percent and females 49.3 percent (Mansour, 2015), the corresponding distribution increases to 70 percent for males, when non-nationals are included in the population (UN, 2017). It is important to highlight the implications of a major demographic imbalance. Large or growing gender gaps tend to have a negative impact on the workforce profile as they create an imbalance in the structure of skills in the labour market, with both economic and social costs. In terms of the economic cost, gender gaps in favour of males skew jobs and skills' development towards male-dominated job roles, thereby negatively affecting efficiency and diversity in the labour market. Socially, where the gender gap is as a result of male-dominated migration, it may lead to an increase in human trafficking of females and criminal activities (Saltenyte, 2013). Furthermore, the negative effects of migration-driven gender gap may become perpetuated if, as with the UAE, family unification is conditional on the income level of male migrants. Indeed, the migration-driven gender gap may, at least in the short- to medium- run, persist because the economy currently relies on low-skilled skilled, male-

dominated roles. Therefore, breaking this vicious circle may require changing the rules on family reunion to bring the income condition into line with average income.

Third, this chapter examines whether the persistent youth unemployment in the UAE can be explained by rising migration, especially that of low-skilled migration. The findings suggest a positive relationship between migration and youth unemployment but that it is statistically insignificant. This finding implies that while the trends in youth unemployment and migration tend to move in the same direction, changes in youth unemployment cannot be explained by changes in migration level.

One possible explanation is the ‘nationalisation’ of the labour market by the UAE government (Emiratisation policy), which seeks to increase the proportion of UAE nationals in the private sector labour market. Emiratisation policies are a combination of quotas for national labour and taxation on foreign labour. For example, the banking sector is required by the Emiratisation quota policy to target an increase in the number of Emiratis by four percent per year. Similarly, a five percent target is set for the insurance sector and two percent for all private sector companies with more than 50 employees (UAE Government, 2017).

However, there is a question about the role and effectiveness of Emiratisation policy as a factor that promotes the participation of nationals to counteract the increasing dependence on foreign labour. For example, Al-Ali (2007) studies the effectiveness of the Emiratisation in boosting the prospect of UAE nationals, especially the youth, in the labour market. The findings suggest that Emiratisation has not delivered the expected results, with factors hindering the participation of nationals in the labour market, including low standards of education and skills, inadequate English, and a lack of trust by employers in the work-readiness of UAE nationals.

The study also finds that, compared to the rewards available in the public sector, the relatively low wage in the private sector is a significant factor which discourages nationals participation in the labour market. This result is consistent with Randeree (2012) who finds

that private sector wages are lower than wages in the public sector, and that there are better employment benefits and working conditions in the public sector, such as job security and shorter working hours. In addition, there is evidence that differences in the organisational culture between the private and public sectors is a major factor why Emiratisation is not effective in driving up the UAE nationals' participation in the private sector labour market. For example, regimented working hours, commitment to corporate objectives and diverse working environment are significant in limiting participation, such that even national employers often have strong reservations about employing fellow nationals (Al-Ali, 2007; Randeree, 2012).

## **5.6 CONCLUSION**

One key argument for better migration governance is to provide a mechanism for ensuring that migration leads to positive outcomes for the host country. Migration theories, particularly political-economy based models, suggest that higher wages and job prospects provide positive incentives for migrants to move from one country to another. However, the same theory suggests migration may have potential negative impacts on the receiving country, depending on the nature and quality of migrants attracted. To examine the impact of migration on the socio-economic outcomes of the UAE, as part of the aim of developing a balanced migration government framework, the effects of migration on economic growth, youth unemployment and demographic distribution were examined.

To conduct the empirical analysis, the Pearson correlation analysis was employed to examine the direction and strength of association between migration and the three socio-economic indicators. The results showed that while migration was positively associated with youth unemployment and demographic imbalance, it was negatively associated with GDP per capita growth. Given that correlation analysis showed the association, but not the impact,

further analysis, using a regression model, was conducted to estimate the potential impact of migration on the selected socio-economic variables.

The estimated coefficient on net migration with respect to GDP per capita growth, suggested that migration has a statistically negative impact on the rate of economic growth of UAE, highlighting the potential negative impact of low-skilled dominated migrant flow on productivity. The findings showed that while skilled migration can be beneficial to the economy by increasing labour and capital productivity, low-skilled migration reduces productivity in the economy. The implication is that migration governance should take into account the skills composition of migrants and be designed to attract skilled migrant to support sustainable economic growth.

Similarly, the estimated coefficient suggests that migration has a statistically negative impact on the demographic imbalance in the UAE. In the UAE, more than two-thirds of the population is male, driven primarily by male-dominated migration flows, with negative social and economic effects. Again, the implication for migration governance clear: it should be designed to support the demographic balance and to overcome the social and economic effects associated with an excessive demographic imbalance.

Finally, the relationship between migration and youth unemployed was examined to understand if youth unemployment is because of increasing demand for foreign labour. Contrary to the expected result, the findings suggest that while a higher unemployment rate was associated with higher migration level, the statistical relationship was not causal, or the estimated migrant-led increase in youth unemployment is not statistically significant.

## **CHAPTER SIX:**

### **AN ASSESSMENT OF THE LEGAL AND INSTITUTIONAL MIGRATION GOVERNANCE STRUCTURES IN THE UAE**

#### **6.1 INTRODUCTION**

A fundamental element of developing a migration governance framework is to understand the existing laws and regulations that govern the migration process in a country, and the institutions charged with developing or enforcing them. Evaluating the nature and effectiveness of these laws and regulations, and the associated institutions, is important because it helps to identify potential gaps that exist in terms relevance and limitations. With respect to migration governance in the UAE, I argue that a rational means of evaluating its existing legal and institutional structures that govern migration is to examine the experience of those for whom the laws and institutions are primarily designed, the migrants. The focus of this study, therefore, is on Filipino domestic workers for the following reasons. First, Filipinos constitute the majority of domestic workers in the UAE, and domestic workers are excluded from national labour laws, which means that they are vulnerable to exploitation (Malit and Youha, 2013). Second, international human and labour rights organisations have taken a greater interest recently in Filipino domestic workers due to cases of forced labour and human trafficking (Human Rights Watch, 2014a, 2014b; ILO, 2014; Jureidini, 2014). Third, there is evidence of the growing vulnerability of this group, with data from the Philippine Labour Office (POLO) suggesting that there were at least 3,000 cases of Filipino migrant workers facing some form of human and labour rights' challenges with respect to their role as domestic workers. Therefore, the researcher considers the study of Filipino domestic workers' practical experience with the UAE's legal system, especially with its migration legal and institutional structures, valuable for analysing the effectiveness of, and potential gaps in, migration governance policies in the Federation.

Hence, this chapter evaluates the effectiveness of the legal and institutional structures, if they exist, for migration governance in the UAE, as part of the overall objectives of this study, which include: (i) analysing the potential challenges faced by migrants in the UAE; (ii) with respect to objective (i), evaluating the UAE's institutional capacity and strategy on migration governance in providing a safe and productive environment for migrant labour; (iii) with respect to objective (ii), analysing the UAE's existing migration policies in comparison with international migration governance frameworks; (iv) evaluating the potential impacts of migration on socio-economic outcomes; and (v) developing a UAE-specific migration governance index, based on a proposed framework that balances the developmental needs of migrant labour, the legal and institutional instruments to promote labour rights, and addresses potential socio-demographic challenges.

The main relevance of this chapter is to contribute to the debate about the need to create and support a migrant-friendly environment. As part of the aim of developing a balanced migration governance index for the UAE, the chapter provides a foundation for assessing what rights are granted to migrants, and if these rights have a legal basis and can be enforced. The empirical analysis section also supports the development of the legal and institutional policy indicators for legal dimension for the proposed index. In particular, it evaluates the provision, and potential for exploitation, of basic human and labour rights, particularly those stipulated in employment contracts. It also analyses current loopholes in the migration system that are open to exploitation.

Therefore, the chapter explores and discusses the results as follows: first, it examines the demographic distribution of the respondents; second, it builds an understanding of the nature and process of migrant entry into the UAE; third, it evaluates the process of domestic workers obtaining an employment contract; fourth, it explores the evidence of potential systemic human rights abuse; fifth, it develops an understanding of how employment contracts

are ended or how migrant domestic workers are separated from their employers; sixth, it explores the sources of vulnerability to exploitation and abuse; and seventh, it examines the effects of delays in the ratification of international conventions.

## 6.2 DEMOGRAPHIC DISTRIBUTION OF THE RESPONDENTS

In this section, the demographic characteristics of the migrant domestic workers that participated in the interview are discussed. The demographic distribution is important, especially when examining the factors may explain variations in the experiences of the participants gained from the interviews. From Table 6.1, it can be seen that 17 of the 59 respondents, representing 28.8 percent, are aged between 18 and 30, suggesting that almost one-third of the domestic workers interviewed can be categorised as being young. Thirty-nine respondents, representing 66.1 percent, are between the ages of 31 and 45, suggesting that two in three domestic workers interviewed fall within this range; only three respondents, or about 5 percent, are 46 years or more, suggesting the majority of the domestic workers interviewed are of prime working age.

Age of the Respondents	Frequency	Percent	Cumulative Percent
18-30 years	17	28.8	28.8
31-45 years	39	66.1	94.9
46-55 years	2	3.4	98.3
56+ years	1	1.7	100
Total	59	100.0	

**Table 0.6: Age Distribution of the Respondents**

Also, Table 6.2 shows the distribution of financial responsibilities of the domestic workers interviewed. It shows that 48 of the 59 respondents (81.4 percent) consider themselves to be the main breadwinner of their household, with the remainder not considering themselves to be the breadwinner. This suggests most of the domestic workers emigrate to the UAE with

the specific purpose of providing financial support to their families. As one of the domestic worker, P2, interviewed explained:

I lived with my two kids at home and my husband. Sometimes, my husband-in law and my brother live with us...I chose to come to the UAE with the hope that I could meet all the needs/wants of my family. I want to save so I can help pay my children's education and pay the house/rent where we live. I also want to help my siblings and nephews/nieces go to school.

Another respondent, P3, reflected on her financial obligations to the household by stating that:

In the Philippines, I did not have a job, and I was only studying. I live with my father, mother, and siblings...I came here to the UAE to work so I'd be able to help my family and help my siblings finish their education. My dream is to build a house for my parents and my siblings.

Also, linking her reason for migrating to the UAE to her financial responsibility in her country,

P13 explained that:

I'm from southern Tagalog, Mindoro and our place is mountainous and access to water is very difficult. There are only few houses and it is far from the central city. I'm the youngest in our family and there are twelve of us. My father and mother are both old, and I have a husband with two children. I wanted to help my father and mother, but I could not.

Breadwinner for the Family	Frequency	Percent	Cumulative Percent
Yes	48	81.4	81.4
No	11	18.6	100.0
Total	59	100.0	

**Table 0.2: The Proportion of Respondents who are Breadwinners**

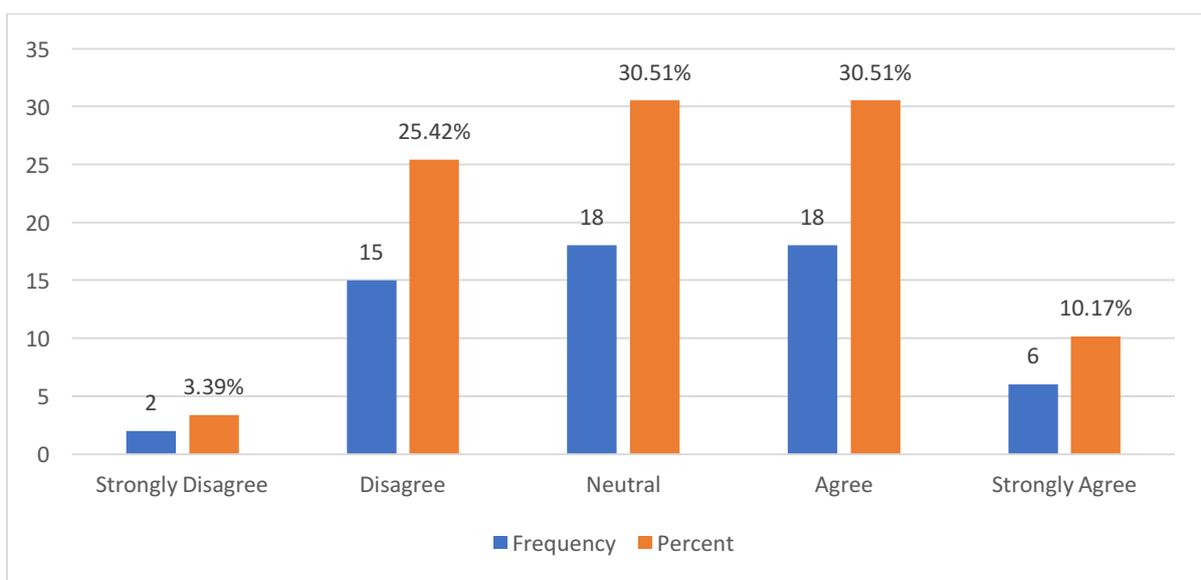
Education Level of the Respondent	Frequency	Percent	Cumulative Percent
Primary	4	6.8	6.8
Secondary	37	62.7	69.5
Tertiary	18	30.5	100
Total	59	100.0	

**Table 0.3: Educational Attainment Distribution of the Respondents**

Furthermore, the level of educational attainment of the respondents is summarised in Table 6.3. The Table shows that 4 of the 59 domestic workers interviewed had only completed primary education. A further 37 (about 63 percent) of the respondents had received a secondary

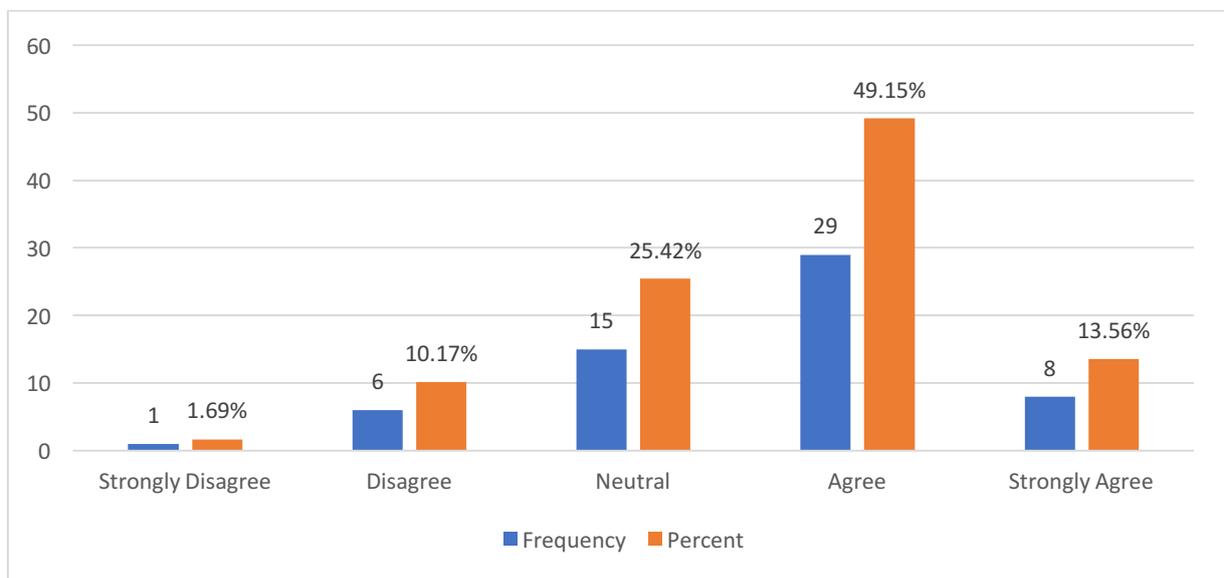
school education, and 18 (30.5 percent) had attained a tertiary level qualification. Overall, the educational attainments suggest that over 93 percent of the domestic workers interviewed hold secondary or tertiary education level certificates.

Finally, it is important to review the migrants’ skills composition, both in terms of relevance and potential for upward mobility. The analysis of the responses to the statement on whether domestic workers interviewed felt, given their academic qualifications and skills, that they are over-qualified for the role is presented in Figure 6.1. The Figure shows that only two of the respondents, representing 3.39 percent, stated that they strongly disagreed with the statement that they are over-qualified for their role as domestic workers; 15 respondents (25.42 percent) disagreed with the statement; 18 of the respondents (30.51 percent) neither agreed nor disagreed with the statement. Similarly, 18 respondents agreed with the statement, while 6 respondents (10.17 percent) strongly agreed that they are over-qualified for the role domestic worker. Overall, the results highlight the possible problem of a skills mismatch, as more than four in ten respondents consider themselves over qualified for the role of domestic worker. This is consistent with the analysis of educational attainment distribution of the respondents which suggest that almost one third of respondents received a tertiary education.



**Figure 0.3: In relation to my job, I feel I am over-qualified, given my education and skills**

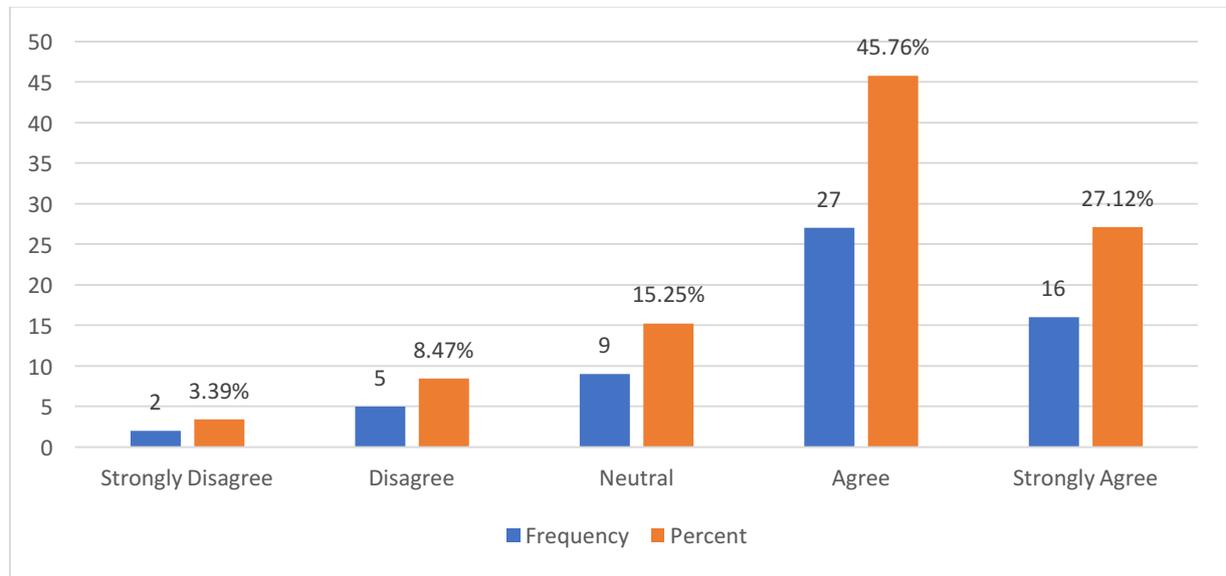
Also, to understand the thoughts of the domestic workers on the relevance of their skills, the research sought their views on the statement “my skills are more relevant for other jobs”. The analysis of responses to the statement skills relevance is presented in Figure 6.2. The result shows that a total of seven of the 59 respondents (11.86 percent) responded with strongly disagree or disagree, suggesting that they feel their skills are consistent with the role of a domestic worker. In contrast, a total of 37 respondents (62.71 percent) agreed or strongly agree that their skills are more relevant for other jobs. The question that arises from these results is whether the UAE’s economy could be underserved by employing skilled workers as domestic workers when they can provide a more valuable service in different roles. This finding reinforces the findings by Sayres (2005) who shows that many Filipinos had worked in clerical, teaching, or nursing professions before migrating to work as domestic workers.



**Figure 0.4: My skills are more relevant for other jobs**

Therefore, it is important to examine the extent to which domestic workers with the relevant skills, if permitted, and the opportunity existed, would move to another job, where their skills are more useful. The analysis of responses to the question on moving to another job if migration rules allowed is presented in Figure 6.3. The results show that seven of the 59

respondents (11.86 percent) responded with either strongly disagree or disagree, suggesting that they are satisfied with the role of domestic worker. In contrast, 43 respondents (72.88 percent) responded with either agree and strongly agree, suggesting that they would happily accept jobs that are more relevant to their skills.



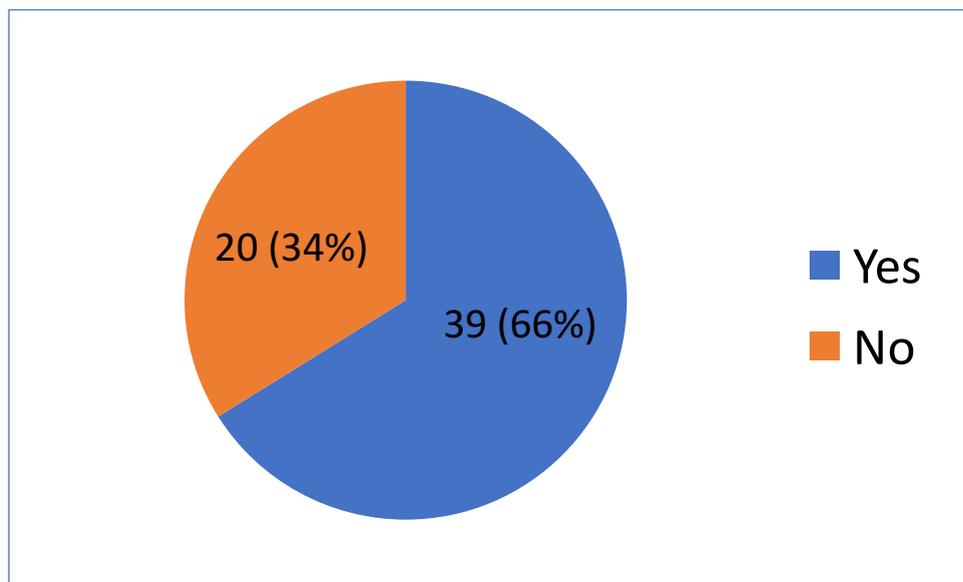
**Figure 0.5: If allowed, and the opportunity existed, I would move to another job, where my skills would be more useful**

Deskilling or occupational downward mobility may explain why more than seven in ten respondents indicated they would move to more relevant jobs if the rules permitted and the opportunity existed. Deskilling describes a situation in which skilled workers are employed in lower grade occupations or where low-skill jobs are carried out by better educated, overqualified workers. This is particularly prevalent amongst migrant workers. For example, Dustmann et al.'s (2013) empirical analysis for the UK shows that while relatively recent immigrants to the UK have, on average, higher educational attainments, they are more likely to take up lower skilled jobs and are found at the lower end of the wage distribution. A similar finding is reported by Barrett and Duffy (2008) for Ireland, while Siar (2013) finds it a common phenomenon among Filipino migrant workers.

### 6.3 UNDERSTANDING THE NATURE AND PROCESS OF ENTRY INTO THE UAE

In this section, the journey of the domestic workers to the UAE, from the recruitment process and entry process into the UAE, is examined. The purpose of this analysis is to understand how migration rules apply to low-skilled workers and identify potential gaps in the effectiveness of legal and institutional structures designed to manage the migration process.

The analysis starts with the interview question that asks: did you have a job offer before coming to UAE? The reason for this question is to examine and identify potential loopholes for by-passing the first step of labour migration process into the UAE, especially among the low-skilled migrant workers. The UAE government expects that intending migrant labour will have secured a job before entering the UAE. The responses from the domestic workers interviewed are presented in Figure 6.4.

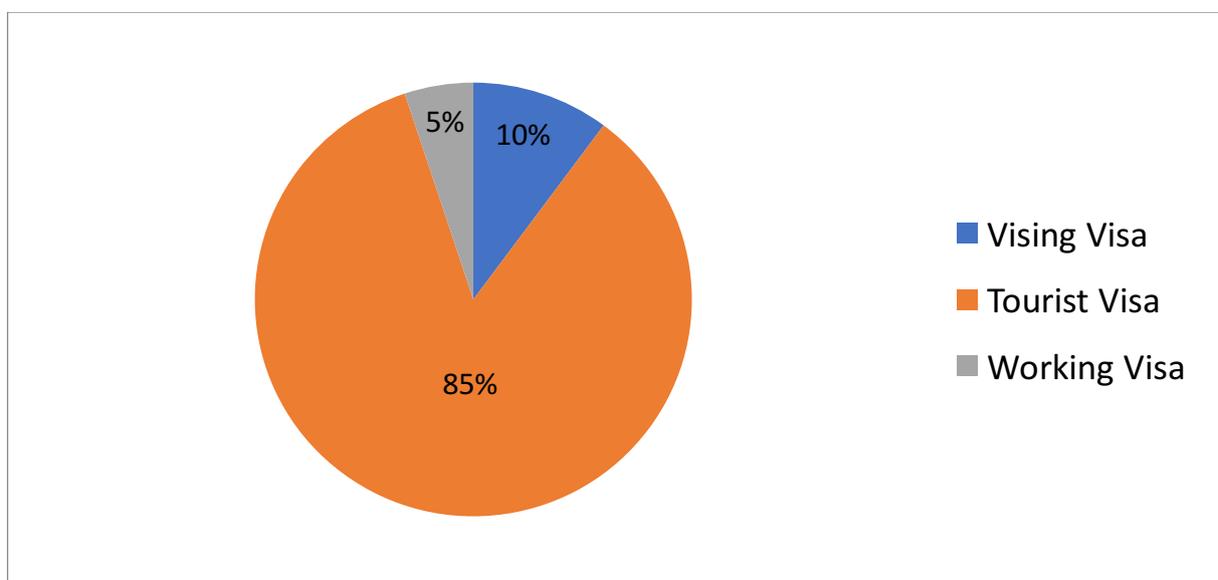


**Figure 0.6: Distribution of Domestic Workers Securing a Job before Migrating**

Figure 6.4 shows that 39 of the 59 respondents (66 percent of the respondents) stated that they had secured domestic work job before migrating to the UAE. However, 20 respondents (34 percent) stated that they migrated to the UAE without a job offer. Thus, around one-third of the domestic workers interviewed confirmed entering the UAE before securing a job, calling into question the process of admitting migrant labour into the country. Therefore,

an important question arises, how were the intending domestic workers able to obtain necessary documents required to enter the UAE.

In order to understand how the migrant domestic workers actually entered the UAE, the following interview question was asked: how did you enter the UAE? The responses show that 50 (84.7 percent) of the 59 domestic workers interviewed came into the UAE as tourists, six (10.2 percent) as visitors and only three, or just 5.1 percent, actually came into the UAE with a work visa (see Figure 6.5).



**Figure 0.7: Migration Visa Routes**

These findings reveal potentially major problems with the migration governance for the UAE. While 66 percent of the respondents had received a job offer prior to emigrating, only 5 percent actually used the job offer to apply for entry into the UAE. This suggests those applying for visas put forward reasons other than their true intention for entering the UAE. Therefore, it is important to understand why a migrant worker opts for the tourist or visitor visa route rather the work visa route. It also important to understand the implication of these findings for the migrants, in terms of the legal risks associated with migrating on false pretences. For example, are the risks of human rights abuse higher through unscrupulous employers, if an intending domestic worker, posing as a tourist, enters the UAE and secures a job through an informal

process? And are there aspects of the UAE's migration administration process which encourages this behaviour?

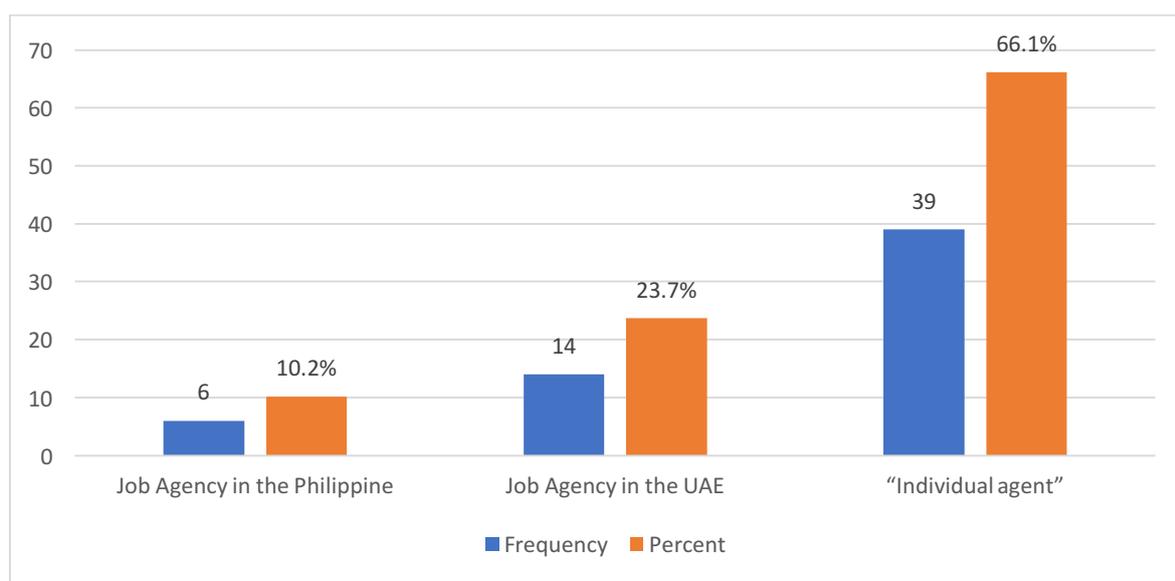
A review of the process and requirements for procuring a work visa for the UAE can help explain while there is a strong divergence between migrants securing a job while in their home country and the type of visa obtained for entry into the UAE. The visa procurement process, which is administered by the Ministry of Human Resources and Emiratization (MoHRE) and the General Directorate of Residency and Foreigners Affairs (GDRFA), is two-stage process. The first step involves obtaining a work permit, which allows the migrant to enter the UAE for employment but is only valid for two months from the date of issue. While in the UAE, the second step involves obtaining a work residence permit and completing the medical tests, with the permit bearing the name of the employer, or the sponsor. In contrast obtaining a tourist or visitor visa is relatively straightforward process.

A further explanation is that the recruitment agents, especially those who act informally, may be encouraging and facilitating this divergence because it allows them to easily trade migrant domestic workers from one employer to another. This is because under the *Kafala* system, obtaining a work permit ties the domestic worker to a specific employer, while tourist or visitor path gives the employment agent flexibility to move the domestic worker between employers.

The next step in understanding the underlying factors that explain how migrants abuse the visa route, was achieved by asking how the migrants actually secured their domestic work jobs. The answers help identify the extent to which the official recruitment processes are followed, or the extent to which low-skilled jobs are secured through informal processes.

The responses, as presented in Figure 6.6, show that six of the 59, or 10.2 percent, of the domestic workers interviewed secured their jobs through a recruitment agency based in The Philippines, while 14 (23.7 percent) obtained their jobs through a UAE-based recruitment

agency. Significantly, 39 (66.1 percent) obtained their employment through an individual employer or an unofficial recruitment agency. This finding, at least to some extent, explains why 84.7 percent of domestic workers interviewed entered the UAE using a tourist visa, rather than the correct work visa. Importantly, there is anecdotal evidence that domestic workers who use an inappropriate visa route or gain informal employment are more likely to experience poor working condition and abuses of labour and human rights. For example, a study by ILO concerning the factors that encourage poor treatment and abuse of domestic workers in the Gulf Cooperation Council (GCC) countries stated that “many domestic workers go abroad through informal channels. Some travel without visas or on tourist visas, while others use false documentation to go overseas for work” (ILO, 2005, p.9).



**Figure 0.8: Source of Employment**

This can be explained by developments in the migration regulations and disputes in relation to domestic working conditions between migrant-sending countries such as The Philippines and migrant-receiving countries such as the UAE. For example, in the late 1980s, responding to complaints of abuse and exploitation of Filipino domestic workers overseas, the administration of President Cory Aquino banned the deployment of domestic workers abroad. Countries interested in hiring Filipino domestic workers had to negotiate on a country-by-country basis regarding the terms of employment that would have to be met for the ban to be

lifted. While the ban encouraged the destination countries to establish and improve standards of employment for Filipino domestic helpers, it may have also prompted overseas employers to hire domestic helpers through clandestine channels, in effect deepening the illegal channels of migration. In 1995, the Filipino government again banned the deployment of Filipino domestic workers, in response to the case of a Filipino domestic worker who was convicted of murder and hanged in Singapore, despite evidence of her innocence (ILO, 2005).

Furthermore, in 2011, the Indonesian government enforced a moratorium on sending workers to Saudi Arabia after reports of human rights abuses that culminated in beheading of an Indonesian maid (Murray, 2013). Similarly, in 2015, following a series of human rights violations and abuses, including contract switching, non-payment of wages, and physical and sexual assaults, the Indonesian government banned the deployment of its citizens from working as domestic servants in the UAE by refusing to attest official documents required to facilitate formal employment (The National, 2017). Despite the planned introduction of improved labour rights for domestic workers by the UAE's government, the Indonesian government refused to sanction its citizens working as maids. However, unscrupulous employment agents continued to take advantage of the tourist visa route to bring in domestic workers from Indonesia (Murray, 2013; The National, 2017). In addition, on 6 February 2018 The Philippines banned the deployment of its citizens to Kuwait, further highlighting the risk of labour and human rights exploitation. The recent ban follows the discovery of the body of 29-year-old Joanna Demafelis in a refrigerator two years after she was declared missing, with the recovered body showing signs of strangulation and torture (Weiner, 2018).

The implication of these disputes is the unintended growth in the use of informal recruitment agencies, or employment racketeers, to facilitate the service between UAE nationals who require domestic workers, and Filipino domestic workers who are willing to offer their services in exchange for wages. This highlights a potential safety risk for the

migration governance, in which the system that is designed to provide orderly entry into the UAE cannot be relied on to account for the economic activities of migrants entering the country. In addition, it poses potential exploitation risks for the migrant who may be subjected to illegal labour practices, if s/he falls into the hands of the unscrupulous employers.

#### **6.4 EVALUATING THE PROCESS FOR OBTAINING EMPLOYMENT CONTRACTS FOR DOMESTIC WORKERS**

In this section, the nature of the employment contract is explored, including potential exploitation that could arise, given the initial finding that migration and recruitment processes can be abused. More specifically, the following interview questions were asked: (i) did you sign an employment contract in The Philippines before coming to the UAE?; (ii) were you aware of, or had agreed, your salary before coming to the UAE?; and (iii) if yes, was there an attempt, or an actual, reduction in the agreed salary after arriving to the UAE?.

First, the responses on whether the respondents signed an employment contract in The Philippines, irrespective of whether the job was secured through a formal or informal medium, are presented in Table 6.4. The Table show that only 6 of the 59 respondents, or 10.2 percent, stated that they signed a job contract before migrating to the UAE, while, in contrast, 53 (89.8 percent) stated that they did not sign a job contract before migrating to the UAE.

	<b>Frequency</b>	<b>Percent</b>	<b>Cumulative Percent</b>
Yes	6	10.2	10.2
No	53	89.8	100.0
Total	59	100.0	

**Table 0.7: Did you sign an employment contract before entering the UAE?**

The implication of this result is inconsistent. On the one hand, it explains why 66 percent of the respondents reported that they secured their jobs through informal means and why 84.7 percent migrated to the UAE using tourist visas. However, on the other hand, it does

not support the finding that 66 percent of the respondents received a job offer before migrating to the UAE. Nevertheless, it is possible that securing a job through informal channels but not signing a contract has implications for security and human rights violations for migrant domestic workers. For example, what are the risks associated with human trafficking when an intending migrant labour uses an insecure job offer and inappropriate visa route to enter the UAE? Similarly, what are the implications for the human and labour rights of the intending migrant labour when s/he eventually enters the UAE? The answers to these key questions are linked to the next two interview questions.

Second, the responses on whether the domestic workers interviewed were aware of, or agreed, to their salary before migrating to UAE, are presented in Table 6.5. The Table shows that 56 of the 59 respondents, or about 95 percent of the respondents, stated that they were aware, or even agreed, to their salary before migrating to the UAE, while only about 5 percent stated they were unaware or had not agreed to their salary. This means that the domestic workers would be able plan their financial future, which is important because 84.1 percent of the domestic workers interviewed stated that they are the breadwinner in the household.

	<b>Frequency</b>	<b>Percent</b>	<b>Cumulative Percent</b>
Yes	56	94.9	94.9
No	3	5.1	100.0
Total	59	100.0	

**Table 0.8: Were you aware of, or agreed to, your salary before coming to UAE?**

Third, although 94.9 percent of the domestic workers interviewed stated that they were aware of their, or even agreed to, salaries before moving to the UAE, the key question is, what happened when they arrived in the UAE? Were the agreed salaries at risk, given the way they secured the jobs, and the visa route used for entry? To put this in context, about 66 percent of the respondents stated that their jobs were obtained through an informal process. Thus, the responses from the next question can help explain the risk, if any, that the informal job offer

and salary negotiations have on the actual financial rewards received upon starting the job. The responses to the question “was there an attempt, or actual, reduction in the agreed salary after arriving the UAE?” are presented in Table 6.6.

Table 6.6 show that 44 of the 59 respondents, or 74.6 percent, did not experience any attempt or actual reduction in their agreed salary. In contrast, 15 respondents (25.4 percent) stated that they experienced an attempt or actually had their previously agreed salary reduced when they arrived in the UAE. This evidence highlights the classic case of bait and switch models employed by unscrupulous employers, often through employment racketeers, evading migration regulations. Bait and switch, or contract switching, involves promising a prospective migrant employee a certain salary for a specific job (the “bait”) but when they arrive the country, the migrant worker is offered a different contract for a salary lower than previously agreed, or simply forced to accept a lower amount salary (the “switch”).

	<b>Frequency</b>	<b>Percent</b>	<b>Cumulative Percent</b>
Yes	15	25.4	25.4
No	44	74.6	100.0
Total	59	100.0	

**Table 0.9: Was there an attempt to, or an actual, reduction of the agreed salary after arriving in the UAE?**

Similar studies on bait and switch have also reported evidence of the use of this method to evade migration regulations and abuse unsuspecting migrants. For example, Amirthalingam et al. (2015), using data provided by Sri Lanka Bureau of Foreign Employment, find that 76 percent of Sri Lankan women that migrated to the GCC countries reported attempts by their employers to change the salary agreed while they were in still in Sri Lanka, or were simply forced to accept a lower salary. This highlights the potential problem associated with a migration system that is ineffective in processing intending migrant labour, resulting in the abuse of the migration system, and exposing migrant workers to conditions in which their rights may be violated.

Importantly, if the correct procedures for gaining a job contract through a recognised employment agent and appropriate visa route are not followed, unscrupulous employers or job racketeers may take advantage of migrant workers who are without the legal protection that genuine employment contracts offer. For example, a study by Halabi (2008) on the expected salary versus the actual salary received by domestic workers in Saudi Arabia and the UAE, finds that most of the domestic workers were unaware of the extent wage theft awaiting them on their arrival; some migrant domestic workers expected to be paid the equivalent of USD800 per month but instead found their pay to be USD100 per month, if anything at all. In addition, Sanidad (2011) studies the potential impact of inappropriate migration documentation on employment contract protection and enforcement using undocumented migrant workers as a case study. He finds that compared to legally documented migrant workers, undocumented migrants face significant differences in treatment, such as violations of the minimum wage, overtime, illegal deductions or improper distribution of tips. Generally, the study finds that full pay is the exception rather than the rule as the undocumented migrants receive partial wages, usually half or less of the normal pay for several months or years.

## **6.5 EXPLORING POTENTIAL EVIDENCE OF SYSTEMIC HUMAN RIGHTS ABUSES**

The findings from the analysis of the nature and process of entry into the UAE by the domestic workers and the process followed to obtain an employment contract suggest scope for exploring the extent, if any exists, of violations of labour human rights. In this section, I analyse the responses to statements designed to elicit information about the actual experiences of the domestic workers in their work places. The statements include: (i) my employer consults me, and we agree, before additional role/task is undertaken; (ii) I'm able to use and enjoy days off as stipulated in my employment contract; (iii) I am able to make a complaint to my employer

when necessary; (iv) I suffer physical/verbal abuse; and (v) in general, I feel my human rights are respected and protected.

First, the analysis of responses to the statement if employers consult and obtain agreement with their employed domestic workers before additional tasks are undertaken. The results, presented in Table 6.7, show that 22 of the respondents, representing 37.3 percent, stated that they strongly disagreed with the statement, with a further 8 respondents (13.6 percent) disagreeing with the statement. Fourteen (23.7 percent) neither agreed nor disagreed with the statement. However, 13 (22 percent) agreed with the statement, while only 2 respondents (3.4 percent) strongly agreed that they are consulted before additional roles are introduced. Overall, the results show that less than one-quarter of the respondents stated their employers sought agreement before additional tasks were allocated, while more than one-half of the respondents suggested that they were not consulted before being asked to undertake additional tasks.

	<b>Frequency</b>	<b>Percent</b>	<b>Cumulative Percent</b>
Strongly Disagree	22	37.3	37.3
Disagree	8	13.6	50.8
Neutral	14	23.7	74.6
Agree	13	22.0	96.6
Strongly Agree	2	3.4	100.0
Total	59	100.0	

**Table 0.10: Employer Consultations before Additional Tasks**

The implication of this finding is the possibility that many migrant domestic workers may be exposed to the risk of forced labour, especially if the job is secured through job racketeering or migrants using an inappropriate visa route. This finding reinforces the results of the survey by the ILO of domestic workers from The Philippines. The study finds that compared to domestic workers who are based in The Philippines, migrant domestic workers tend to experience forced labour and other forms of labour rights violations (ILO, 2005).

Furthermore, a recent study on labour rights violations of domestic workers in Dubai also finds evidence of widespread forced labour. The study also finds that although recent reforms to the *Kafala* migration system provide migrant domestic workers with the incentive to resist enforced changes, it has met with little success (Parreñas and Silvey, 2016).

The Migration Policy Institute (2013) explains the three factors that contribute to human rights abuse experienced by domestic workers in the UAE. First, the *Kafala* system gives the employer ultimate control over the domestic migrant workers, which the former uses to impose harsh working conditions, including poor living accommodation, limited freedom, the withholding of wages, and mental, physical and sexual abuse. Second, weak institutional and staff capacity and funding, as well as a lack of coordination between Federal and local agencies to enforce labour laws, allows foreign and local employers and recruitment agencies to violate local and international labour standards, and also undermine the UAE's efforts to uphold international human rights obligations. Third, under the *Kafala* system, migrant domestic workers fall under the authority of the Ministry of Interior, while all other migrant workers fall under the auspices of the Ministry of Labour. This means that domestic workers are legally excluded from national labour laws, and their labour complaints are often only dealt with by the police, who have a poor record of enforcement (Migration Policy Institute, 2013).

Second, the results of the responses to the statement on whether domestic workers are able to use and enjoy days off as stipulated in their employment contracts are presented in Table 6.8. The results show that 46 of the 59 respondents (78 percent) chose the option "strongly disagree". This suggests more than three in four domestic workers interviewed were not granted a day off, contrary to the contractual agreement. This confirms Halabi's (2008) finding that due to the individualised working environment of household domestic labour, female domestic servants are vulnerable to exploitation in Saudi Arabia and the UAE. The study finds that domestic workers are often denied freedom of movement, locked inside or forbidden to

leave the home and no days off are granted. Similarly, the ILO (2005: p.21) reports that “domestic workers, particularly those who live in the employer’s household, typically have no definite work time and can be called on to serve the members of the household twenty-four hours a day...as a result of the long work hours, heavy workloads, and lack of sleep, many domestic helpers suffer fatigue, headaches, colds and other illnesses”. Fernandez (2014) agrees that this working environment has significant implications for the health and psychological wellbeing of the domestic workers, who may be left feeling dehumanised.

	<b>Frequency</b>	<b>Valid Percent</b>	<b>Cumulative Percent</b>
Strongly Disagree	46	78.0	78.0
Disagree	3	5.1	83.1
Neutral	2	3.4	86.4
Agree	4	6.8	93.2
Strongly Agree	4	6.8	100.0
Total	59	100.0	

**Table 0.11: Workers’ Days Off**

Third, the results of the responses to the statement if domestic workers interviewed suffer physical or verbal abuse during their employment are presented in Table 6.9. The results show that a total of 23 of the 59 respondents (38.9 percent) responded with “strongly disagree” and “disagree”, suggesting that they have not experienced physical or verbal abuse in their job as domestic workers. In contrast, 26 respondents (44.1 percent) responded with “agree” and “strongly agree”, suggesting that they may have experienced physical or verbal abuse in the course of their jobs as domestic workers in the UAE. The fact that 44.1 percent of the domestic workers interviewed experienced physical abuse is troubling, given that they should have the same legal protection as nationals against any form of physical abuse. This finding is in agreement with finding by Urban (2011) that domestic workers are vulnerable to a range physical abuse, including over-work, slapping, rape and being forced to work in more than one household. The study also reports that most domestic workers suffer from more than one type

of violence during the course of their employment, and many are so traumatised by the experience that it negatively affects their ability to reintegrate into society upon returning home. Similarly, Parreñas and Silvey (2016) report widespread experience of labour and human rights violations.

	Frequency	Percent	Cumulative Percent
Strongly Disagree	13	22.0	22.0
Disagree	10	16.9	39.0
Neutral	10	16.9	55.9
Agree	18	30.5	86.4
Strongly Agree	8	13.6	100.0

**Table 0.12: Physical or Verbal Abuse Experienced by the Respondents**

Fourth, the findings that a significant proportion of the domestic workers interviewed were not consulted before additional roles or tasks are given to them, denied days-off, and may suffer physical or verbal abuse, requires an understanding of how migrant domestic workers can complain, formally or informally, to their employers. Therefore, it is important to examine the extent to which the workers are able to discuss their concerns with their employers. The responses to the question on the ability of the respondents to make a complaint to their employer where necessary are presented in Table 6.10.

	Frequency	Valid Percent	Cumulative Percent
Strongly Disagree	17	28.8	28.8
Disagree	10	16.9	45.8
Neutral	11	18.6	64.4
Agree	12	20.3	84.7
Strongly Agree	9	15.3	100.0
Total	59	100.0	

**Table 0.13: I am able to make a complaint to my employer when necessary**

The results show that 27 of the 59 respondents (45.7 percent) responded with “strongly disagree” or “disagree”, suggesting that they are not in a position or allowed to make complaints to their employers when they feel they should. Nevertheless, 21 (35.6 percent)

responded with “agree” and “strongly agree”, suggesting that they are able to make a complaint when necessary. The finding that more migrant domestic workers are unable than able to talk with their employers about issues relating to their job is very concerning.

Fifth, a question was posed in order to understand the overall perceptions of the respondents about how their human rights are protected by their employers. The responses, which are presented Table 6.11, show that a total of 34 of the 59 respondents (57.6 percent) responded with “strongly disagree” and “disagree”, while 15 (25.5 percent) responded with “agree” and “strongly agree”. These responses suggest that the majority of the domestic workers interviewed believe that their human rights, in general, are not respected and protected by their employers. Halabi (2008) argues that the grotesque violations of human rights of migrant workers, especially domestic workers, qualifies it to be labelled legalised slavery. While slavery was abolished in Saudi Arabia in 1962, and in the UAE in 1963, the study finds that “contract slavery” of domestic workers continues to thrive, using contracts as a means to legitimise and disguise the practice. Halabi (2008) further argues that this slavery is supported by a method of sponsorship known as *Kafala*, which legally binds the worker to his/her employer. While it is legally possible for both the sponsor and worker to end the contract, the abused domestic worker may decide to continue with the contract, mainly because they may have to bear the cost of the return ticket. Through this system of sponsorship, the fate of the migrant worker is entirely dependent upon the goodwill of an employer who, at any time, can threaten her/his deportation, if unsatisfied. Once in their host countries, these migrants are immediately required to surrender their passports to their employers, which means that even before the domestic worker steps foot in the host country, the system of exploitation is already in place (Fernandez, 2014).

The findings on the experiences of domestic women workers in UAE can be put in historical context by highlighting developments to protect the labour and human rights of

domestic workers. For example, the conditions faced by domestic workers and their legal protection were first discussed at an ILO meeting in 1936, resulting in the ILO adopting a convention on domestic workers in 1965 (Tomei and Belser, 2011; Blackett, 2012; Murray, 2013). Thereafter, regulations to guarantee labour rights for domestic workers were put on the agenda of the 2010 International Labour Conference and subsequently an international instrument for protecting the domestic workers was adopted as Convention No. 189 Decent Work for Domestic Workers (ILO, 2011; Tomei and Belser, 2011; Blackett, 2012). Although Convention No. 189 has resulted in the government of the UAE reforming the *Kafala* migration system by introducing additional protection for domestic workers, Parreñas and Silvey (2016) show that the recent reforms are ineffective due to weak enforcement by the authorities.

	Frequency	Valid Percent	Cumulative Percent
Strongly Disagree	26	44.1	44.1
Disagree	8	13.6	57.6
Neutral	10	16.9	74.6
Agree	6	10.2	84.7
Strongly Agree	9	15.3	100.0
Total	59	100.0	

**Table 0.14: In general, I feel my human rights are respected and protected**

Against this background, it is significant that 44.1 percent of migrant domestic workers interviewed still experienced physical abuse at the work place; over one-half of them stated that they were consulted before additional tasks, not in the employment contract, were assigned to them and almost three out of five domestic workers felt they had no protection against human right violations, with about one-third stating that they actually experienced verbal or physical abuse.

In recent years, the UAE government has introduced labour rights reforms to improve protections of migrant workers. For example, in 2016, the government, through Human Resources Ministry decrees, introduced a new regulation requiring employers to give migrant

employees a standard contract which shows the exact details of the employment offer, banning contract substitution after the employment contract had been signed, and empowering workers to switch employers before the end of their contract when the employer fails to adhere to contractual terms. However, as with previous labour rights legislation or regulations, the domestic workers were excluded from this ministerial decree (Human Right Watch, 2016).

However, on 17 December 2016 the UAE government signalled a change towards improving the rights of domestic workers by announcing a gradual transfer of the administration of recruitment and employment of domestic workers from the Interior Ministry to the MoHRE. This move is significant because domestic workers are the only group of migrant workers who were overseen by Interior Ministry and, therefore, were not entitled to labour rights enjoyed by other migrant workers who are overseen by the MoHRE (Human Right Watch, 2016).

Furthermore, on 26 September 2017, the UAE government issued Federal Law No. 10 of 2017 aimed at improving protection of domestic service workers. According to the Library of Congress (2017) and the UAE Government (2017), the new law introduces the following reforms to labour rights of domestic workers. First, the new law requires only UAE-registered natural or legal persons with “good standing” may recruit domestic workers. Second, the law seeks to eliminate unscrupulous recruitment agencies that exploit unsuspecting migrant workers by requiring recruitment agencies to obtain a government licence and ensuring the migrant domestic worker is safely returned to the host country upon the completion of employment contract. Third, in terms of protecting the labour rights of domestic workers, the law seeks to improve transparency by requiring the employer to stipulate in the employment contract a full job description, wage rate, payment method, daily break and annual holiday entitlements, and condition for termination of services. Finally, the law explicitly recognises the human rights of domestic workers by asserting that “domestic service workers must be

treated equally by their employers and bans employers from discriminating against their domestic service workers on the basis of race, colour, sex, religion, political opinion” (Library of Congress, 2017).

## **6.6 UNDERSTANDING HOW MIGRANT WORKERS ARE SEPARATED FROM THEIR EMPLOYERS**

In Sections 6.3 to 6.5, the analysis of the responses from the interviews of the migrant domestic workers relating to nature and process of their employment in the UAE and their exposure to the risk of labour and human violations are discussed. The findings show that the existing migration governance system, with respect to migrant domestic workers, is ineffective and open to systematic abuse by recruitment agents, employers and employees. The employment process, by default, allows employers, to some extent, unchecked power and control over the employee. Consequently, many migrant domestic workers live and work at the mercy of their employers, potentially facing physical abuse, other forms of exploitation and human right violations.

In this section, therefore, I examine how domestic workers can be separated from their employers, and the extent to which the ineffective migration system and human right abuses contribute to how employment in the domestic sector comes to an end. More specifically, the responses of the domestic workers interviewed as to how they ended up at their country’s embassy are discussed. In addition, if the reasons are related to contract or visa expiration, or due to abuse from their employer, unpaid salaries, unbearable or poor working condition are highlighted. To emphasise, the interviews for the study were conducted with domestic workers, who had informally ended their contract and are, therefore, under the protection of their embassy in the UAE.

First, Table 6.12 shows the proportion of the respondents that are seeking refuge at the embassy due to expiration of their employment contract. It shows that 47 out of 57 respondents (82.5 percent) did not seek refuge because their contract had expired, only 10 (17.5 percent) stated this was the case. This indicates that although the proportion may be relatively small, domestic workers, whose contract had expired, may face other problems, as it would be assumed that the worker would be in the position to finance their return home country without having to seek assistance from their embassy. Other factors that explain why these domestic workers seek refuge may include unexpected or unilateral termination of contract, human rights violations, wage theft or denial of financial settlement and poor working conditions; all of which are explored below.

	Frequency	Percent	Cumulative Percent
No	47	82.5	82.5
Yes	10	17.5	100.0
Total	57	100.0	

**Table 0.15: Are the former domestic workers seeking refuge because of contract expiration?**

	Frequency	Percent	Cumulative Percent
No	42	73.7	73.7
Yes	15	26.3	100.0
Total	57	100.0	

**Table 0.16: Are the former domestic workers seeking refuge because of visa expiration?**

Second, Table 6.13 summarises the proportion of the respondents seeking refuge based on expiration of the working visa. It shows that 42 of the 57 respondents (73.7 percent) are not seeking refuge for this reason, while 15 (26.3 percent) are. This raises the question, why are around 74 percent of the respondents seeking refuge? Again, the answer to this question is explored through responses to further questions, including abuse and working conditions.

Third, the respondents were asked if their reason for seeking refuge at the embassy was connected to unpaid salaries. The results in Table 6.14 show that 12 of the 57 respondents (21.8

percent) were seeking refuge because of unpaid salaries, while 43 (78.2 percent) stated this was not the reason. This finding is concerning, because one in four domestic workers interviewed were owed salaries for work done, which had forced them to seek refuge at their embassy.

	Frequency	Percent	Cumulative Percent
No	43	78.2	78.2
Yes	12	21.8	100.0
Total	55	100.0	

**Table 0.17: Are the former domestic workers seeking refuge because of unpaid salaries?**

Fourth, Table 6.15 shows the distribution of responses with respect to the question on the link between the working conditions experienced and their decision to seek refuge at their embassy. The results indicate that 25 of the 57 respondents (44.6 percent) were not seeking refuge because of their working conditions but, a majority (31 representing 55.4 percent) blamed their working conditions for the reason they were seeking refuge. Various poor conditions facing domestic workers are examined in Section 6.5; these include not being consulted by their employers before additional roles are assigned, unable to obtain and enjoy days off as stated in the contract, and unable to make a complaint to the employer when necessary.

	Frequency	Percent	Cumulative Percent
No	25	44.6	44.6
Yes	31	55.4	100.0
Total	56	100.0	

**Table 0.18: Are the former domestic workers seeking refuge because of poor working conditions?**

Finally, on the subject of physical abuse, the responses to the question on whether the domestic workers interviewed were seeking refuge to avoid an abusive employer are presented in Table 6.16. The results show that 25 (about 44 percent) of the respondents were not seeking refuge because of abuse related issues, while 32 (56.1 percent) confirmed that they were seeking refuge for this reason. This confirms the initial hypothesis that a significant proportion

of the migrant domestic workers interviewed have been exposed to some form of abuse, including physical abuse.

	Frequency	Percent	Cumulative Percent
No	25	43.9	43.9
Yes	32	56.1	100.0
Total	57	100.0	

**Table 0.19: Are the former domestic workers seeking refuge because of an abusive employer?**

One of the domestic workers interviewed, P1, detailed her experience as:

When I first came here, my life went well, and my boss was very nice to me for two months. However, during the third month, I started to experience maltreatment from them. When I made a small mistake, for example, she shouted at me and verbally abused me. I thought she was nice; but she was bad, terribly bad. I actually thought that she was very good, but this was false...I was overworked by the family (over 17 hours) and this is the reason why I ran away from them.

A second domestic worker seeking refuge, P2, explained her experience of abuse and poor working conditions stating that:

Everyday my employer would shout and get at me, verbally cursing me, and physically hitting me. She also reduced the amount of food. I was only given a piece of bread and tea for breakfast, and then I'd have my lunch at 3 or 4pm. At work, I struggled having to wake up at 5am and working until 11 or 12pm at night; non-stop work. During the time I runaway, I was so scared because I felt that I could be caught by my employer and I was afraid that she could do something bad to me.

A third runaway domestic sheltered at the embassy, P5, also narrated her experience:

When I came to the UAE, I didn't have a good experience. I was very sad and I felt hurt inside of me and my body was tired. My first sponsor was very good, but his father touched my breasts. My second sponsor – his children were extremely hard hearted, they were physically hurting me, and they were reporting false things to their parents. As a result, I was always being shouted at, briefed and accused and I felt uncomfortable. At work, I was taking care of twins (5 years old), I was doing laundry. Because of these working conditions, I runaway and began to feel relief and safe at the embassy.

Another runaway domestic, P12, explained her experience that led her to seek refuge at the embassy:

The Family was very good, accommodating and kind. I was able to stay there for 1 year and 4 months. Unfortunately, there was a time when the husband of my employer raped me and kept on telling that no one should know what he did to me because he would definitely kill me. I decided to go to The Philippine Embassy and

ask for help. The embassy assisted me to file a case and we were able to send the husband of my employer to jail. Currently, I'm just waiting for my passport to be cleared and I will go back to The Philippines to take care of my family. Another time, my employer's brother harassed me and I thought that all maids, if they wanted to, could easily go after them [abusers] and get them.

Furthermore, a runaway domestic, P14, recalled the experience led her to seek refuge at the embassy:

They touched my body and when they knew I was leaving, said I could not report to my boss because if he sees me, [he says] "I will kill you". I cannot report. I could not tell my employer because I was afraid. One time, I was ironing and there was nobody in the house. The other maid was in the kitchen and I was inside. He came and went inside. He didn't let me go and held my arms because I told him that I'd run away. He didn't let me go and I tried to leave but then he dragged my feet and I was like a rug on the floor. He carried me when I was fighting against him. I'm glad someone rang the doorbell and I told him that I'll report you to your mother. He said, "try to report me, I'll kill you".

## **6.7 IDENTIFYING RELATIONSHIPS BETWEEN DEMOGRAPHICS AND THE RISK OF EXPLOITATION**

In this section, the chi-square ( $\chi^2$ ) test of independence is used to investigate if exposure to exploitation and human rights abuse of migrant domestic workers by their employers is related to any demographic characteristics. That is, if domestic workers who stated they had experienced some form of exploitation or abuse, on average, tend to possess a particular demographic characteristic. The hypothesis testing is based Pearson's and likelihood-ratio statistics and the associated  $p$ -value.

### **6.7.1 Migration Route and Demographics**

First, given the finding that many domestic workers, in collusion with the prospective employer, do not use the work visa route, thereby circumventing the migration process, it is important to test if this behaviour is dependent on the educational level of the intending migrant domestic worker. Are the less-educated disproportionately liable to this form of migration system abuse by unscrupulous employers and employment racketeers?

The test results, presented in Table 6.17, show that both Pearson's and the likelihood-ratio  $\chi^2$  test statistics are statistically insignificant, suggesting that the abuse of visa system is not dependent on education attainments. Specifically, the p-values for both Pearson's and likelihood-ratio statistics are consistently insignificant at conventional levels, which implies that the visa system can be abused, working with employers, irrespective of the level of education of the prospective employee.

	<b>Education Attainment of the Domestic Workers</b>			
<b>UAE Visa Route</b>	<b>Primary</b>	<b>Secondary</b>	<b>Tertiary</b>	<b>Total</b>
Visitor visa	0	4	2	6
Tourist visa	4	32	13	50
Work visa	0	1	2	3
<b>Total</b>	<b>4</b>	<b>37</b>	<b>17</b>	<b>59</b>
Pearson $\chi^2$ (6) = 3.0128, <i>p</i> -value= 0.807 Likelihood-ratio $\chi^2$ (6) = 3.448, Pr = 0.751				
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the visa route used by the domestic worker to enter the UAE and the education level are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.				

**Table 0.20: The Relationship between Education and Entry Route to the UAE**

Second, a similar test was conducted to examine if the visa route used by the migrant domestic worker is dependent on the age of the migrant domestic worker. That is, whether there is an age difference in relation to abusing the visa migration system. The test results presented in Table 6.18 shows that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 28.5362 and 11.8916, respectively, with the corresponding the p-values suggesting that both tests are statistically significant. This suggests that there is relationship between the age of the migrant domestic worker and the visa route used. The implication is that the visa system abuse is age related, with informal job agents able to deal with intending migrants of a particular age.

Third, any potential relationship between being the breadwinner and being complicit in visa abuse by using tourist visa, for example, to facilitate employment through informal middlemen was investigated. That is, whether being the main financial provider in the

household served as an overwhelming incentive to engage in this form of abuse of the migration process. The test results, presented in Table 6.19, show that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 0.394 and 0.234, respectively, with the corresponding the p-values for both suggesting that both tests are statistically insignificant. This finding suggests that there is no relationship between the level of financial responsibility within the household and the visa route used. The implication is that being a breadwinner does not increase the likelihood of abusing the migration system, or that the abuse of the visa system is not dependent on financial pressures.

	<b>Age of the Domestic Worker</b>				
<b>UAE Visa Route</b>	<b>18-30</b>	<b>31-45</b>	<b>46-55</b>	<b>56+</b>	<b>Total</b>
Visitor visa	2	4	0	0	6
Tourist visa	15	34	1	0	50
Work visa	0	1	1	1	3
<b>Total</b>	<b>17</b>	<b>39</b>	<b>2</b>	<b>1</b>	<b>59</b>
Pearson $\chi^2$ (6) = 28.5362, <i>p</i> -value = 0.000 Likelihood-ratio $\chi^2$ (6) = 11.8916, Pr = 0.064					
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the visa route used by the domestic worker to enter the UAE and the age of the domestic worker are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.					

**Table 0.21: The Relationship between Age of the Domestic Worker and Entry Route**

	<b>Is the domestic worker the main financial contributor in the family?</b>		
<b>UAE Visa Route</b>	<b>Yes</b>	<b>No</b>	<b>Total</b>
Visitor visa	6	0	6
Tourist visa	40	10	50
Work visa	2	1	3
<b>Total</b>	<b>48</b>	<b>11</b>	<b>59</b>
Pearson $\chi^2$ (2) = 1.8624, <i>p</i> -value = 0.394 Likelihood-ratio $\chi^2$ (2) = 2.9011, Pr = 0.234			
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the visa route used by the domestic worker to enter the UAE and the domestic worker being the main breadwinner are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.			

**Table 0.22: The Relationship between Being a Breadwinner and Entry Route**

### 6.7.2 Recruitment Channel and Demographics

The recruitment channel used by migrant domestic workers to secure employment is very important, mainly because it may affect the genuineness of the contract signed while still in their home country. For example, securing a job through a government-approved employment agency may result in gaining a contract that meets legal requirements, compared to obtaining a job through unauthorised middlemen may result in a contract that does not meet the legal requirements. Therefore, in this section, I examine if the ability to secure employment through a particular type of agency can be explained by the demographic distribution of the domestic workers interviewed.

Recruitment Channel	Education Attainment of the Domestic Worker				
	Primary	Secondary	Tertiary	College	Total
Agency in The Philippines	1	2	3	0	6
Agency in the UAE	2	8	3	1	14
Informal Agent	1	27	11	0	39
<b>Total</b>	<b>4</b>	<b>37</b>	<b>17</b>	<b>1</b>	<b>59</b>
Pearson $\chi^2$ (6) = 8.6291, $p$ -value = 0.196					
Likelihood-ratio $\chi^2$ (6) = 8.0978, Pr = 0.231					
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the recruitment route used by the domestic worker to enter the UAE and the education level are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.					

**Table 0.23: The Relationship between Education Level and Recruitment Channel Used**

First, the potential relationship between the level of education of the migrant and the recruitment method used by the migrant is tested. Are less educated migrants disproportionately liable to be forced into using informal routes to secure a job, or are more educated migrants disproportionately able, with better knowledge, to use formal, approved routes to secure contract? The test results, presented in Table 6.20, show that Pearson's and likelihood-ratio  $\chi^2$  test statistic are 8.6291 and 8.0978, respectively, with the corresponding the  $p$ -values suggesting that both tests are statistically insignificant. Thus, the recruitment system used is not dependent on the education attainments of the migrant. This may suggest prospective

domestic workers, irrespective of their educational background, are willing to take foreign employment, whether through formal or informal sources.

Recruitment Channel	Age of the Domestic Worker				Total
	18-30	31-45	46-55	56+	
Agency in The Philippines	1	4	1	0	6
Agency in the UAE	6	7	0	1	14
Informal Agent	10	28	1	0	39
<b>Total</b>	<b>17</b>	<b>39</b>	<b>2</b>	<b>1</b>	<b>59</b>
Pearson $\chi^2$ (6) = 9.0297, $p$ -value = 0.172					
Likelihood-ratio $\chi^2$ (6) = 7.6266, Pr = 0.267					
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the recruitment route used by the domestic worker to enter the UAE and the age of the migrant are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.					

**Table 0.24: The Relationship between Age of the Domestic Worker and Recruitment Channel Used**

Second, if the recruitment channel used by the migrant domestic worker is dependent on the age of the migrant domestic worker is examined. Does the age of the domestic worker explain the differences in the use of formal or informal recruitment channels promoted by unscrupulous employers and employment racketeers? The test results presented in Table 6.21 show that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 0.172 and 0.267, respectively, with the corresponding the  $p$ -values suggesting both tests are statistically insignificant. This suggests that there is no relationship between the age of the domestic worker and the recruitment channel used by the migrant. This implies that, irrespective of the age differences, intending migrants are open for employment opportunities, regardless of the recruitment channel.

### 6.7.3 Entry and Recruitment Channel and the Risk of Salary Reduction

The analysis of the responses to the statement if an employer attempted or actually reduced the salary agreed after the migrant domestic worker arrived shows that one in four migrants faces

a reduction in their salary from that agreed before the migrant entered the UAE. In this section, I examine if this experience is significantly different depending on the recruitment and migration channels used by the domestic worker. This section also posits possible explanations as to why some domestic workers face the risk of having their salary reduced after entering the UAE.

First, the relationship between recruitment channel and the risk of salary reduction is assessed. There are three types of recruitment channel; an employment agency based in The Philippines, an employment agency based in the UAE and individual or informal agent. The null hypothesis is that there is no relationship between the specific recruitment channel used and the risk of a reduction in the agreed salary. The results, presented in Table 6.22, show that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 3.9972 and 4.6395, respectively, with corresponding p-values of 0.136 and 0.098. This result shows that likelihood-ratio  $\chi^2$  test is marginally significant, while Pearson's  $\chi^2$  test is statistically insignificant. This suggests a weak relationship between use of recruitment channel and reduction in salary, which is an important potential implication for the migrant domestic worker to secure the job offers through formal channels in order to lessen the risk of salary reduction.

Next, the relationship between the risks of salary reduction and whether the domestic worker signed an employment contract while in The Philippines. The null hypothesis is that there is no relationship between signing the employment contract in the home country and the experience of reduction in the agreed salary. The results, presented in Table 6.23, show that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 2.2770 and 3.7463, respectively, and the corresponding p-values are 0.131 and 0.053. This result shows that likelihood-ratio  $\chi^2$  test is statistically significant, while Pearson's  $\chi^2$  test is statistically insignificant. This shows that there is no strong relationship between the risks of salary reduction and if the migrant signed the employment contract while in The Philippines before migrating to the UAE. However,

there is evidence that suggests signing an employment contract offers relatively weak protection against the risk of salary reduction. This confirms the bait and switch model of international recruitment, where employment agencies, or individual employers, offer attractive salaries to prospective employee only to change the agreement after the migrant arrives and starts work.

Recruitment Channel	Reduction in Salary after Arrival in the UAE		
	Yes	No	Total
Agency in The Philippines	1	5	6
Agency in the UAE	1	13	14
Informal Agent	13	26	39
Total	15	44	59
Pearson $\chi^2$ (2) = 3.9972, <i>p</i> -value = 0.136 Likelihood-ratio $\chi^2$ (2) = 4.6395, Pr = 0.098			
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the recruitment channel used by the domestic worker to enter the UAE and a reduction in the agreed salary are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.			

**Table 0.25: The Relationship between Recruitment Channel and the Risk of Salary Reduction**

There is evidence that this practice is widespread in GCC countries, including the UAE. For example, Amirthalingam et al. (2015) report significant reductions in the contracted salary and what is actually received. In addition, Halabi (2008) provides further details showing a reduction of up to 87.5 percent in cases where domestic workers agreed a salary of USD800 only to receive about USD100.

The implication of the findings is that employers are willing to disregard contractual agreements once the migrant reaches the host country. Consequently, this raises the question about the labour rights in the UAE, and the extent to which domestic workers benefit from these rights. This may be explained by the fact that domestic workers are excluded from the labour right laws in the UAE, although recent reforms offer more protection against income exploitation by employers.

Contract Signed in The Philippines	Reduction in Salary after arrival in the UAE		
	Yes	No	Total
Yes	0	6	6
No	15	38	53
<b>Total</b>	<b>15</b>	<b>44</b>	<b>59</b>
Pearson $\chi^2$ (2) = 2.2770, <i>p</i> -value = 0.131			
Likelihood-ratio $\chi^2$ (2) = 3.7463, Pr = 0.053			
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the signing of an employment contract and a reduction in the agreed salary are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.			

**Table 0.26: The Relationship between Signing an Employment Contract in The Philippines and the Risk of a Salary Reduction**

#### 6.7.4 The Relationship between Entry and Recruitment Channels and the Risk of Human Rights Abuses

Given the findings that 25 percent of migrant domestic workers interviewed faced a reduction in the agreed salary and that there is a significant difference in the risks associated with salary reduction according to the entry and recruitment channels, it is also important to examine the role of recruitment and the migration process in respect of human rights abuses. In this section, I explore the potential factors that can explain differences in the experiences of the migrant domestic workers in relation to human rights abuses in their work place. That is, can factors be identified that indicate if a prospective migrant domestic worker is likely to suffer from human right abuses in the host country? The following factors are considered: the type of entry visa used by the migrant worker; the recruitment channel through which the migrant secured the job; whether the job offer was made and agreed while the migrant was still in The Philippines; and whether the employment contract was signed by a migrant before arriving in the UAE. Again, the  $\chi^2$  statistical test of independence is used to test for the relationship between entry and recruitment conditions and the risk of human rights abuse.

First, the potential relationship between the type of entry visa used by the migrant worker and the experience of human rights abuse by the employer is analysed. The purpose is

to test if the entry route, especially if the migrant intentionally used an inappropriate visa route to gain employment through informal channels, has an impact of the experience of abuse. The results, presented in Table 6.24, show that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 5.9518 and 7.9940, respectively, while the corresponding the p-values suggest that both tests are statistically insignificant. The implication is that human right abuse is systemic and, therefore, independent of the visa route used by the migrant.

Visa Entry Route	Experience Human Right Abuse					Total
	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	
Visitor visa	1	0	1	3	1	6
Tourist visa	12	10	8	13	7	50
Work visa	0	0	1	2	0	3
<b>Total</b>	<b>13</b>	<b>10</b>	<b>10</b>	<b>18</b>	<b>8</b>	<b>59</b>
Pearson $\chi^2$ (8) = 5.9518, <i>p</i> -value = 0.653						
Likelihood-ratio $\chi^2$ (8) = 7.9940, Pr = 0.434						
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the Visa route used by the domestic worker to enter the UAE and the experience of human rights abuses are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.						

**Table 0.27: The Relationship between Visa Entry Route and the Risk of Human Rights Abuses**

Next, the potential relationship between the recruitment channel used by the migrant and experience of human rights abuse by the employer is examined. That is, are migrants using informal recruitment channels, such as those used by unauthorised job agents, more likely to experience human rights abuse compared to migrant workers, who use formal, authorised employment channels? The results, presented in Table 6.25, show that Pearson's and likelihood-ratio  $\chi^2$  test statistic are 20.0377 and 23.0173, respectively, with the corresponding the p-values suggesting that both tests are statistically significant. These results imply that the risk of human right abuse is significantly correlated with the recruitment channel used by the migrant. This finding has a clear implication: prospective domestic workers should be aware

that job offers from informal sources may not offer the same legal protection as those from authorised employment agencies.

Recruitment Channel	Experience of Human Rights Abuse					Total
	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	
Agency in The Philippines	2	1	3	0	0	6
Agency in the UAE	7	2	0	2	3	14
Informal Agent	4	7	7	16	5	39
<b>Total</b>	<b>13</b>	<b>10</b>	<b>10</b>	<b>18</b>	<b>8</b>	<b>59</b>
Pearson $\chi^2$ (8) = 20.0377, $p$ -value = 0.010						
Likelihood-ratio $\chi^2$ (8) = 23.0173, Pr = 0.003						
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the experience of human right abuse and recruitment channel are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.						

**Table 0.28: The Relationship between Recruitment Channel and the Risk of Human Rights Abuse**

Third, the influence of securing a job offer while in The Philippines on the experience of human rights abuse is examined. That is, do migrant domestic workers who received a job offer before migrating to the UAE receive different human rights experiences. The results, presented in Table 6.26, show that Pearson's and likelihood-ratio  $\chi^2$  test statistics are 8.8791 and 11.2347, respectively, with the corresponding the  $p$ -values are 0.064 and 0.024. These results indicate that having a job offer before migrating to the UAE makes a difference to the experience of human rights abuse inflicted on them.

Fourth, the potential relationship between experience of human rights abuse and if the domestic worker signed the employment contract in The Philippines. The purpose is to test if securing job offer in The Philippines helps to protect the intending migrant domestic worker from human rights abuse or if additional protection is needed. The results, presented in Table 6.27, show that Pearson's and likelihood-ratio  $\chi^2$  test are 2.5948 and 3.7014, respectively, and the corresponding  $p$ -values are 0.628 and 0.448. This result suggests that hypothesis of no relationship between signing the employment contract in The Philippines and experiencing

human rights abuse is not rejected, with the implication that signing the employment contract in The Philippines does not offer additional protection against human rights abuse.

	<b>Experience Human Right Abuse</b>					
<b>Job Offer Before Migrating</b>	<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Neutral</b>	<b>Agree</b>	<b>Strongly Agree</b>	<b>Total</b>
Yes	7	4	8	12	8	<b>39</b>
No	6	6	2	6	0	<b>20</b>
<b>Total</b>	<b>13</b>	<b>10</b>	<b>10</b>	<b>18</b>	<b>8</b>	<b>59</b>
Pearson $\chi^2$ (4) = 8.8791, $p$ -value = 0.064 Likelihood-ratio $\chi^2$ (4) = 11.2347, Pr = 0.024						
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the experience of human right abuse and whether domestic workers received a job offer before migrating are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.						

**Table 0.29: The Relationship between Job Offer before Migration and the Risk of Human Rights Abuse**

<b>Signed Employment Contract in The Philippines</b>	<b>Experienced Human Rights Abuse</b>					
	<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Neutral</b>	<b>Agree</b>	<b>Strongly Agree</b>	<b>Total</b>
Yes	0	1	2	2	1	<b>6</b>
No	13	9	8	16	7	<b>53</b>
<b>Total</b>	<b>13</b>	<b>10</b>	<b>10</b>	<b>18</b>	<b>8</b>	<b>59</b>
Pearson $\chi^2$ (4) = 2.5949, $p$ -value = 0.628 Likelihood-ratio $\chi^2$ (4) = 3.7014, Pr = 0.448						
Note: $\chi^2$ calculates Pearson's and likelihood-ratio for the hypothesis that the experience of human rights abuse and if the domestic worker signed an employment contract in The Philippines are independent. A significant chi-square statistic implies that the null hypothesis should be rejected.						

**Table 0.30: The Relationship between Job Offer before and after Migration and the Risk of Human Right Abuse**

This result contradicts the finding that receiving a job offer before migrating to the UAE makes a difference in experiencing human right abuses. The explanation for this difference is that signing of an employment contract makes no difference to the human right abuser as is evident from the finding that one-quarter of the domestic workers interviewed faced changes to their original salary agreed in the employment contract. Furthermore, the finding that migrants using informal recruitment channels are more likely to experience human rights abuse than migrant

workers who used a formal employment agency, suggests that who offers the contract is more important than the contract itself.

## **6.8 WHY ARE DOMESTIC WORKERS VULNERABLE TO EXPLOITATION AND ABUSE?**

As a result of the growing demand for foreign labour, the UAE and other GCC countries introduced the *Kafala* migration sponsorship system in the 1950s to regulate the relationship between employers and migrant workers, especially in the case of unskilled labour such as domestic workers. Under the *Kafala* system, a domestic worker's legal status is tied to an individual employer throughout the contract period. This means that the domestic worker cannot be separated from the employer or work for a new employer before the end of their contract without first obtaining explicit written permission from the current employer. This applies even if that employer is abusive, otherwise the domestic worker will be prosecuted for absconding from duty and punished with fines, imprisonment, and deportation (Human Right Watch, 2017). To enforce this immigration rule for the domestic workers, the employer, or the visa sponsor, is legally bound to report to the immigration authorities if the migrant worker leaves their employment and must ensure that the worker leaves the country after the contract ends, including paying for the flight home.

Consequently, the *Kafala* sponsorship system confers significant authority to the employer over the employee, which the sponsor can exploit by confiscating the employee's passport and travel documents, despite rules declaring this practice illegal. According to Esveld (2009), the UAE, being a signatory to the ILO Convention on the Abolition of Forced Labour, legislates that no employer should retain an employee's passport. Furthermore, the legal department of the MoHRE confirming that retaining a worker's passport amounts to forced labour in violation of the ILO convention. In addition, the UAE Ministry of Interior issued a

decree stating that “as the passport is a personal document and as the law obliges its owner to keep and show when required by the governmental authorities, it is not allowed for any party to detain the passport except by the official parties with a judicial order and according to the law” (Bobker, 2015). However, because the State is unwilling to enforce the regulations or prosecute violators, employers and sponsors have continued to confiscate domestic workers’ passports, and, in some cases, have held domestic workers in their homes against their will (Keane and McGeehan, 2008; Sönmez et al., 2011; Vlieger, 2012; Cooper, 2013). Indeed, Halabi (2008) argues that the prevalence of human rights violations through the *Kafala* sponsorship system and the lack of political and cultural will to stamp out the practice qualifies it as contract enslavement of female migrant domestic workers. Similarly, Sabban (2002) argues that the social status of female domestic workers in the UAE under the *Kafala* system qualifies the relationship between domestic workers and their sponsors as slavery.

Another reason why domestic workers in the UAE are vulnerable to abuse and exploitation is the dichotomy in the labour law, which explicitly excludes domestic workers from its protection; their employment is, instead, governed by a standard contract that provides far weaker rights. While other workers are entitled to work no more than eight hours per day or 40 hours per week, and are entitled to sick leave and overtime compensation, domestic workers are not covered by these rights. A Human Rights Watch study on the impact of excluding domestic workers from the labour laws in the UAE, reports that the majority of the 99 domestic workers interviewed stated that their employers forced them to “work long hours, up to 21 hours a day, with no rest breaks and no day off, and did not pay them their full salaries, if they were paid at all; gave them little or spoiled food; shouted at them daily; and in some cases, even physically or sexually abused them, with some of these abuses amounting to forced labour or trafficking” (Human Right Watch, 2017).

In recent years, the Human Resources Ministry has introduced several reforms to improve protection for migrant workers, but the reforms do not yet apply to domestic workers. The reforms include ministerial decrees that took effect in January 2016 to combat contract substitution, by requiring that employers use standard employment contracts which reflect the same terms as the employment offer and allow workers to change employers before the end of their contracts in certain circumstances, such as when employers fail to meet legal or contractual obligations to the worker (UAE Government, 2017).

In addition, the Council of Ministers' directive on 17 December 2016 proposes the transfer of the oversight for the recruitment of domestic workers from the Interior Ministry to the MoHRE. Although this should be considered a positive step for ensuring that domestic workers are fully protected under the Labour Law, Human Rights Watch argues that this change is only symbolic unless the government also ensures that domestic workers have the same labour law protections as other workers (Human Right Watch, 2016, 2017, 2018).

## **6.9 THE ROLE OF THE INTERNATIONAL LEGAL FRAMEWORK: GAPS IN LABOUR AND HUMAN RIGHTS IN THE UAE**

The labour and human rights of migrant workers, and domestic workers in particular, have attracted the attention of international organisations in recent years. The resulting legal framework for promoting and safeguarding these rights are covered in a number of ILO and UN conventions. A key step towards developing an internationally accepted framework for protecting labour and human rights of migrants is the ILO's 1949 Migration for Employment Convention (Revised, No. 97); ratifying countries are required to submit national policies, laws and regulations relating to the employment rights of migrants. In addition, early ILO and UN resolutions, declarations or conventions are particularly relevant to domestic workers, as they are intended to protect these workers against forced labour, unpaid labour, physical abuse and

other labour-related human rights violations. For example, in 1965, the ILO conference adopted a resolution on the working conditions of domestic workers, calling for social justice in relation to the working conditions of domestic workers and establishing international minimum living standards that are consistent with the self-respect and human dignity. Subsequent declarations and conventions have also been adopted to strengthen and protect the rights of migrant workers, and domestic workers in particular.

However, fundamental conventions, established after the 1949 convention, which could help strengthen the legal and institutional capacity and efficiency of an effective migration governance system, have not been ratified by the UAE, or the other GCC countries. Among the ILO and UN conventions, summarised in Table 6.28, the most relevant for migrant domestic workers is the ILO Domestic Workers Convention (No. 189), which was adopted in 2011. The convention recognises the significant contribution of domestic workers to the global economy, and formally adopted measures to ensure that equal employment and working conditions were extended to domestic workers.

Other international conventions relevant to domestic workers is the ILO Migrant Workers (Supplementary Provisions) Convention (No. 143), which was adopted in 1975. This Convention directly deals with migrant workers in potentially abusive conditions. Contrary to the provisions of *Kafala* system, Convention No. 143 states that migrant workers should not be considered illegal merely because of the loss of their employment. Furthermore, the ILO Private Employment Agencies Convention (No. 181), adopted in 1997, mandates that ratifying countries protect workers against the abuse of labour and human rights which may be facilitated through private employment agencies. By ratifying this Convention, countries are tasked to formalise private employment agencies which, in particular, protects domestic workers who are vulnerable to informal working arrangements with unregulated private employment agencies. In addition, Convention No. 181 aims to protect workers which are contracted by

private employment agencies are not discriminated against on the basis of race, colour, sex, religion, political opinion, or any other form of discrimination covered by national law and practice, such as age or disability.

	<b>ILO C87</b>	<b>ILO C98</b>	<b>ILO C97</b>	<b>ILO C143</b>	<b>ILO C181</b>	<b>ILO C189</b>	<b>UN ICPRMW</b>
<b>Bahrain</b>	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified
<b>Kuwait</b>	Ratified 21/09/61	Ratified 09/08/07	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified
<b>Oman</b>	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified
<b>Qatar</b>	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified
<b>Saudi Arabia</b>	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified
<b>UAE</b>	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified	Not Ratified

**Table 6.28: ILO Conventions Awaiting Ratification by the GCC Countries**

In relation to the UN, its most relevant convention in relation to migrant domestic workers is the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICPRMW), which was adopted in 1990. This convention is designed to guarantee that migrants workers, and their families, have same human rights as nationals in the countries in which they are residing.

Disturbingly, the UAE and other GCC states have not ratified these conventions, and their non-ratification highlights the important gap for creating and supporting a migrant-friendly environment.

## **6.10 SUMMARY AND CONCLUSION**

This chapter evaluated the range and effectiveness of laws and institutions that are designed to regulate and enforce the migration process in the UAE, with the overall aim of identifying potential gaps that exist in terms of their relevance and limitations. Using migrant domestic

workers from The Philippines as the case study and based on structured interviews with 60 of these workers, the key findings from the analysis of their experiences are as follows.

First, there is evidence that the existing system for admitting unskilled workers is ineffective and open to abuse by both unscrupulous employers and migrants. For example, the fact that jobs can be arranged informally, and the migrant is able to enter the UAE posing as a tourist rather than using the appropriate visa route, suggested that data collected through the immigration process may be potentially misleading and, therefore, ineffective for policy making. The implication of this finding was that the existing migration system may not accurately record the number and purpose of migrants admitted into the country, and called into question the capacity to protect migrants who may be vulnerable to unscrupulous employers.

Second, evidence of ‘bait and switch’ recruitment practices were identified as the primary channel for labour exploitation. The finding suggested that about 25 percent of the domestic workers interviewed were enticed with the prospect of an attractive salary (the ‘bait’) but upon arrival in the country, the employer, exploiting the *Kafala* system, forced the employee to accept a lower level of salary (the ‘switch’). Unfortunately, while MoHRE, according to Ministerial Resolution 788 of 2009, operates the WPS for private sector employees, domestic workers are excluded and, therefore, the employers or sponsors of the migrant domestic workers are not monitored to ensure payment of wages. The WPS allows for transparency in salary payments to workers including migrant workers, and thus addresses the issue of non-payment or delayed payment of salaries. Migrant domestic workers would benefit from this system if their employers were legally required to comply with the system to ensure the contracted salaries are paid in accordance with the deadlines stipulated in the law.

Third, the findings from the analysis of the experiences of the migrant domestic workers revealed disturbing human rights violations and generally poor working conditions. Some of

the domestic workers interviewed reported experiences of physical abuse. In addition, the analysis of the responses suggested evidence of forced labour, with domestic workers working long hours without holidays. There was also evidence that some migrant domestic workers are forced by their employers to undertake additional tasks without being consulted by them.

Finally, this study highlighted key international conventions that have not been ratified by the UAE government, which could improve the treatment of low-skilled workers, especially the domestic workers. Ratifying international conventions relevant to migrant workers provides the incentive for enacting domestic laws that protect against human and labour rights violations and punish offenders. Unfortunately, the non-ratification of the relevant conventions means that migrant workers, especially domestic workers, are not fully protected under the UAE's labour laws and, therefore, are vulnerable to exploitation.

## **CHAPTER SEVEN:**

### **PROPOSING A UAE MIGRATION GOVERNANCE INDEX**

#### **7.1 INTRODUCTION**

Developing a balanced, effective governance index for managing the migration process for the UAE is important for the key stakeholders in the migration system. From the government's perspective, the migration governance index can be employed to assess the extent to which the existing migration policies meet the intended objectives, help identify the potential gaps in meeting the objectives, and evaluate alternative policies that can make a difference in meeting the desired objectives. For businesses, especially as the UAE's economy is heavily dependent on migrant labour, a migration governance framework provides a basis for appraising how changes in the foreign-labour driven labour market can affect the investment climate, labour productivity, competitiveness, profitability and the overall business environment. For international human and labour rights organisations, it provides data for assessing the progress of the UAE in meeting international benchmarks on migration governance and forms the basis for recommendations for necessary reforms. For existing and prospective migrants, it allows them to assess the legal and institutional environment and make judgements on the migrant-friendliness of the UAE's migration policies. Overall, the resulting data from the proposed index can provide an understanding of the implications of current national policies on migration governance, and where, if necessary, improvement can be made to achieve the objectives of balancing the potential benefits and costs of migration.

#### **7.2 A BRIEF SUMMARY OF THE FINDINGS FROM THE EMPIRICAL ANALYSIS**

As part of developing the UAE's migration governance framework, and the corresponding index, I have examined the potential costs and benefits of migrant inflows into the UAE (see Chapter 5). In brief, the findings suggest that migration may have implications for the socio-

economic outcomes of the UAE. More specifically, the results suggest that migration may result in: (i) lower economic growth; (ii) potentially higher youth unemployment; and (iii) higher demographic imbalance. The key factor in these findings is the composition of migrants: a relative increase in skilled migrants will boost productivity and reduce demographic imbalance, as they are more likely to qualify for family reunion, while a relative increase in low-skilled migrants will lead to the opposite outcomes.

Furthermore, the evaluation of the effectiveness of legal and institutional structures that govern the migration process in the UAE reveals important gaps in developing a migrant-friendly environment. For example, the analysis of the interview of domestic workers suggests the system is open to exploitation, with migrants at risk from unscrupulous employers and recruitment agents. Also, the experiences of the domestic workers reveal disturbing problems of human rights violations and generally poor working conditions.

These findings clearly highlight the need for developing a migration governance framework that seeks to both maximise the benefits of migrant workers and to promote a migrant-friendly environment. The proposed migration governance index will provide valuable metrics to measure the progress towards attaining effective, balanced migration governance. The methodological process followed in developing this index is discussed in Chapter 4.

### **7.3 DEVELOPING THE UAE MIGRATION GOVERNANCE FRAMEWORK**

I propose a three-dimensional framework, which, on one hand, allows for the evaluation of the legal framework and institutional capacity aimed at creating a migrant-friendly environment, and, on the other hand, allows for the evaluation of migration outcomes with respect to the economic, social and demographic objectives of the UAE. The relevant social and demographic objectives, according to UAE Vision 2021 and Abu Dhabi 2030, form part of what is termed “Emiratisation” policies, which target higher growth and productivity, lower youth

unemployment, higher women's participation in the labour market and a reduction in demographic imbalance.

### **7.3.1 Institutional Dimension**

Viable national institutions with a capacity to perform their assigned roles is fundamental to the formulation, implementation, monitoring, evaluation and amending of migration-related policies. To evaluate the institutions of migration governance in UAE, this study examines the power of institutions, if they exist, to initiate policy development or amendments. It also involves an assessment of the extent of the authority possessed by the institutions, if they exist, to intervene and disrupt illegal activities (i.e., law enforcement bodies having the legal authority to deal with illegal migration that results in, for example, human trafficking).

Another area of interest, given the possibility of more than one institution having responsibility for migration policy and enforcement, is to assess the existence and effective policy coordination among the relevant institutions or agencies. Finally, this dimension is measured by policy indicators, each of which is ranked, with the average used to measure the UAE's outcome in this dimension.

### **7.3.2 Legal Dimension**

The legal dimension assesses what rights are granted to migrants, and if these rights have a legal basis and can be enforced. Policy indicators for the legal dimension can be measured by basic human and labour rights, particularly those stipulated in statutes and employment contracts. However, while providing a legal framework to support the rights of migrant, there is also a need to enact laws that deter offenders or violators of human and labour rights.

### **7.3.3 Socio-Economic and Demographic Outcome Dimension**

Effective, balanced migration governance will require policymakers to ensure that migrants entering the country have the necessary skills to support national economic activities and help meet social and demographic objectives. For the UAE, this involves linking inward migration to economic development by attracting workers who can fill identified labour and skill gaps in the workforce. Policy indicators for this dimension include the assessment of the effectiveness of the framework, if it exists, for auditing national skills to identify any shortages or skills' gap. It also includes a study of opportunities, if any, for skills' mobility, with further skills/educational opportunities for the migrant to improve his/her existing skills, especially for low-skilled migrants.

### **7.3.4 Evaluating the Migration Governance Indicators for UAE**

As explained in Section 7.3, a systematic review of all regional, national, international laws and regulations that form the legal and institutional basis for migration governance policies in the UAE, along with the existing migration indicators, resulted in the selection of 15 governance indicators covering three dimensions. The dimensions, along with their respective indicators, were evaluated by experts. The rank-based evaluation provides data for the generation of a multi-dimensional migration governance evaluation index that assesses the UAE-specific institutions, regulations and legal structures for migration, as well as their potential socio-economic implications.

### **7.3.5 Assessing the Institutional Dimension**

Policy indicators for the institutional dimension cover issues about the institutional capacity for dealing with migration policy formulation and enforcement. The indicators and ranking scales are as follows. Indicator 1.1, which is designed to assess if dedicated institutions are

established for the purpose of driving migration policies, is based on this statement: “The existence of institutions or constituted authorities that are charged with developing and/or implementing migration policy”. The rankings for Indicator 1.1, on the scale of 0 to 100 are: no institution exists with clear legal authority (0); institution(s) exist but their roles are not clearly defined (50); institution(s) exist with clearly defined roles with statutory powers (100). Indicator 1.2, which is designed to assess the existence of statutory institutions that enforce migrations laws, is based on the question: “Are there institutions with statutory powers to intervene and disrupt illegal activities (such as illegal migration or human trafficking)?”. The rankings for Indicator 1.2 are: no verifiable institution (0); verifiable institution(s) exist but with limited legal authority (50); publicly verifiable institution(s) exist with legal authority (100).

Furthermore, to assess if the government has strategic plans in terms of a migration governance framework, Indicator 1.3 is based on the question: “Is there a known or well-defined migration strategy in the UAE, with documentary evidence?”. The associated rankings for Indicator 1.3 are: no known migration strategy (0); a strategy exists but is not well-defined or documented (50); a known and well-defined strategy exists and is publicly available (100). Similarly, to assess the extent of the coordination between the institutions created for migration policy development or enforcement, Indicator 1.4 is based on the question: “Is there coordination between the institutions engaged in migration policy development or implementation to promote policy coherence?”. The associated rankings for Indicator 1.4 are: no policy coordination exists (0); policy coordination exists but is not undertaken by the relevant institutions (50); policy coordination exists and is effectively used by the relevant institutions (100). Finally, to assess the opportunity that can be created for using a data-driven policy-making process, Indicator 1.5 is based on the question: “Does the UAE government collect and publish data on migrants on a regular basis?”. The associated rankings for Indicator

1.5 are: data on migration are not collected nor published (0); incomplete data on migration are collected and/or are not publicly available (50); all the data on migration are collected and made publicly available on a regular basis (100). The expert ranking for each of the indicators and overall average is shown in Table 7.1.

<b>Indicators</b>	<b>Expert 1</b>	<b>Expert 2</b>	<b>Expert 3</b>	<b>Expert 4</b>	<b>Expert 5</b>	<b>Expert 6</b>	<b>Average Score</b>
1.1 Institutions exist	50	50	50	50	50	50	<b>50/100</b>
1.2 Existence of power to stop illegal activities	50	50	50	50	50	50	<b>50/100</b>
1.3 Migration strategy	50	50	50	50	50	50	<b>50/100</b>
1.4 Communication plan for policy implementation	0	50	0	50	50	0	<b>25/100</b>
1.5 Regular data availability	50	50	50	50	50	50	<b>50/100</b>
<b>Sub Index Score</b>							<b>45/100</b>

**Table 0.31: Ranking Institutional Dimension Indicator**

With a sub-index of 45/100, the evaluation of the institutional dimension suggests a disturbing gap across the five indicators between the institutional capacity of the UAE and the international benchmark with respect to the existence and operational effectiveness of the necessary institutions that have primary responsibility for developing, monitoring, reviewing, and enforcing migration policies. The average scores for each indicator show that the UAE performs poorly in terms of statutory institutions needed for the development of migration governance and enforcement, migration strategic planning, coordination among migration-related institutions and effective record keeping.

The implications of the gaps in the institutional dimension are manifested in the following areas. First, the existing migration governance system may not have the capacity to effectively manage entry and exit from the UAE, with the potential for abuse of the migration process, including using inappropriate visa routes to by-pass migration and labour rules. Poor or non-existent institutions for migration policy-making and enforcement may also make it

difficult to protect and enforce the labour and human rights of the migrants, who make up about 90 percent of the population.

### **7.3.6 Assessing the Legal Dimension**

Indicators for the legal dimension cover concerns about the labour and human rights of migrant workers and assess if there are different labour and human rights for migrants compared with nationals. The definition of the indicators and the associated ranking scales are as follows. Indicator 2.1 is based on the question: “Does migrant labour have equal employment contractual protection to native labour?”. The associated rankings for Indicator 2.1 are: migrants’ employment contracts are not legally enforceable in the UAE (0); employment contracts are enforceable but with limited coverage, depending on the nature of migrants’ job/role (50); there is universal contract enforcement for both native and migrant labour (100). Indicator 2.2 is based on the statement: “Access to legal process is possible when personal or employment contractual rights are violated”. The associated rankings for Indicator 2.2 are: no access to legal procedures (0); access to administrative or civil procedures (50); access to three possible procedures: administrative, civil and criminal procedures (100).

Indicator 2.3 is based on the statement: “Prohibition of discrimination covers the following areas”. The associated rankings for Indicator 2.3 are: discrimination exists in areas of (i) race and ethnicity, and (ii) religion and belief (0); discrimination exists in at least one area (50); discrimination is prohibited in both areas (100). Indicator 2.4 is based on the question: “With respect to the deportation process of an immigrant, what safeguards exist?”. The associated rankings for Indicator 2.4 are: no appeals process (0); ad hoc/limited administrative or judicial safeguards (50); judicial checks on the process, including going to the highest court in the land (100). Indicator 2.5 is based on the statement: “The possibility exists for family reunion”. The associated rankings for Indicator 2.5 are: no rights to invite

family members (0); rights to invite but limited to income level (50); general rights to invite and live with family members (100). The expert ranking for each of the indicators and overall average is shown in Table 7.2.

<b>Legal Dimension</b>	<b>Expert 1</b>	<b>Expert 2</b>	<b>Expert 3</b>	<b>Expert 4</b>	<b>Expert 5</b>	<b>Expert 6</b>	<b>Average Score</b>
2.1 Legal contract protection	50	50	50	50	0	0	<b>33/100</b>
2.2 Access to legal path	50	50	50	50	50	50	<b>50/100</b>
2.3 Discrimination Policy	100	100	100	50	100	100	<b>92/100</b>
2.4. Deportation process and safeguards	0	0	0	50	0	50	<b>17/100</b>
2.5 Family reunion	50	50	50	50	50	50	<b>50/100</b>
<b>Sub Index</b>							<b>48/100</b>

**Table 0.32: Expert Ranking for Legal Dimension Indicators**

With a sub-index of 48 out of possible 100, the evaluation of legal environment suggests a poor performance against best possible practice. The rankings, except for Indicator 2.3, suggest a two-tier approach to labour and rights between nationals and non-nationals. This requires the universal application of legislation to address problems of discrimination. Also, equality can be promoted by ratifying the relevant international conventions to support labour and human rights protection. The sub-index of legal environment also reinforces the findings in Chapter Seven that migrants may not receive the same labour and human rights protection or access the same redress as nationals.

### **7.3.7 Assessing the Socio-economic Dimension**

The socio-economic dimension indicators focus on concerns relating to social, economic and demographic issues associated with migration policy outcomes. More specifically, the indicators assess the extent to which migration policies help the government in meeting key national social and economic objectives. In this context, Indicator 3.1 is included to assess the extent to which the current migration system takes into account the country's skills requirement

to boost productivity, protect nationals against the undercutting of wages through excessive migration low-skilled labour, and reduce the demographic imbalance. Hence, Indicator 3.1 is based on the question: “Is there a framework for auditing national skills to identify any shortages or skills gap, including demographic gaps?”. The associated rankings for Indicator 3.1 are: there is no official analysis of skills gaps and demand (0); the government relies on the private sector to do this (50); a national skills audit exists and creates different visas to attract different types of migrants (100). To assess the effectiveness of the current visa system with respect to skills’ distribution, Indicator 3.2 is based on the question: “Does the visa system allow for different categories of visa based on skill level?”. The associated rankings for Indicator 3.2 are: visa categories are not differentiated by skill level (0); some efforts are made to attract different skills but not built into visa system (50); the visa system is designed to produce categories differentiated by skill level (100).

To evaluate if the migration system provides the opportunities for the economy to maximise the skills and productivity of migrants, Indicator 3.3 is based on the question: “Are there opportunities for skills mobility with further skills/educational opportunities available to migrants to improve their existing skills, especially for low-skilled migrants?”. The associated rankings for Indicator 3.3 are: no access to educational or skills training (0); access to further education/training with the migrant bearing the cost (50); access to education and training exist with state financial support (100). Indicator 3.4 is based on the question: “Are migrants able to legally change jobs freely?”. The associated rankings for Indicator 3.4 are: no right to change jobs once in the country (0); a change of job is possible, but the migrant will need to reapply from the home country (50); jobs can be changed from within the UAE (100). Finally, Indicator 3.5 is based on the question: “Are there national strategies for promoting nationals’ participation in the labour market?”. The associated rankings for Indicator 3.5 are: strategies do not currently exist or are still at the developmental stage (0); some strategies currently exist

but are not coordinated/wholly implemented (50); coordinated national strategies are being implemented, including data to measure their effectiveness (100). The expert ranking for each of the indicators and overall average is shown in Table 7.3.

<b>Socio-economic Dimension</b>	<b>Expert 1</b>	<b>Expert 2</b>	<b>Expert 3</b>	<b>Expert 4</b>	<b>Expert 5</b>	<b>Expert 6</b>	<b>Average Score</b>
3.1 Labour skills analysis	0	0	0	0	0	0	0/100
3.2 Skills visa categories	0	0	0	0	50	0	8/100
3.3 Accessibility to training	50	50	50	50	50	50	50/100
3.4 Change job freely	100	100	100	100	100	100	100/100
3.5 Emiratisation	50	50	50	50	50	50	50/100
<b>Sub Index</b>							<b>42/100</b>

**Table 0.33: Ranking for the Socio-economic Dimension Indicators**

With a sub-index of 42 points out of possible 100, the assessment of the socio-economic dimension of migration governance shows that almost all policy indicators fall below the benchmark expect for the ability to change jobs freely. For example, ratings for Indicator 3.1 suggest that the current migration system is not designed to attract specific skills based on the needs of the economy. The ratings for Indicator 3.3 also suggest a lack of mechanisms designed to maximise the skills and productivity of migrant workers that can benefit the UAE’s economy. Given the fact that the UAE relies on migrant labour, the implications are that migration governance system should be labour-market orientated and aim to get the best out of the migrant workers.

This is even more important because of the UAE’s objective to improve productivity and reduce youth unemployment, both of which are unlikely to be achieved with the current migration governance system, as suggested by the ranking. There is consistent evidence in the empirical literature that the impact of migration on the productivity and employment is dependent on the relative numbers of skilled and unskilled migrants; a relative increase in unskilled migrants has a negative impact on productivity and output levels, but a relative

increase in skilled migrants has a positive impact on productivity and output levels. This empirical consensus is also supported by the findings in Chapter 6, which suggest that, on average, migration has a statistically negative impact on the rate of economic growth of UAE.

Finally, the ratings for Indicator 3.5 suggest that the current efforts to boost the participation rate of nationals may be reconsidered to improve its effectiveness. For example, instead of the arbitrary imposition of quotas for nationals, potentially at the expense of skilled migrants, the current policy of Emiratisation, can be refocused on skills’ acquisition for nationals and a supporting mechanism that encourages skills’ spill over from skilled migrants. This would help meet the government’s employment objectives through balanced and effective migration governance.

### 7.3.8 Aggregate Governance Index

The three sub-indexes can also be separately monitored to assess any progress made in the respective dimension of migration governance. The aggregate migration governance index for the UAE can be derived from taking the average of the institutional, legal and socio-economic dimensions. Thus, the overall index, presented in Table 7.4, has a score of 47 out of a possible 100. This suggests that the current migration governance system is below one-half of what is needed to attain the benchmark for a “developed” migration governance system that supports a migrant-friendly environment and maximises the benefits of migration.

	<b>Institutional Dimension</b>	<b>Legal Dimension</b>	<b>Socio-economic Dimension</b>	<b>UAE Migration Governance Index</b>
Index	45/100	48/100	42/100	<b>47/100</b>

**Table 0:34 UAE Governance Index**

The development of UAE’s migration governance index is built on the empirical analysis of the socio-economic implications of migration in the UAE, and the evaluation of the

effectiveness of laws and regulations, and associated institutions, which identifies potential gaps that exist in laws and regulations that govern the migration process.

The findings from analysis of socio-economic outcomes migration of the UAE, discussed in Chapter Five, highlight potential socio-economic costs in the absence of a migration governance framework that balances the economic needs for migrant labour and the impact of migration on productivity, youth unemployment and demographic imbalance. The findings from the evaluation of the effectiveness of legal and institutional structures for migration governance reveal a migration environment that is susceptible to the exploitation of workers' rights and human right abuse. Finally, building on the existing frameworks/indexes, such as MIPEX, IMPIC, and MGI, a comparative review of the best practice in international migration governance against the UAE's current migration governance policy, was undertaken. This used international experts in migration to assess the institutional, legal and socio-economic dimensions for UAE, and resulted in the index score of 47 out of a possible 100. The score suggests the need for a framework that is tailored specifically to the UAE in order to assess the country's developmental progress on migration governance, and to maximise the net benefit of migration.

#### **7.4 SUMMARY**

In this chapter, I proposed a simple migration governance index through which to assess the legal and institutional structures of UAE's migration system, as well as the extent to which the migration system supports the realisation of government's socio-economic objectives. The need for developing a UAE-specific migration governance index was informed by the fact the existing migration indexes are either too narrow or general in scope to deal with peculiarities of the UAE's migration experience.

Using 15 policy indicators across three governance dimensions, in a similar methodology used by existing indexes, the index developed ranked the current migration areas in comparison to possible international benchmarks. The results revealed important gaps that the UAE must fill with respect to legal and institutional migration policy development in its effort to develop a balanced and effective migration governance framework.

While the developed index is static, a dynamic index can be developed through a time series study in order to track any progress on migration governance. The dynamic assessment can also be undertaken at the sub-index level to assess any process made in the respective dimensions of migration governance.

## **CHAPTER EIGHT:**

### **CONCLUSION AND POLICY IMPLICATIONS**

#### **8.1 SUMMARY OF THE SIGNIFICANT FINDINGS**

In this chapter, in addition to the research key findings, I outline the main findings, the review of answers to the research questions, my view of the policy implications, and research contributions. I begin with the summary of key findings from the study. As explained in Chapter 1, this study evaluates the development of migration governance policy in the UAE, with the aim of developing a UAE-specific migration governance index, which allows for the identification of gaps, if they exist, in meeting the internationally benchmarked migration governance framework and migration-linked national socio-economic objectives. The specific research objectives include: (i) an analysis of the potential challenges faced by migrants in the UAE; (ii) an evaluation of UAE's institutional capacity and strategy on migration governance in providing a safe and productive environment for migrant workers; (iii) an analysis of the UAE's existing migration policies in comparison with international migration governance frameworks; (iv) the development of a UAE-specific migration governance index, based on a proposed framework that balances the developmental needs of migrant labour, the legal and institutional instruments to promote labour rights, and address potential socio-demographic challenges, at the same time.

To understand the challenges facing the migrants in terms of the legal environment that guarantees their labour and human right protections, I evaluated the institutional and legal instruments that support migration governance using data collected from the interviews with migrant domestic workers; the findings are discussed in Chapter 6. The overall findings show that laws and institutions that are designed to regulate and enforce migration process in the UAE are ineffective and are open to exploitation, with legal and security implications, whereby migrants are subject to labour and human rights abuse.

Also, the potential impact of migration on the socio-economic outcomes was analysed to assess the potential costs and benefits of migration; the findings are discussed in Chapter 5. The analysis focuses on: the impact on productivity by analysing the relationship between migration and economic performance; the impact on the labour market by analysing the relationship between migration and youth unemployment; and the impact on demographic distribution by analysing the relationship between migration and gender distribution.

The main findings from the empirical analysis of migration on the socio-economic outcomes are as follows. Migration, especially if dominated by low-skilled migrants, may have a negative impact on economic performance of the UAE. The channel through which migration may have a negative impact on economic growth is productivity effects, where relatively low-skilled migrants may drive down labour and capital productivity and, therefore, the rate of economic growth. Also, the findings suggest that migration may be a significant factor in driving the gender demographic imbalance in the UAE. Furthermore, the findings suggest that migration may have a marginal, but not significant, impact on youth unemployment, which implies that factors, other than migration, may explain the growth in youth unemployment in the UAE.

Furthermore, based on the findings from the analysis of socio-economic impact of migration, and the evaluation of the challenges faces by migrants with respect to the extent of a migrant-friendly environment, I developed a migration governance index for the UAE. The index is based on a balanced approach to migration, whereby the needs for developing institutional and legal structures that ensure a migrant-friendly environment, according to the international migration governance benchmark, is balanced with the need for an analysis of potential costs and benefits to the national socio-economic outcomes of migration. The index is based on the ratings of actual UAE's migration governance policies against an international

benchmark by independent experts with a knowledge of the political and legal history of migration governance in UAE.

Consequently, the findings from the international experts' assessment of the institutional, legal and socio-economic dimensions in the migration governance index (see Chapter 7) are as follows. First, the findings from the institutional dimension suggest that the UAE performs poorly in terms of the statutory institutions needed for the development of migration governance and enforcement, migration strategic planning, coordination among migration-related institutions and effective record keeping. Second, the findings from the legal dimension suggest that labour and human right abuses are issues that must be addressed in order to develop and sustain a migrant-friendly environment. Third, the findings from the socio-economic dimension suggest that the current migration policies are not effective in meeting the UAE's objectives of improving productivity and reducing youth unemployment.

## **8.2 ANSWERS TO THE RESEARCH QUESTIONS**

In the introductory chapter, I formulated research questions designed to achieve the aims and objectives of this study. It is, therefore, important to assess the extent to which the findings have yielded answers to the RQs. RQ1: What are the UAE's legal and institutional structures on migration governance? RQ1.1: What are the legal challenges and constraints that low skilled migrants face in UAE? RQ1.2: How effective is the existing UAE legal and institutional structure in providing a safe and productive, and mutually beneficial environment for migrant labour? The answers to these research questions can be clearly demonstrated from the findings from the evaluation of the legal and institutional structures for migration governance, which are discussed in Chapter 6 and summarised in Section 8.1 of Chapter 8. Specifically, in relation to RQ1.1, the main legal challenges identified are that low-skilled workers face two-tiers of administrative and labour market regulations, where the Kafala

system, for example, means that an individual worker is legally bound to the employer, and the worker's legal and labour rights are determined by the employer, creating a possible master-slave relationship. In relation to RQ1.2, the legal challenges that result from the exclusion of low-skilled workers, especially domestic workers, from labour and human rights protection, is exacerbated by the limited institutional and legal instruments that guarantee their labour and human rights protection, thereby leaving migrant labour in the UAE vulnerable to abuse and exploitation.

RQ2: What are the impacts of migration on socio-economic outcomes? RQ2.1: Is there a relationship between migration and demographic imbalance? RQ2.2: What are the effects of migration on national output and youth unemployment? The answers to RQ2 are provided in Chapter 5, with the analysis of impact of migration on the socio-economic outcomes of the UAE. Specifically, in relation to RQ2.1, the research suggests a significant positive relationship between higher migration and growing demographic imbalance, as the migration-led gender imbalance is driven by male-dominated, low-skilled migration. In relation to RQ2.2, the research finds that migration affects the national output through lower productivity, and the impact has both quality and quantity dimensions with respect to the quality and quantity of migrants. On the effects of migration on youth employment, the research finds that the higher migration level has a marginal, but not significant, effect on the youth unemployment rate.

RQ3: What are the policies and strategies that could be employed by UAE policymakers to address the challenges and maximize the opportunities associated with migrant labour in the UAE? The answer to RQ3 focuses on developing a balanced migration government framework that allows for simultaneous policies and strategies that promote migrant-friendly environment and meet the economic and socio-demographic objectives of the UAE. Therefore, the answer is clearly demonstrated by the UAE migration governance index presented in Chapter 7. More specifically, to address the challenges and maximize the opportunities associated with migrant

labour in the UAE, the index shows effective migration governance policies should pass the test of bridging the gaps identified in the three dimensions of the index.

### **8.3 POLICY IMPLICATIONS**

The policy implications of the findings are clear and can be summarised as follows. First, migration governance should take into account the skills composition of migrants and the UAE's current policy of strategically shifting the economy towards a high-skilled, knowledge-based economy which means that migration governance should be designed to attract migrants who have the desired skills. Thus, there is a need for a more harmonised migration governance framework as the present discrepancy leads to increasing the gap between the current policy of strategically shifting the economy towards a high-skilled and knowledge-based economy and labour market productivity in the UAE. This can be achieved through implementing incentives from the government to encourage employers to hire highly skilled workers. These incentives could include fee reductions, health insurance discounts, and encouraging skills mobility by allowing part time work and the easy transfer of workers from one employer to another. In addition, accredited training and assessment centres both inside and outside the UAE could be established to provide services of up-skilling, training, assessment, certification, and documentation of workers' skills improvement. This would facilitate a global recognition of the certificates issued in the UAE and other countries. The issue of skills conformity (confirming a worker's skills match tasks required by the job) needs to be addressed for low skill workers. Therefore, this 'needs skills policy' should facilitate the move towards a knowledge-based economy to achieve the UAE's 2020 Vision.

Second, the findings from the study also imply that the focus should be on developing migration institutions with statutory powers and resources to effectively manage the migration process. Evaluation of the entry and exit process should be undertaken to address abuses of the

migration process. In addition, efforts should be made to implement a unification of migrants' administrative institutions to replace the current practice whereby some low-skilled migrants, such as domestic workers, are placed under the GDRFA in the Ministry of Interior, while other migrants are overseen by the MoHRE. In 2018, the UAE government made changes to reduce the consequences of multilevel institutions which result in shifting the responsibilities directly to MoHRE and FAIC to facilitate monitoring of workers more effectively. However, this new change has still not been fully implemented and the change will be incremental, which will not ensure efficiency. In contrast, free zones set different terms and conditions from non-free zone for the entry of migrants, which remains an issue in protecting labour rights. However, despite the new changes, the overall picture of migration governance in the UAE is still changing but remains incoherent and lacks an overarching vision with the respect of providing migrant friendly environment. Furthermore, the WPS, an electronic salary transfer system includes all workers in the private sector, should be universally implemented for all migrants, including low skilled migrant such domestic workers. This would promote transparency and, thus, address the issue of contract switching; the underpayment of the agreed salaries for the protection of their rights.

Consequently, enacting and enforcing universal labour rights and protection, and the establishment of a mechanism for immigration and employment dispute arbitration would provide the necessary foundations for building a migrant-friendly migration governance system. Furthermore, the ratification of relevant international conventions would provide additional reassurance and encourage a legal framework that meets the international benchmarks for labour and human rights protection. Examples of international conventions that can meaningfully improve the migration environment and governance include the Migration for Employment Convention (No. 97) of 1949, the Right to Organise and Collective Bargaining Convention (No. 98) of 1949, the Migrant Workers (Supplementary Provisions) Convention

(No. 143) of 1975 and the Domestic Workers Convention (No. 189) of 2011. In this context, the focus should be on addressing the problems associated with the two-tier approach to labour and human rights for nationals and non-nationals

#### **8.4 RESEARCH CONTRIBUTIONS**

In this section, the important contributions of this research to the study of migration governance, which covers theoretical, empirical and policy areas, are discussed. Theoretically, this study proposes a comprehensive conceptual framework to explain the need for a balanced migration governance approach for the UAE. What is original about this conceptual framework is that it is the first to take a holistic approach to migration governance: migration as a necessity for the UAE; the potential costs and benefits to the UAE; and the need for migration governance that accounts for both the benefits and costs for the migrants. Therefore, the theoretical framework for this study begins with a justification for migration, explaining why UAE is primarily dependent on migrant labour, using the theory of demographic transition and fertility rate. The fertility channel, as applicable to the UAE, explains why the UAE's increasing inability to meet replacement rates affects the equilibrium relationship between labour demand and supply in the domestic labour market, which results in the country's dependence on foreign labour.

To explain the UAE's international migration experience, I employed the neo-classical theory of international migration to understand why the push-pull factors attract a large pool of migrants labour into the UAE: on the supply side are push factors that stimulate the supply of foreign labour, including lower employment rates and net wages in migrant labour sending countries; while on the demand side are the pull factors associated with developing the UAE's economy in relation to higher wages and employment. Consequently, the governance framework clearly suggests potential benefits and costs of migration. In relation to the benefits,

it provides the economy with the requisite labour and skills required to sustain economic development, while in terms of the costs, it highlights the potential for lower productivity and national output. Possible negative outcomes also include a demographic imbalance resulting from the significant gender gap in migrant labour, and higher unemployment for the nationals, especially among the youth, who may be undercut by low-skilled migrants.

Therefore, the contribution from this holistic approach to migration governance is that it goes beyond simplistic argument of the existing international migration governance frameworks for better migration governance; it provides a basis for understanding the reasons why a country such as the UAE is overly dependent on migrant labour, explores its implications in relation to socio-economic outcomes, and, therefore, proposes a balanced migration governance approach. More specifically, while the existing migration governance frameworks focus on a uni-directional proposition for improving the migrant-friendly environment, this new approach asks additional questions; are there also potential socio-economic costs of migration and, if so, does it provide a basis for a balanced approach that avoids a trade-off between the benefits and costs of migration but takes into account the balance between them in the development of an effective migration governance framework?

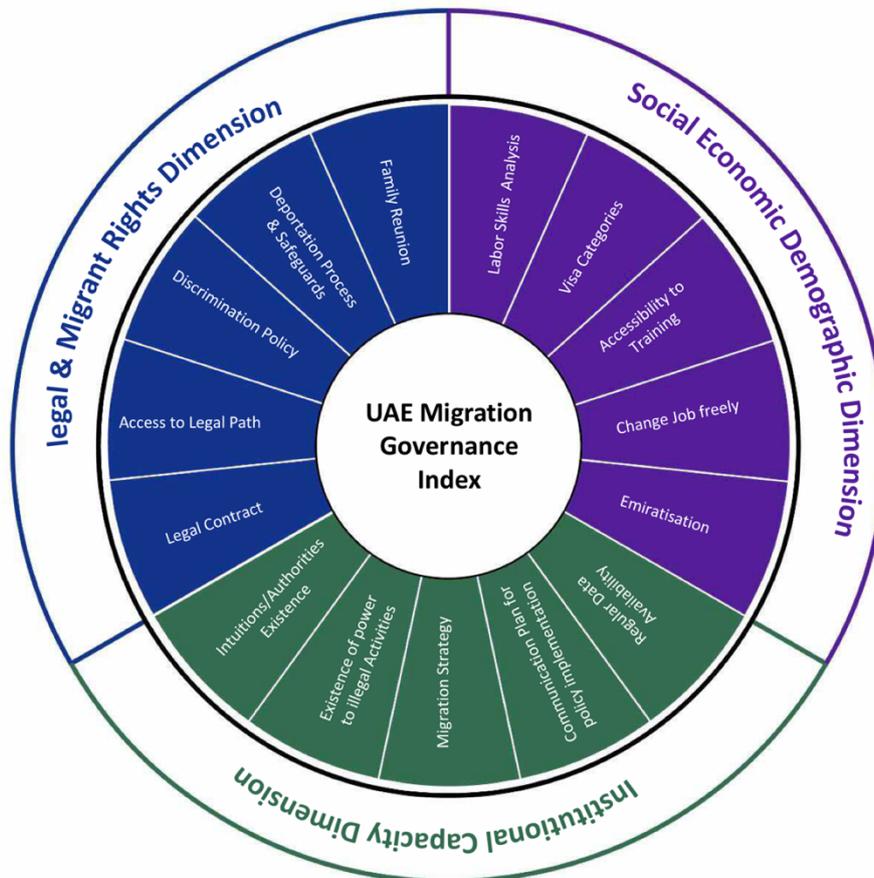
Empirically, this study also makes two important contributions. First, it is the first attempt to empirically examine the relationship between migration and socio-economic outcomes. Using secondary data on net migration—GDP per capita growth rates, youth unemployment rates and demographic distribution—I conducted correlation and regression analysis to test if there are statistically significant relationships between migration and selected socio-economic outcomes. To the best of my knowledge, this is the first time an empirical study of this nature has been undertaken, and, therefore, the research makes an important contribution towards the study of migration governance frameworks that take a balanced approach towards migration management reforms for the UAE.

Second, based on the interview with migrant domestic workers who are sheltered at The Philippines embassy, this study provides additional evidence with respect to the legal and institutional capability of the UAE in providing a safe, orderly and friendly environment for migrants. The specific contribution of this study in this case is that it goes beyond investigating the evidence for labour and human rights abuse of migrants and explores the factors that may explain the violations of the identified rights. For example, the migration routes and recruitment channels are assessed to establish if, alongside demographic distribution, they are statistically linked to labour and human rights violations.

On policy, this study makes an original contribution to the study of migration with profound policy implications. Specifically, the proposed migration governance index offers policy-makers key metrics by which to assess future migration-related policy reforms against global standard benchmarks, and against UAE's socio-economic objectives. With a growing consensus among the UAE's policy-makers that migration governance should account for the benefits and costs of migration, this study provides the foundation for a UAE-specific index of migration governance. To the best of my knowledge, the UAE has not been included in any migration index, and the specificity of the UAE's migration experience, makes the development of this index a relevant contribution to the study of migration as explained in Chapter 7 and shown in Figure 8.1.

Migrants are attracted to the GCC countries because of the region's economic development (pull factor) and economic inequality between regions (push factor), which are still important elements in the field of research and policy formation. However, it is also very important to study the new trends of push and pull factors for Gulf nationals who decide to live abroad leaving their relatives and culture and integrating into new places, cultures, and values. Further analytical and strategic research is critical on the new patterns of migration flows in the GCC region, given the fact that GCC countries were always a destination region. Questions

that need to be addressed include: Why there is a rise in Gulf national's migration? What are the push and pull factors of the Gulf migration nexus? What is the trigger for leaving an apparently comfortable life style in one society to accepting unpredictable conditions in another? What is the trigger for leaving an apparently comfortable life style in one society to experience unpredictable conditions in another?



**Figure 8.1: Proposed UAE Migration Governance Framework**  
 Source: Compiled by Author

APPENDIX A:

Research Questionnaire

Research Questionnaire	
<b>Interviewer (s):</b>	<b>Date of Interview:</b>
<b>Interviewee Number</b> <input type="checkbox"/>	
Personal Details and Background	
1. Gender: Female <input type="checkbox"/> Male <input type="checkbox"/>	
2. Age Range: 18-30 <input type="checkbox"/> 31-45 <input type="checkbox"/> 46-55 <input type="checkbox"/> 56+ <input type="checkbox"/>	
3. Marital Status: Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed <input type="checkbox"/>	
4. How many members of your family are financially dependent on you? 1 -3 <input type="checkbox"/> 4 - 6 <input type="checkbox"/> 7 - 10 <input type="checkbox"/> 11+ <input type="checkbox"/>	
5. Are you the main breadwinner Yes <input type="checkbox"/> No <input type="checkbox"/>	
6. Level of education: Primary <input type="checkbox"/> Secondary <input type="checkbox"/> Tertiary <input type="checkbox"/>	
7. Which region in the Philippine are you from? .....	
8. How long have been in UAE? Less than 1-3 years <input type="checkbox"/> 3-5years <input type="checkbox"/> 5-10years <input type="checkbox"/> More than 10 years <input type="checkbox"/>	
9. Why do you want to work abroad? Job opportunity <input type="checkbox"/> Higher wages <input type="checkbox"/> Escape domestic abuse <input type="checkbox"/> If other reasons, please give details ..... .....	
10. Did you have a job offer before coming to UAE?	

Yes  No

11. If no, how did you enter the UAE?

Visit visa  Tourist visa  Others, Please explain

.....  
.....  
.....  
.....

12. If yes, how were you recruited?

A Job agency based in Philippine  A Job agency based in UAE

Others, please explain

.....  
.....

13. Did you sign work contract in the Philippines before coming to the UAE?

Yes  No

14. Were you aware of, or agreed, your salary before coming to UAE?

Yes  No

15. If yes, was there an attempt, or actual, reduction in the agreed salary after arriving the UEA?

Yes  No

**Please indicate your agreement level to the following questions using**

**this scale:** Strongly Disagree (1), Disagree (2), Neutral (3), Agree (4), Strongly Agree (5)

16. My employer consults me, and we agree, before additional role/task	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
17. I am able to make a complaint to my employer where necessary.	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
18. I am able to use and enjoy my day offs	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
19. I suffer physical/verbal abuse	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
20. In general, I feel my human rights are respected and protected	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
<b>Please indicate your agreement level to the following questions using this scale:</b> Strongly Disagree (1), Disagree (2), Neutral (3), Agree (4), Strongly Agree (5)	
21. In relation to my job, I feel I am over-qualified, given my education and skills	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
22. My skills are more relevant for other jobs	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
23. If allowed, and opportunity exist, I would move to another job, where my skills will be more useful	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
<b>Please indicate your agreement level to the below question using this scale:</b> Never (1), Rarely (2), Sometimes (3), Often (4), Always (5)	
24. I am able to save from my salary after my recurrent expenses	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
25. I am able to send home some money to my dependent	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5

26. How often do you interact with the following people?

A. Spouse, if they live in The Philippines

B. Children, if they live in The Philippines

1	2	3	4	5
1	2	3	4	5

**Please indicate your agreement level to the below question using this scale:** Never (1), Rarely (2), Sometimes (3), Often (4), Always (5)

27. Why are you at the embassy

contract expired, please explain  
.....

Visa expired, please explain  
.....

Abuse, please explain  
.....

Salary delays, please explain  
.....

unpaid salary, please explain  
.....

working condition, please explain  
.....

Others, please specify & explain  
.....

28. What are the constraints that you encounter in your effort to remain in UAE or seek legal support

.....  
.....  
.....

.....

29. What is the latest/final decision taken on your stay in UAE?

.....

30. Who made the decision?

.....

31. Do you have any right of appeal?

Yes

No

## APPENDIX B:

### Closed Expert Evaluation/Validation

#### **Closed Expert Evaluation/Validation**

The questions below are designed to get your expert evaluation & validation of current migration governance policy in UAE. Answers provided in this exercise will provide valuable input into the generation of multidimensional migration governance evaluation metrics that allows for in-depth analysis of UAE-specific institutions, regulations and legal structures, as well as their potential socioeconomic implications.

**Please indicate your agreement level to the following questions, by highlight the desired answer, this will not take more than 10 minutes.**

**Date:**

**Expert Name:**

**Job Title:**

## Institutional Capacity

<b>1. Existence of an institutions or constituted authorities that are charged with developing and/or implementing migration policy.</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 30px; text-align: center;">1</td> <td style="width: 33%; height: 30px; text-align: center;">2</td> <td style="width: 33%; height: 30px; text-align: center;">3</td> </tr> </table>	1	2	3
1	2	3		
<p>(1) No institution exists with clear legal authority.</p> <p>(2) Institution(s) exist but their roles are not clearly defined.</p> <p>(3) Institution(s) exist with clearly defined roles with statutory powers.</p>				
<b>2. Are there Institutions with statutory powers intervene and disrupt illegal activities (such as illegal migration or human trafficking)?</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 30px; text-align: center;">1</td> <td style="width: 33%; height: 30px; text-align: center;">2</td> <td style="width: 33%; height: 30px; text-align: center;">3</td> </tr> </table>	1	2	3
1	2	3		
<p>(1) No verifiable institution.</p> <p>(2) verifiable institution(s) exist but with limited legal authority.</p> <p>(3) publicly verifiable institution (s) exist with legal authority.</p>				
<b>3. Is there a known or well defined migration strategy in the UAE, with documentary evidence?</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 30px; text-align: center;">1</td> <td style="width: 33%; height: 30px; text-align: center;">2</td> <td style="width: 33%; height: 30px; text-align: center;">3</td> </tr> </table>	1	2	3
1	2	3		
<p>(1) No Known migration strategy.</p> <p>(2) A strategy exists but not well-defined or documented.</p> <p>(3) Known and well-defined strategy exists, and it is publicly available.</p>				
<b>4. Is there coordination between institutions engaged in migration policy development or implementation to promote policy coherence?</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 30px; text-align: center;">1</td> <td style="width: 33%; height: 30px; text-align: center;">2</td> <td style="width: 33%; height: 30px; text-align: center;">3</td> </tr> </table>	1	2	3
1	2	3		
<p>(1) No policy of coordination exists.</p> <p>(2) policy of coordination exists but not undertaken by relevant institutions.</p> <p>(3) policy of coordination exists and effectively used by relevant institutions.</p>				
<b>5. Does the UAE government collect and publish data on migrants on regular basis (i.e. Quarterly, Annually etc.)</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 30px; text-align: center;">1</td> <td style="width: 33%; height: 30px; text-align: center;">2</td> <td style="width: 33%; height: 30px; text-align: center;">3</td> </tr> </table>	1	2	3
1	2	3		
<p>(1) Data on migration is not collected and published.</p> <p>(2) Incomplete data on migration is collected and/or publicly available.</p> <p>(3) All the data on migration is collected and publicly available on regular basis.</p>				

## Legal and Migrant Rights

**1. Does migrant labour have equal employment contractual protection as the native labour?**




- (1) Migrants employment contracts are legally enforceable in UAE.
- (2) Employment contract are enforceable but with limited coverage, depending on the nature migrants' job/role.
- (3) There is universal contract enforcement for both native and migrant labour.

**2. Access to legal process when personal or employment contractual rights are violated.**




- (1) No access to legal procedure.
- (2) Access to administrative or civil procedures.
- (3) Access to three possible procedure: administrative, civil and criminal procedures.

**3. Prohibition of discrimination covers the following areas:**




- (1) Discrimination exists in areas of race/ethnicity and religion and belief.
- (2) Discrimination exist in at least one area.
- (3) Discrimination is prohibited in both areas.

**4. With respect to deportation process of an immigrant, what safeguards exist?**




- (1) No appeals process.
- (2) Ad hoc/limited administrative or judicial safeguards.
- (3) Judicial checks on the process, including going to the highest court in the land.

**5. Possibility for family reunion**




- (1) No rights to invite family members.
- (2) Rights to invite but limited to income level.
- (3) General rights to invite and live with family members.

## Economic, Social and Demographic

**1. Is there a framework for auditing national skills to identify shortages or skills gap, including demographic gaps?**




- (1) There is no official analysis of skills gaps and demand.  
 (2) Government relies on the private sector.  
 (3) National skills audit/creating different visas to attract different types of migration.

**2. Does the visa system allow for different categories of visa based on skill level?**




- (1) Visa categories are not differentiated by skill level.  
 (2) Some efforts to attract different skill but not built into visa system.  
 (3) Visa system is designed to produce categories differentiated by skill level

**3. Are there opportunities for skills mobility with further skills/educational opportunities available to migrants to improve on the existing skill, especially for low-skilled migrants?**




- (1) No access to educational or skills training.  
 (2) Access to further education/training with the migrant bearing the cost.  
 (3) Access to education and training exist with state financial support.

**4. Ability to legally change jobs freely?**




- (1) No rights to change jobs once in the country.  
 (2) Change of job is possible but migrant will need to reapply from home country.  
 (3) Jobs can be changed from within the UAE.

**5. Are the \*Emiratisation strategies on promoting national youth employment participation in labour market effective?**




- (1) Emiratisation strategies exist, but not implemented.  
 (2) Emiratisation strategies exist, but not effective for national employment needs.  
 (3) Emiratisation strategies exist, including educational policy and placements, and data availability on achievement of national employment policies.

\* Emiratisation is to employ UAE national workforce in the labour market in public and private sectors.

## **APPENDIX C:**

### **Consent Form**

#### **Governing the Labour in UAE**

#### **CONSENT FORM**

You are being asked to participate in a research study of how migration is managed in the UAE. Please read this form carefully and ask any questions you may have before providing us an official permission to participate in the research study.

#### **Research Objectives**

The purpose of the research study is to identify challenges of migrant labor in the UAE. You must be a worker who came to UAE for job offer or opportunity and staying in the Philippines Embassy in UAE.

#### **Expectations from the Participants**

If you officially agree to participate in this research study, we will interview you. The interview will include about your functions and/or your experiences in UAE. The interview will take about 30 minutes (or more) depending on your availability and permission.

#### **Risks and Benefits**

There is a risk that you may find some of the questions about your functions or experiences to be very sensitive. However, your names and institutional affiliations will not be disclosed for the purpose of the protecting your identity and privacy.

There are no benefits to you, aside from learning about the entire debate on your experience, which will provide you with knowledge and ideas on the current development and challenges in addressing labour issues in UAE.

#### **Confidentiality**

The data records for this research study will be kept in private. We will ensure that if we publish the report publicly, your information will not be disclosed unless you voluntary choose to mention your name in the report. This will protect your confidentiality and privacy

all throughout. If we tape-record the interview, we will immediately destroy the tape after transcribing the entire materials.

### **Voluntary Participation**

Your participation is completely voluntary. You may decide to not participate and withdraw from the study at any time. If there are questions that bother you or make you feel uncomfortable, you may choose to skip them.

### **Contact Information**

The research conducting the study is Reem Al Shamsi. Please ask any questions you have now before initiating any actual interviews. However, if you would like to raise questions later, please feel free to email her at [r.s.alshamsi@Durham.ac.uk](mailto:r.s.alshamsi@Durham.ac.uk). You will be given a copy of this form for your records.

### **Statement of Consent**

I have read the above information, and have received answers to my questions. I consent to participate in the research study.

Your Signature \_\_\_\_\_ Date \_\_\_\_\_

Your name (printed) \_\_\_\_\_

## APPENDIX D:

### Article 122 of the Constitution

# دستور الإمارات العربية المتحدة

## الديباجة

نحن حكام امارات أبو ظبي ودبي والشارقة وعجمان وأم القيوين والفجيرة ، نظرا لأن ارادتنا و ارادة شعب اماراتنا قد تلاقت على قيام اتحاد بين هذه الامارات، من أجل توفير حياة أفضل، واستقرار أمكن، ومكانة دولية أرفع لها ولشعبها جميعا، ورغبة في انشاء روابط أوثق بين الامارات العربية في صورة دولة اتحادية مستقلة ذات سيادة، قادرة على الحفاظ على كيانها وكيان أعضائها ، متعاونة مع الدول العربية الشقيقة، ومع كافة الدول الأخرى الصديقة الأعضاء في منظمة الأمم المتحدة، وفي الأسرة الدولية عموما، على اساس الاحترام المتبادل، وتبادل المصالح والمنافع، مجموعات إقليمية ورغبة كذلك في ارساء قواعد الحكم الاتحادي خلال السنوات المقبلة على أسس سليمة، تتمشى مع واقع الامارات وامكانياتها في الوقت الحاضر، وتطلق يد الاتحاد بما يمكنه من تحقيق أهدافه، وتصون الكيان الذاتي لأعضائه بما لا يتعارض وتلك الأهداف، وتعد شعب الاتحاد في الوقت ذاته للحياة الدستورية الحرة الكريمة ، مع السير به قدما نحو حكم ديمقراطي نيابي متكامل الأركان، في مجتمع عربي اسلامي متحرر من الخوف والقلق، ولما كان تحقيق ذلك من أعزّ رغباتنا، ومن أعظم ما تتجه اليه عزائنا، حرصا على النهوض ببلادنا وشعبها الى المنزلة التي تؤهلها لتبوء المكان اللائق بهما بين الدول المتحضرة وأممها، ومن أجل ذلك كله والى أن يتم اعداد الدستور الدائم للاتحاد نعلن أمام الخالق العلي القدير، وأمام الناس أجمعين، موافقتنا على هذا الدستور المذيل

بتوقعاتنا ليطبق أثناء الفترة الانتقالية المشار إليها فيه، والله ولي التوفيق، وهو نعم المولى ونعم النصير.

## الباب السابع

### توزيع الاختصاصات التشريعية والتنفيذية والدولية بين الاتحاد والإمارات

#### مادة 120

ينفرد الاتحاد بالتشريع والتنفيذ في الشؤون التالية: -

- الشؤون الخارجية.

- الدفاع والقوات المسلحة الاتحادية.

- حماية أمن الاتحاد مما يتهده من الخارج أو الداخل.

- شؤون الأمن والنظام والحكم في العاصمة الدائمة للاتحاد.

- شؤون موظفي الاتحاد والقضاء الاتحادي.

- مالية الاتحاد والضرائب والرسوم والعوائد الاتحادية.

- القروض العامة الاتحادية.

- الخدمات البريدية والبرقية والهاتفية واللاسلكية.

- شق الطرق الاتحادية التي يقرر المجلس الأعلى إنها طرق رئيسية وصيانتها وتحسينها

وتنظيم حركة المرور على هذه لطرق.

- المراقبة الجوية وإصدار تراخيص الطائرات والطيارين.

- التعليم.
- الصحة العامة والخدمات الطبية.
- النقد والعملية.
- المقاييس والمكاييل والموازن.
- خدمات الكهرباء.
- الجنسية الاتحادية والجوازات والإقامة والهجرة.
- أملاك الاتحاد وكل ما يتعلق بها.
- شؤون التعداد والإحصاء الخاصة بأغراض الاتحاد.
- الإعلام الاتحادي.

### مادة 121

بغير إخلال بما هو منصوص عليه في المادة السابقة، ينفرد الاتحاد بالتشريع في الشؤون التالية:

- علاقات العمل والعمال والتأمينات الاجتماعية - الملكية العقارية ونزع الملكية للمنفعة العامة - تسليم المجرمين - البنوك - التأمين بأنواعه - حماية الثروة الزراعية والحيوانية - التشريعات الكبرى المتعلقة بقوانين الجزاء والمعاملات المدنية والتجارية والشركات ، الإجراءات أمام المحاكم المدنية والجزائية - حماية الملكية الأدبية والفنية والصناعية وحقوق المؤلفين - المطبوعات والنشر - استيراد الأسلحة والذخائر ما لم تكن لاستعمال القوات المسلحة أو قوات الأمن التابعة لأي إمارة - شؤون الطيران الأخرى التي لا تدخل

في اختصاصات الاتحاد التنفيذية - تحديد المياه الإقليمية وتنظيم الملاحة في أعالي البحار.

### مادة 122

تختص الإمارات بكل ما لا تنفرد فيه السلطات الاتحادية بموجب أحكام المادتين السابقتين.

### مادة 123

استثناء من نص المادة 120 بند 1 بشأن انفراد الاتحاد أصلاً بالشؤون الخارجية والعلاقات الدولية يجوز للإمارات الأعضاء في الاتحاد عقد اتفاقات محدودة ذات طبيعة إدارية محلية مع الدول والأقطار المجاورة لها على ألا تتعارض مع مصالح الاتحاد ولا مع القوانين الاتحادية، وبشرط أخطار المجلس الأعلى للاتحاد مسبقاً فإذا اعترض المجلس على إبرام مثل تلك الاتفاقات فيتعين إرجاء الأمر إلى أن تبت المحكمة الاتحادية بالسرعة الممكنة في هذا الاعتراض.

كما يجوز للإمارات الاحتفاظ بعضويتها في منظمة الأوبك ومنظمة الدول العربية المصدرة للنفط أو الانضمام اليهما.

### مادة 124

على السلطات الاتحادية المختصة، قبل إبرام أية معاهدة أو اتفاقية دولية يمكن أن تمس المركز الخاص بإحدى الإمارات استطلاع رأي هذه الإمارة مسبقاً وعند الخلاف يعرض الأمر على المحكمة الاتحادية العليا للبت فيه.

## مادة 125

تقوم حكومات الإمارات باتخاذ ما ينبغي من تدابير لتنفيذ القوانين الصادرة عن الاتحاد والمعاهدات والاتفاقيات الدولية التي يبرمها بما في ذلك إصدار القوانين واللوائح والقرارات والأوامر المحلية اللازمة لهذا التنفيذ.

وللسلطات الاتحادية الأشراف على تنفيذ حكومات الإمارات للقوانين والقرارات والمعاهدات والاتفاقيات الدولية والأحكام القضائية الاتحادية وعلى السلطات الإدارية والقضائية المختصة في الإمارات، تقديم كل المساعدات الممكنة لسلطات الاتحاد في هذا الشأن.

## **APPENDIX E:**

### **Federal Decree No. 3 of 2017**

**The H.H Sheikh. Khalifa bin Zayed Al Nahyan, President of the UAE,**

**Issued a Federal Decree No. (3) of 2017 amending the Federal Decree Law No. (2) of 2004 on the establishment of Emirates Identity Authority.**

Under Article (1) of such Law, the name "Emirates Identity Authority", ascribed in the title of the Federal Decree - Law No. (2) of 2004, shall be replaced to become "Federal Authority for Identity and Citizenship" wherever it appears in any articles of such Law or in any other law.

Under Article (2) of such Law, Article (6), Paragraph (3) of Article (8) and Article (11) of the Federal Decree - Law No. 2 of 2004 on the establishment of Emirates Identity Authority shall be replaced by the following provisions:

The Authority shall be managed by a Board of Directors, to be composed of 7 members, including the Chairman of the Board with the rank of Minister and a Vice-Chairman. The members of the Board shall be appointed by a Federal Decree. Such members would include representatives of the entities relevant to the work of the Authority.

The term of membership within the Board shall be three years. Such term shall also be renewable. In the event that a member is to be out of the Board of Directors, then an alternate member shall be appointed instead of such previous member, for the remaining term of its predecessor's membership. The Vice-Chairman shall hold the office of the Chairman in its absence. The Chairman shall issue its own internal regulations upon the approval of the Board of Directors.

Paragraph (3) of Article (8) shall be replaced upon the approval and issuance of FAIC's internal resolutions and regulations in respect of the financial and technical affairs, as well as the approval on FAIC's organisational structure and human resources systems. The same shall be submitted to the Cabinet for approval and issuance.

Article (11) provides that "FAIC" shall have one or more General Manager with the rank of Undersecretary of a Ministry, from civil or military personnel whose rank is not less than "Major-General". Such appointment shall be made by the issuance of a federal decree after the approval of the Cabinet and upon the nomination made by the Board.

As per Article (3) of Federal Law No. (3) of 2017, the Federal Decree - Law No. (2) of 2004 on the establishment of Emirates Identity Authority shall have a new paragraph to be introduced to

Article (2), as well as the new articles bearing Nos. 4 (bis), 21 (bis) 1, and 21(bis) 2, the provisions thereof shall be as follows:

Article (2), added paragraph: "Federal Authority for Identity and Citizenship shall be competent in dealing with the affairs of Citizenship, passports, entry & residence of foreigners into the State. Federal Authority for Identity and Citizenship shall also be responsible for developing the relevant policy and ensuring the implementation thereof in accordance with the provisions of this Decree-Law, laws, regulations and resolution applicable in the State."

- Pursuant to Article (4) of the Law, the applicable resolutions shall remain in force and effect in respect of the affairs of Citizenship, passports, entry & residence of foreigners at the time of issuance of this Decree-Law without any conflict with its provisions, until the issuance of the regulations and resolutions to be in their place.

- Article (5) of the Law provides that the entities concerned shall take the necessary measures to implement all provisions of this Decree-Law, in their respective area of competence, provided that, this implementation is to be completed within a period not exceeding six months from the effective date or under a decree to be passed by the Cabinet.

## APPENDIX F:

### Ministerial Decree No. 766 of 2015

# قرار وزاري رقم (766) لسنة 2015م في شأن منح العامل تصريح عمل جديد للانتقال من منشأة إلى أخرى.

## وزير العمل:

بعد الاطلاع على القانون الاتحادي رقم (1) لسنة 1972م في شأن اختصاصات  
الوزارات وصلاحيات الوزراء،

وعلى القانون الاتحادي رقم (8) لسنة 1980، وتعديلاته، في شأن تنظيم علاقات  
العمل،

وعلى قرار مجلس الوزراء رقم (25) لسنة 2010م في شأن تصاريح العمل  
الداخلية المعمول بها في وزارة العمل،

وعلى قرار وزير العمل الصادر برقم (826) لسنة 2005 في شأن اللائحة  
التنفيذية لنقل الكفالة،

وعلى قرار وزير العمل رقم (707) لسنة 2006 في شأن قواعد وإجراءات  
مزاولة العمل في الدولة لغير المواطنين،

وعلى قرار وزير العمل رقم (724) لسنة 2006 في شأن إلغاء الكفالة الإداري،

وعلى قرار وزير العمل رقم (1186) لسنة 2010م في شأن ضوابط وشروط منح  
تصريح عمل جديد للعامل بعد انتهاء علاقة العمل للانتقال إلى منشأة أخرى،

وعلى قرار وزير العمل رقم (765) لسنة 2015 في شأن شروط وضوابط انتهاء  
علاقة العمل

## قرر

### المادة (1)

يجوز منح تصريح عمل جديد للعامل بعد انتهاء علاقة عمله، إذا توافرت حالة من الحالات الآتية:

#### أولاً: في العقود محددة المدة:

1. إذا انتهت مدة العقد المتفق عليها بين الطرفين، ولم يتم تجديدها .
2. إذا اتفق الطرفان (العامل وصاحب العمل) على إنهاء هذا العقد أثناء سريانه، بشرط أن يكون العامل قد أمضى فترة لا تقل عن ستة أشهر لدى صاحب العمل، ويستثنى من هذا الشرط العاملون من ذوي المستويات المهنية الأولى والثاني والثالث .
3. إذا أنهى صاحب العمل العقد بدون سبب يرجع للعامل، ويشترط في هذه الحالة أن يكون العامل قد أمضى مدة لا تقل عن ستة أشهر لدى صاحب العمل ويستثنى من هذا الشرط العاملون من ذوي المستويات المهنية الأولى والثاني والثالث.
4. في حال قيام أحد الطرفين (صاحب العمل أو العامل) منفرداً، بانتهاء العقد أثناء فترة تجديده، حتى لو كان التجديد قبل العمل بهذا القرار، ويشترط في جميع الأحوال التزام من قام بالإلغاء بالإجراءات القانونية الآتية:
  - (أ) إخطار الطرف الآخر كتابة بنيته في إنهاء العقد قبل موعد الإنهاء المحدد بفترة يتفق عليها الطرفان بحيث لا تقل عن شهر ولا تتجاوز ثلاثة أشهر، وإذا كان التجديد قد تم فعلاً قبل العمل بهذا القرار، ولم يتفق الطرفان علي فترة إخطار، تكون هذه الفترة ثلاثة أشهر.
  - (ب) الاستمرار في علاقة العمل طوال فترة الإخطار .

(ج) سداد مقابل للإنهاء حسبما يتفق عليه الطرفان بحيث لا يزيد على الأجر الإجمالي لثلاثة أشهر، وإذا كان التجديد قد تم فعلا قبل العمل بهذا القرار، ولم يتفق الطرفان على هذا المقابل، يكون هذا المقابل مساويا للأجر الإجمالي لثلاثة شهور.

### ثانيا: في العقود غير محددة المدة:

1. إذا اتفق الطرفان (صاحب العمل والعامل) على إنهاء هذا العقد أثناء سريانه، بشرط أن يكون العامل قد أمضى فترة لا تقل عن ستة أشهر لدى صاحب العمل، ويستثنى من هذا الشرط العاملون من ذوي المستويات المهارية الأولى والثاني والثالث .
2. إذا قرر أحد الطرفين (صاحب العمل أو العامل) إنهاء العقد وقام بإنذار الطرف الآخر بذلك، مع استمرار تنفيذ العقد خلال فترة الإنذار المتفق عليها بحيث لا تقل عن شهر ولا تتجاوز ثلاثة أشهر، وبشرط أن يكون العامل قد أمضى لدى صاحب العمل فترة لا تقل عن ستة أشهر عليها، ويستثنى من هذا الشرط العاملون من ذوي المستويات المهارية الأولى والثاني والثالث.
3. إذا أنهى صاحب العمل العقد بدون سبب يرجع للعامل، ويشترط في هذه الحالة أن يكون العامل قد أمضى مدة لا تقل عن ستة أشهر لدى صاحب العمل، ويستثنى من هذا الشرط العاملون من ذوي المستويات المهارية الأولى والثاني والثالث.

### ثالثا: في جميع أنواع العقود (محددة أو غير محددة المدة) :

استثناء من الحالات المنصوص عليها بالفقرتين أولا وثانيا من هذه المادة، يجوز منح تصريح عمل جديد للعامل إذا توافرت حالة من الحالات الآتية:

1. حالة ثبوت إخلال صاحب العمل بالتزاماته المقررة قانونا أو اتفاقا (على سبيل المثال لا الحصر: حالة عدم سداد الأجور لمدة تزيد على ستين يوما)
2. حالة الشكوى المرفوعة من العامل على المنشأة التي يعمل لديها بسبب عدم إحقاقه بالعمل لإغلاق تلك المنشأة، ويشترط في هذه الحالة وجود تقرير من قطاع التفتيش بالوزارة يثبت عدم مزاولة المنشأة لنشاطها لمدة تزيد على

شهرين، على أن يكون العامل قد راجع الوزارة خلال شهرين من تاريخ تعطله.

3 . حالة الشكوى العمالية المحالة من الوزارة للمحكمة، ويشترط في هذه الحالة صدور حكم نهائي لصالح العامل متضمنا أحقيته في أجر شهرين على الأقل، أو التعويض عن الفصل التعسفي أو فسخ العقد المحدد قبل نهايته أو أية حقوق أخرى لم يعطها صاحب العمل للعامل من تلقاء نفسه دون سبب يقره القانون، أو حرمانه من مكافأة نهاية الخدمة. ويشترط، في كافة الأحوال المنصوص عليها في هذه المادة، أن تتوافر في العامل باقي الشروط المطلوبة -طبقا للنظم القانونية السارية- لمنحه تصريح عمل جديد.

## **المادة (2)**

في غير الحالات المنصوص عليها في المادة (1) من هذا القرار لا يجوز منح تصريح عمل جديد للعامل للانتقال من منشأة إلى أخرى.

## **المادة (3)**

على كافة الجهات المانحة لتصاريح العمل الجديدة للعاملين في الجهات التعليمية، أثناء العام الدراسي، التأكد من موافقات الجهات الحكومية المعنية قبل منح أية تصاريح مما ورد في المادة (1) من هذا القرار .

## **المادة (4)**

يلغى تصريح العمل الممنوح طبقا لهذا القرار إذا تبين للوزارة عدم صحة البيانات التي منح التصريح الجديد بناء عليها.

## **المادة (5)**

يلغى قرار وزير العمل رقم (1186) لسنة 2010م في شأن ضوابط وشروط منح تصريح عمل جديد للعامل بعد انتهاء علاقة العمل للانتقال إلى منشأة أخرى، كما يلغى كل نص أو حكم يخالف ما جاء بهذا القرار.

### المادة (6)

ينشر هذا القرار في الجريدة الرسمية ويعمل به اعتبار 2016/1/1 .

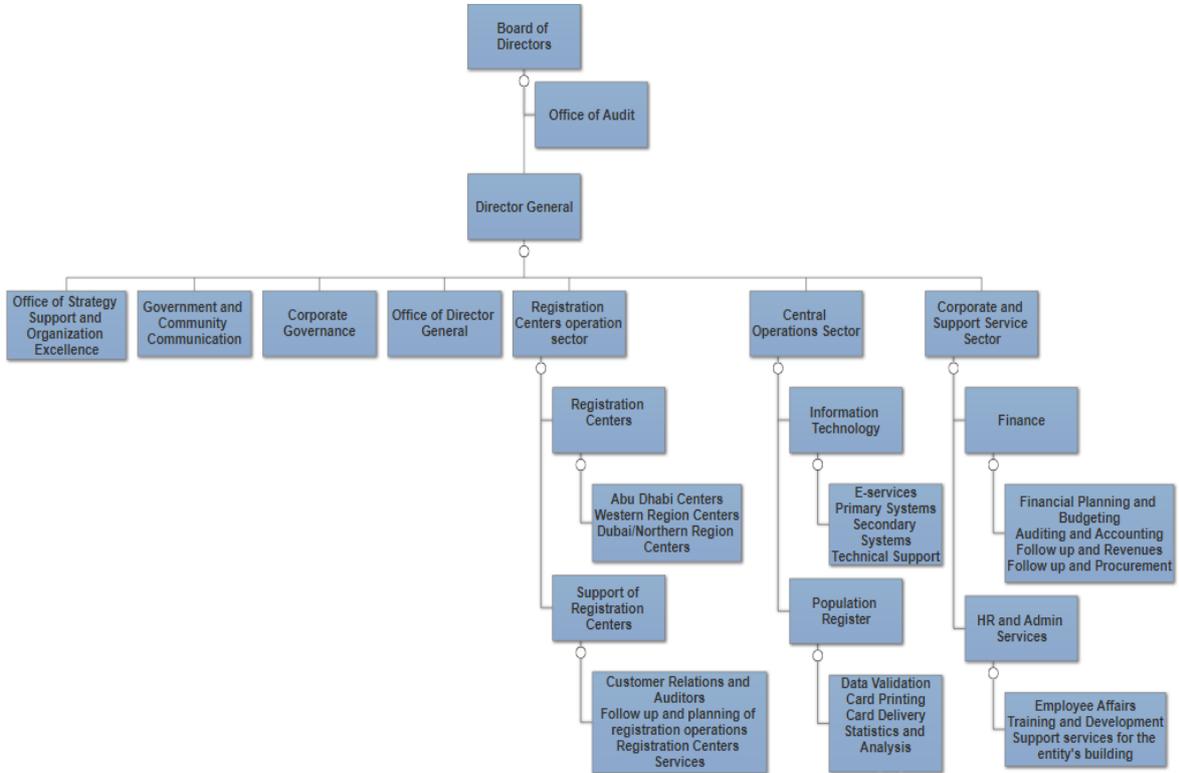
صقر غباش

وزير العمل

صدر عنا في أبوظبي بتاريخ: 2015/9/27

## APPENDIX G:

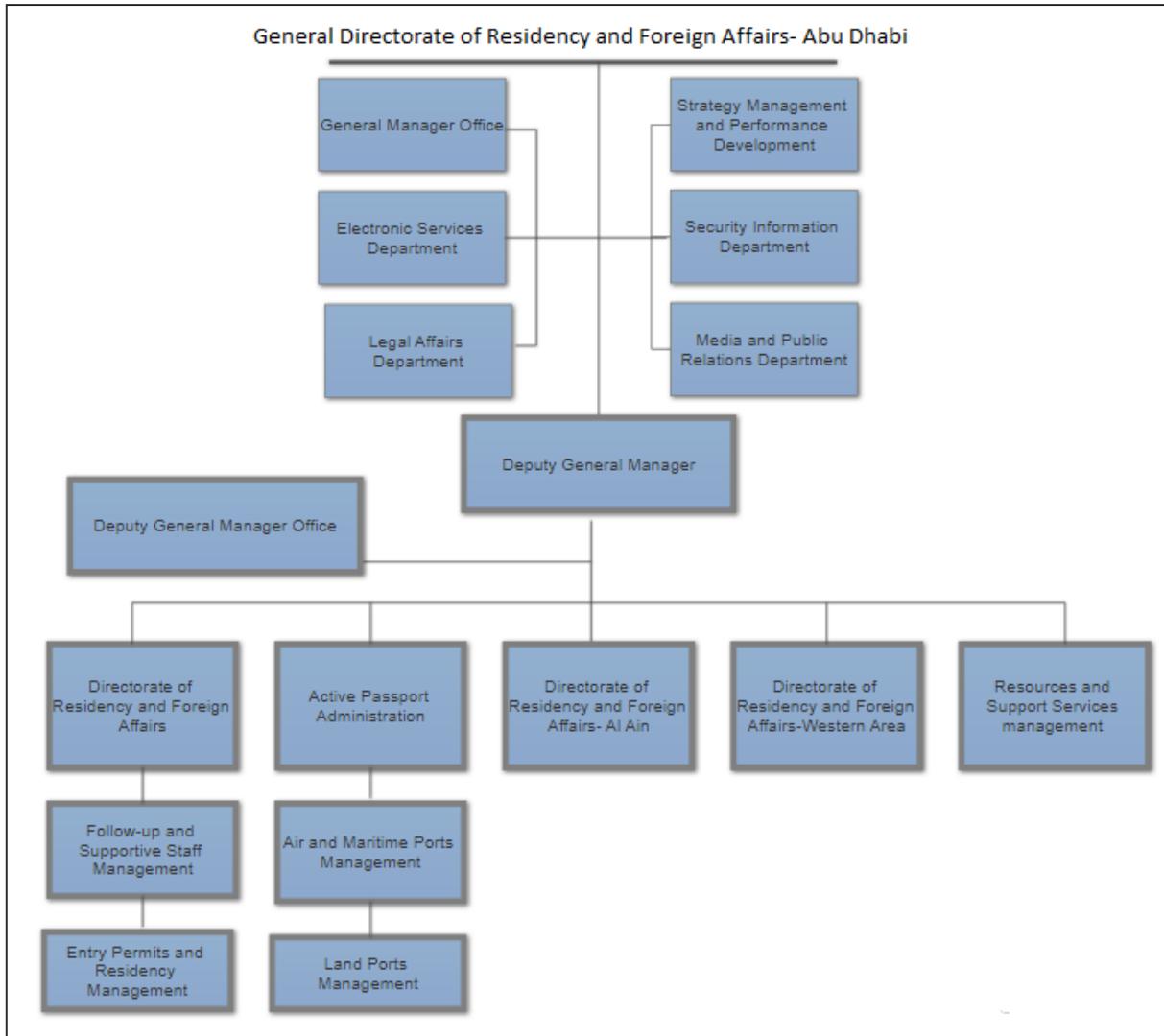
### Structure of the Federal Authority for Identity and Citizenship



Source: Federal Authority for Identity and Citizenship, (2017).

## APPENDIX H:

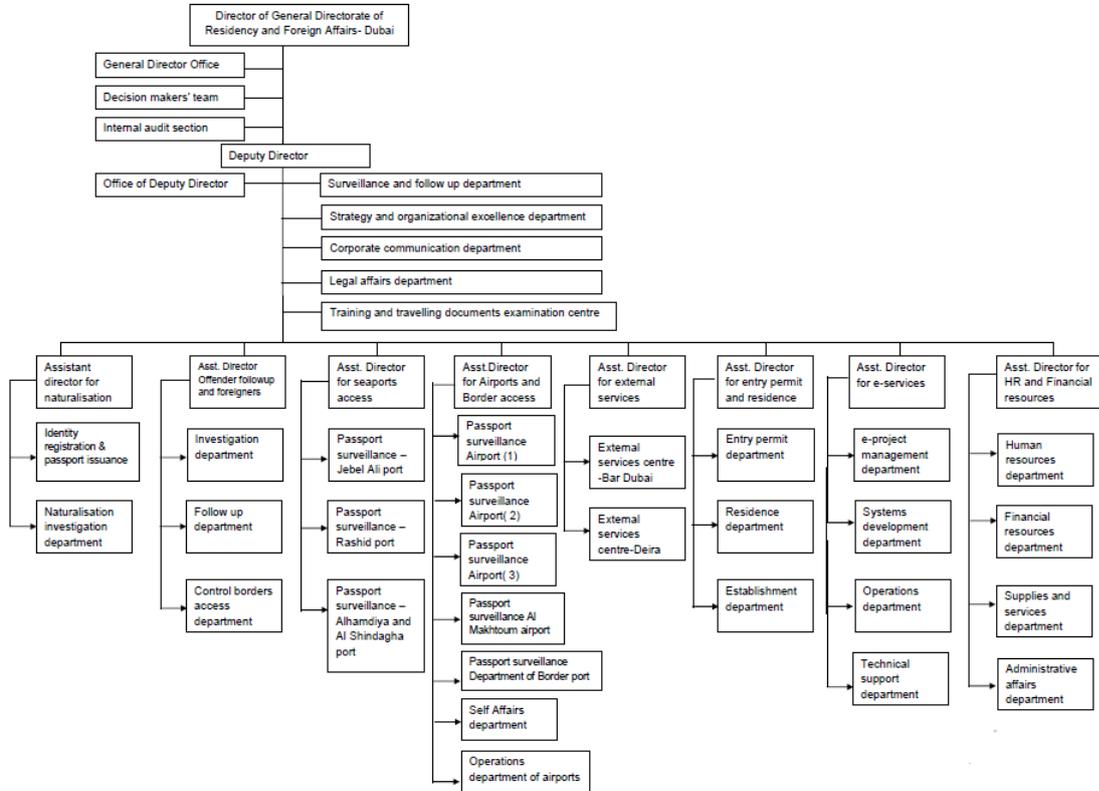
### Structure of General Directorate of Residency and Foreign Affairs - Abu Dhabi



Source: Directorate of Residency and Foreigners Affairs Abu Dhabi, (2018).

## APPENDIX I:

### Structure of General Directorate of Residency and Foreign Affairs - Dubai



Source: Directorate of Residency and Foreigners Affairs Dubai (2018).

## APPENDIX J:

### Ministerial Decree 764 of 2015

## قرار وزاري رقم (764) لسنة 2015

### بشأن العمل بنماذج العقود المعتمدة من وزارة العمل

#### وزير العمل:

- بعد الإطلاع على القانون الإتحادي رقم (8) لسنة 2008، وتعديلاته، في شأن تنظيم علاقات العمل،
- وعلى قرار مجلس الوزراء رقم (40) لسنة 2014، في شأن الرسوم والغرامات المقررة على الخدمات التي تقدمها وزارة العمل،

#### تقرر

#### المادة (1)

تُعتمد نماذج العقود المرفقة بهذا القرار للعمل بمقتضاها، ولا يجوز إصدار الموافقة المبدئية لاستقدام أي عامل أجنبي للعمل بالدولة إلا بعد تقديم عرض العمل المُقدم لهذا العمل، وبحيث يكون هذا العرض موقعا منه في دولة الاستقدام، ومطابقاً لنموذج العقد المناسب لتنظيم علاقة العمل بين هذا العامل وصاحب العمل.

#### المادة (2)

في حال وجود العامل داخل دولة الإمارات، يتعين أن يتم توقيع العامل على عرض العمل، كما هو منصوص عليه بالمادة (1) من هذا القرار، قبل أن يتقدم صاحب العمل للحصول على الموافقة المبدئية لاستخدام هذا العامل.

#### المادة (3)

يتم العمل بنماذج العقود المنصوص عليها بالمادة (1) من هذا القرار عند تجديد العقود القائمة وقت إصدار هذا القرار.

#### **المادة (4)**

على صاحب العمل أن يستخرج من نظام الوزارة نموذج عقد العمل المطابق تماماً للعرض الموقع من العامل، وأن يقدم للوزارة هذا العقد موقعاً من العامل، ولا يجوز إدخال أي تعديل على العقد الموقع من العامل وفقاً لهذا القرار إلا بعد موافقة العامل وبشرط أن لا يخل التعديل بحقوق العامل، وبعد موافقة الوزارة على هذا التعديل.

#### **المادة (5)**

لا يجوز إدخال بنود جديدة على نماذج العقود المنصوص عليها بالمادة (1) من هذا القرار إلا إذا كانت متفق مع الأنظمة القانونية المعمول بها في الوزارة، وبشرط أن لا تتعارض مع باقي نصوص العقد، وبشرط موافقة الوزارة.

#### **المادة (6)**

ينشر هذا القرار في الجريدة الرسمية، ويعمل به من: 2016 / 1 / 1

صقر غباش

وزير العمل

صدر عنا في أبوظبي بتاريخ: 2015 / 9 / 27

## APPENDIX K:

### Ministerial Decree No. 765 of 2015

#### قرار وزاري رقم (765) لسنة 2015

#### في شأن شروط وضوابط انتهاء علاقة العمل

وزير العمل:

- بعد الإطلاع على القانون الإتحادي رقم (1) لسنة 1972، في شأن اختصاصات الوزارات وصلاحيات الوزراء،
- وعلى القانون الاتحادي رقم (8) لسنة 1980، وتعديلاته، في شأن تنظيم علاقات العمل،

قرر:

#### المادة (1)

- يكون انتهاء علاقة العمل بين صاحب العمل والعامل في أي من الحالات الآتية:
- أولاً: في العقود المحددة المدة (وهي العقود التي تعتمدها الوزارة بما لا تتجاوز مدتها عامين)، يكون انتهاء علاقة العمل إذا توافرت حالة من الحالات الآتية:**
1. إذا انتهت مدة العقد المُتفق عليها بين الطرفين، ولم يتم تجديد هذا العقد.
  2. إذا اتفق الطرفان (صاحب العمل والعامل) على انتهاء هذا العقد أثناء سريانه.
  3. في حال قيام أحد الطرفين (صاحب العمل أو العامل) منفرداً، بإنهاء العقد مع اتباع الإجراءات المنصوص عليها في البند (4) من هذه المادة، وفي هذه الحالة يتحمل الطرف الذي أنهى العقد بإرادته وحده تبعات هذا الانهاء.
  4. في حال قيام أحد الطرفين (صاحب العمل أو العامل) منفرداً، بإنهاء العقد أثناء فترة تجديده، حتى لو كان التجديد قبل العمل بهذا القرار، ويشترط في جميع الأحوال التزام من قام بالإنهاء بالإجراءات القانونية الآتية:

- (أ) إخطار الطرف الآخر كتابة بنيته في إنهاء العقد قبل موعد الإنهاء المُحدد بفترة يتفق عليها الطرفان بحيث لا تقل عن شهر ولا تتجاوز ثلاثة أشهر، وإذا كان التجديد قد تم فعلاً قبل العمل بهذا القرار، ولم يتفق الطرفان على فترة إخطار، هذه الفترة ثلاثة أشهر.
- (ب) استمرار الطرف الذي قرر إنهاء العقد في تنفيذ علاقة العمل طيلة فترة الإخطار.
- (ج) سداد مقابل للإنهاء حسبما يتفق عليه الطرفان بحيث لا يزيد على الأجر الإجمالي لثلاثة أشهر وإذا كان التجديد قد تم فعلاً قبل العمل بهذا القرار، ولم يتفق الطرفان على مقدار هذا المقابل، يكون هذا المقابل مساوياً للأجر الإجمالي لثلاثة أشهر.

5. في حال قيام أحد الطرفين (صاحب العمل أو العامل) منفرداً، بإنهاء العقد، بدون الالتزام بالإجراءات القانونية الواردة في البند (4) من هذه المادة، بدون أن يكون الطرف الآخر سبباً في الإنهاء، وفي هذه الحالة يتحمل الطرف الذي أنهى العقد بإرادته وحده تبعات هذا الإنهاء.
6. في حال قيام صاحب العمل بإنهاء علاقة العمل لارتكاب العامل لإحدى المخالفات المنصوص عليها في المادة (120) من قانون تنظيم علاقات العمل، المشار إليه.

**ثانياً: في العقود غير محددة المدة، يكون انتهاء علاقة العمل إذا توافرت حالة من الحالات الآتية:**

1. باتفاق الطرفين.
2. في أي وقت يقوم فيه أحد طرفي العقد بإنهائه بعد إنذار الطرف الآخر، مع استمراره في تنفيذ العقد خلال فترة الإنذار التي يجب أن تقل عن شهر ولا تتجاوز ثلاثة أشهر.

- 3 . في حال قيام أحد الطرفين (صاحب العمل أو العامل) منفرداً، بإنهاء العقد، بدون الالتزام بالإجراءات القانونية الواردة في البند (2) من الفقرة ثانياً من هذه المادة، وبدون أن يكون الطرف الآخر سبباً في الانهاء، وفي هذه الحالة يتحمل الطرف الذي أنهى العقد بإرادته وحده تبعات هذا الانهاء.
- 4 . في حال قيام صاحب العمل بإنهاء علاقة العمل لارتكاب العامل لإحدى المخالفات المنصوص عليها في المادة (120) من قانون تنظيم علاقات العمل، المشار إليه.

وفي جميع الأحوال المنصوص عليها في هذه المادة يجوز لصاحب العمل، وللعامل أن يلجأ للقضاء طلباً للتعويض وأية حقوق أخرى يرتبها له قانون تنظيم علاقات العمل المشار إليه، والقرارات الصادرة تنفيذاً له.

## المادة (2)

تعتبر علاقة العمل في حكم المنتهية في أي الحالات الآتية:

- 1 . حالة ثبوت إخلال صاحب العمل بالتزاماته المقررة أو اتفاقاً (على سبيل المثال لا الحصر: حالة عدم سداد الأجور لمدة تزيد على ستين يوماً).
- 2 . حالة الشكوى المرفوعة من العامل على المنشأة التي يعمل لديها بسبب عدم إحقاقه بالعمل لإغلاق تلك المنشأة، ويشترط في هذه الحالة وجود تقرير من قطاع التفتيش بالوزارة يثبت عدم مزاولة المنشأة لنشاطها لمدة تزيد على شهرين، على أن يكون العامل قد راجع الوزارة خلال شهرين من تاريخ تعطله.
- 3 . حالة الشكوى العمالية المحالة من الوزارة للمحكمة، ويشترط في هذه الحالة صدور حكم نهائي لصالح العامل متضمناً أحقيته في أجر شهرين على الأقل، أو التعويض عن الفصل التعسفي أو فسخ العقد المحدد قبل نهايته أو أية حقوق

أخرى لم يعطها صاحب العمل للعامل من تلقاء نفسه دون سبب يقره القانون، أو حرمانه من مكافأة نهاية الخدمة.

### المادة (3)

يُلغى كل حكم جاء بقرار وزاري يخالف أو يتعارض مع ما جاء بهذا القرار.

### المادة (4)

ينشر هذا القرار في الجريدة الرسمية، ويعمل به من 1 / 1 / 2016

صقر غباش

وزير العمل

صدر عنا في أبوظبي بتاريخ: 27 / 9 / 2015

## APPENDIX L:

### Ministerial Decree No. 401 of 2015

#### قرار وزاري رقم (401) لسنة 2015

#### في شأن تحديد ساعات العمل وقت الظهيرة

وزير العمل:

- بعد الاطلاع على القانون الاتحادي رقم (1) لسنة 1972م في شأن اختصاصات الوزارات وصلاحيات الوزراء والقوانين المعدلة له،
- وعلى القانون الاتحادي رقم (8) لسنة 1980م بشأن تنظيم علاقات العمل والقوانين المعدلة له،
- وعلى المرسوم الاتحادي رقم (50) لسنة 1982 في شأن التصديق على اتفاقية العمل الدولية رقم (1) لسنة 1919 الخاصة بتحديد ساعات العمل،
- وعلى قرار مجلس الوزراء رقم (40) لسنة 2014 في شأن رسوم الخدمات التي تقدمها وزارة العمل،
- وعلى القرار الوزاري رقم (32) لسنة 1982 في شأن تحديد أساليب وتدابير الوقاية لحماية العمال من مخاطر العمل،
- وعلى القرار الوزاري رقم (1178) لسنة 2010 في شأن ضوابط ومعايير تصنيف المنشآت،
- وبناء على ما عرضه وكيل الوزارة.

قرر

#### المادة (1)

تحدد ساعات العمل للأعمال التي تؤدي تحت الشمس وفي الأماكن المكشوفة بحيث لا يتجاوز بقاء العامل في موقع العمل بعد الساعة الثانية عشرة والنصف ظهراً، ويحظر استئناف العمل قبل تمام الساعة الثالثة ظهراً، وعلى من يقوم بتشغيل العمال أن يوفر لهم مكاناً مظلاً للراحة خلال فترة توقفهم عن العمل.

### المادة (2)

يجب ألا يتجاوز مجمل ساعات العمل اليومية في فترتيها الصباحية والمسائية ثماني ساعات يومياً، وفي حالة قيام العامل بالعمل لأكثر من ثماني ساعات خلال الساعات الأربع والعشرين فإن الزيادة تعد عملاً إضافياً يتقاضى العامل عنها اجراً إضافياً حسب أحكام القانون.

### المادة (3)

على كل صاحب عمل أن يعلق بشكل بارز من مكان العمل جدولاً بساعات العمل اليومية طبقاً لأحكام هذا القرار على أن يكون باللغة التي يفهمها العامل، وباللغة العربية.

### المادة (4)

• على كل صاحب عمل أن يوفر الوسائل الوقائية المناسبة لحماية العمال من أخطار الإصابات والأمراض المهنية التي قد تحدث أثناء ساعات العمل وكذلك أخطار الإصابات التي قد تنجم عن استعمال الآلات وغيرها من أدوات العمل كما يجب عليه اتباع جميع أساليب الوقاية الأخرى المقررة بموجب القانون والقرارات الوزارية المنفذة له، وعلى العمال اتباع التعليمات التي تهدف إلى حمايتهم من الأخطار وأن يمتنعوا عن القيام بأي عمل من شأنه عرقلة التعليمات.

### المادة (5)

• تستثنى من حكم المادتين (1) و(2) الأعمال التي يتحتم فيها لأسباب فنية استمرار العمل دون توقف، شريطة أن يلتزم صاحب العمل بتوفير ما يلي:

- 1 . ماء الشرب البارد بما يتناسب وعدد العاملين وشروط السلامة والصحة العامة.
  - 2 . وسائل ومواد الإرواء مثل الاملاح والليمون وغيرها مما هو معتمد للاستعمال من السلطات الصحية في الدولة.
  - 3 . الإسعافات الأولية في موقع العمل.
  - 4 . وسائل التبريد الصناعية المناسبة.
  - 5 . المظلات الواقية من اشعة الشمس المباشرة.
- على وكيل الوزارة اصدار قائمة بالأعمال التي ينطبق عليها حكم هذه المادة واتخاذ الإجراءات لتنفيذ هذا القرار.

### المادة (6)

- دون المساس بالعقوبات المنصوص عليها في القانون والقرارات واللوائح التنفيذية
- 1 . تعاقب كل منشأة لا تلتزم بأحكام هذا القرار بغرامة مقدارها خمسة آلاف (5000) درهم عن كل عامل وبحد أقصى خمسين ألف (50000) درهم في حال تعدد العمال الذين يتم تشغيلهم بالمخالفة لأحكام هذا القرار.
  - 2 . بالإضافة لحكم الفقرة (1) من هذه المادة، في حال مخالفة أي من المنشآت لأحكام هذا القرار يرفع قطاع التفتيش إلى الوزير مذكرة تتضمن بياناً بالمخالفة وعدد العمال الذين تم تشغيلهم خلال فترة الظهيرة، وذلك للنظر في وقف المنشأة- فقط- أو وقفها مع خفض درجة تصنيفها وذلك على ضوء مدى جسامة المخالفة- بالنظر إلى عدد العمال الذين تم تشغيلهم- أو تكرارها.

### المادة (7)

#### يكون مسؤولاً طبقاً لهذا القرار:

- 1 . صاحب العمل الذي قام بتشغيل عماله بالمخالفة لأحكام هذا القرار.
- 2 . كل من يستخدم عاملاً ليس مسموحاً له قانوناً باستخدامه، ويقوم بتشغيله بالمخالفة لأحكام هذا القرار.

**المادة (8)**

يعمل بهذا القرار اعتباراً من 2015 / 9 / 15 حتى 2016 / 9 / 15، وعلى  
الجهات المعنية تنفيذه.

صقر غباش

وزير العمل

صدر عنا في أبوظبي بتاريخ: 2015 / 5 / 18

## APPENDIX M:

### Federal Law No. 15 of 2017

## قانون اتحادي رقم (15) لسنة 2017

### بشأن عمال الخدمة المساعدة

نحن خليفة بن زايد آل نهيان رئيس دولة الإمارات العربية المتحدة

### بعد الاطلاع على الدستور.

- وعلى القانون الاتحادي رقم (1) لسنة 1972 بشأن اختصاصات الوزارات وصلاحيات الوزراء، والقوانين المعدلة له.
- وعلى القانون الاتحادي رقم (6) لسنة 1973 بشأن دخول وإقامة الأجانب والقوانين المعدلة له.
- وعلى القانون الاتحادي رقم (8) لسنة 1980 بشأن تنظيم علاقات العمل، والقوانين المعدلة له.
- وعلى قانون العقوبات الصادر بالقانون الاتحادي رقم (3) لسنة 1987 والقوانين المعدلة له.
- وعلى قانون الإجراءات الجزائية الصادر بالقانون الاتحادي رقم (3) لسنة 1992 والقوانين المعدلة له.
- وبناء على ما عرضه وزير الموارد البشرية والتوطين وموافقة مجلس الوزراء والمجلس الوطني الاتحادي وتصديق المجلس الأعلى للاتحاد.

أصدرنا القانون الآتي:

## تعريفات

## المادة (1)

في تطبيق أحكام هذا القانون، يُقصد بالكلمات والعبارات التالية المعاني المبينة قرين كل منها ما لم يقض سياق النص بغير ذلك:

الدولة: الإمارات العربية المتحدة

الوزارة: وزارة الموارد البشرية والتوطين

الوزير: وزير الموارد البشرية والتوطين

الخدمة المساعدة: الخدمة التي يؤديها العامل إلى صاحب العمل أو أسرته، في مكان العمل وفقاً لأحكام هذا القانون .

العامل: الشخص الطبيعي الذي يؤدي خدمة مساعدة مقابل أجر شامل ، وذلك تحت إدارة وإشراف وتوجيه صاحب العمل.

صاحب العمل: كل شخص طبيعي، أو مكتب استقدام ، يستخدم عاملاً لأداء عمل من أعمال الخدمة المساعدة.

الأسرة: من يرتبط بهم صاحب العمل بعلاقة قري أو مصاهرة أو يتولى رعايتهم لأي سبب قانوني أو أخلاقي.

مكان العمل : المكان المُخصص للإقامة الدائمة أو الإقامة المؤقتة لصاحب العمل أو أسرته، أو المستفيد من الخدمة أو أسرته، ويشمل ذلك المزارع الخاصة وما في حكمها

مكتب الاستقدام : المكتب المرخص له، وفقاً لأحكام هذا القانون، بالتوسط لاستقدام العمال ، بناءً على ما يطلبه منه صاحب العمل، أو بالتشغيل المؤقت للعمال.

التشغيل المؤقت : نظام يقوم بمقتضاه مكتب الاستقدام بتشغيل عامل لديه بقصد إتاحتها لطرف ثالث ( المستفيد ) لأداء عمل من الأعمال التي تخضع لأحكام هذا القانون ، ويكون أداء هذا العمل تحت إشراف وإدارة المستفيد .

عقد العمل: كل اتفاق محدد المدة يُبرم بين صاحب العمل والعامل ينظم حقوق والتزامات الطرفين وفقاً للنموذج المُعتمد من الوزارة.

الأجر: الأجر الأساسي الذي ينص عليه عقد العمل، دون أن تكون مُضافة إليه أية بدلات أو علاوات أو أية مزايا أخرى.

الأجر الشامل: الأجر الأساسي مُضافاً إليه كافة البدلات والعلاوات وأية مزايا أخرى ينص عليها عقد العمل.

### نطاق سريان القانون

#### المادة (2)

1 - تسري أحكام هذا القانون على استقدام وتشغيل العمال المبينة منهم بالجدول الملحق به، والأطراف ذات العلاقة. ولمجلس الوزراء، بناء على عرض الوزير، إجراء أي تعديل على المهن الواردة بهذا الجدول.

2 - في حالة سفر العامل برفقة صاحب العمل أو أسرته خارج الدولة يلتزم طرفا العقد المُبرم وفقاً لهذا القانون بما ورد فيه من أحكام، ما لم يقضِ قانون الدولة الأجنبية بغير ذلك

### مكاتب استقدام وتشغيل العمال

#### المادة (3)

1 - لا يجوز لأي شخص طبيعي أو معنوي أن يعمل وسيطاً لاستقدام العمال أو تشغيلهم مؤقتاً، إلا إذا كان مواطناً حسن السير والسلوك ومُرخصاً له بذلك النشاط طبقاً لهذا القانون ولائحته التنفيذية.

ويجب أن يكون للمنشأة المُرخص لها مدير مواطن حسن السير والسلوك، مع تقديم الضمانات المطلوبة على النحو الذي تحدده اللائحة التنفيذية لهذا القانون

ويتعين لمنح الترخيص توافر باقي الشروط التي يحددها هذا القانون ولائحته التنفيذية والقرارات الصادرة عن الوزارة.

2 - لا يجوز استخدام أو تشغيل العامل إلا وفقاً للشروط والضوابط والإجراءات المنصوص عليها في هذا القانون ولائحته التنفيذية والقرارات الصادرة عن الوزارة وأية تشريعات سارية في الدولة في هذا المجال، ومع مراعاة الشروط القانونية اللازمة لترخيص كل مهنة - إن وجدت.

وفي جميع الأحوال يُحظر استخدام أو تشغيل عامل تقل سنه عن ثمانية عشر سنة ميلادية

3 - يتعين في حال استخدام العمال أو تشغيلهم مؤقتاً عدم ممارسة أي عمل من الأعمال الآتية:

(أ) التمييز بين العمال بما يخل بقاعدة المساواة بينهم على أساس العرق أو اللون أو الجنس أو الدين أو الرأي السياسي أو الأصل الوطني أو الأصل الاجتماعي

(ب) التحرش جنسياً بالعمال سواء كان التحرش لفظياً أو جسدياً.

(ج) العمل الجبري، وأية ممارسة لعمل يدخل في إطار الاتجار بالبشر، وذلك وفقاً لما أصدرته الدولة من قوانين أو صادقت عليه من اتفاقيات.

4 - لا يجوز تشغيل العمال في أعمال لا تسري عليها أحكام هذا القانون إلا بعد الحصول على موافقة الجهات المختصة.

5 - يصدر الوزير قراراً بتحديد الضوابط اللازمة لعمل مكاتب الاستقدام وبالشروط الواجب توافرها في صاحب العمل للسماح له باستخدام وتشغيل العمال الخاضعين لأحكام هذا القانون، كما يُصدر القواعد والإجراءات والنماذج الواجب استخدامها من قبل هذه المكاتب.

#### المادة (4)

يلتزم مكتب الاستقدام بالآتي:

1 - عدم استقدام العامل من دولته إلا بعد إعلان بنوع العمل وطبيعته ومقدار الأجر الشامل وتوافر ما يثبت لياقته وحالته الصحية والنفسية والمهنية وغيرها من الشروط التي تحددها اللائحة التنفيذية لهذا القانون على أن تراعى طبيعة كل مهنة.

2 - أن لا يطلب، بنفسه أو بواسطة الغير، أو يقبل من أي عامل سواء كان ذلك قبل مباشرة العمل أو بعده أية عمولة مقابل حصوله على العمل أو أن يستوفي منه أية مصاريف.

3 - إجراء الفحوصات الطبية اللازمة للعامل خلال ثلاثين يوماً على الأكثر سابقة على دخوله الدولة.

4 - تحمل نفقات إعادة العامل إلى بلده، إضافة إلى توفير بديل عنه دون تحميل صاحب العمل أية نفقات إضافية، أو رد كافة المبالغ التي دفعها صاحب العمل- حسب اختيار الأخير، إذا تبين، أو حدث، أي مما يلي خلال فترة التجربة، المشار إليها في المادة (9) من هذا القانون:

أ. انتفاء الكفاءة المهنية وحُسن السلوك الشخصي في العامل.

ب. ثبوت عدم لياقة العامل الصحية وفقاً للشروط التي تحددها اللائحة التنفيذية لهذا القانون بعد دخوله الدولة، وأثناء فترة التجربة، على أن تراعى طبيعة كل مهنة.

ج. قيام العامل بترك العمل في غير الأحوال المُرخص بها، على النحو المُبين باللائحة التنفيذية لهذا القانون.

د. إنهاء العقد برغبة العامل أو بسبب منه لعدم تحقق الشروط المتفق عليها في هذا العامل.

5 - توعية وتعريف العامل بعادات وتقاليد المجتمع في الدولة.

6 - توفير مسكن مؤقت للعامل مجهز بوسائل المعيشة اللائقة كلما كانت هناك ضرورة لبقاء العامل لدى المكتب فترة تقتضي أن يكون له مكان يقيم فيه.

7 - حُسن معاملة العامل وعدم تعريضه للعنف.

8 - توعية العامل بالجهات المختصة بنظر شكاواه بشأن أي انتهاك لحقوقه وحرياته

9 - تسليم صاحب العمل كتيب بإيصالات استلام الأجر.

10 - أن يرد لصاحب العمل كامل المبالغ التي دفعها هذا الأخير للمكتب، أو جزءاً منها، حسبما تحدده اللائحة التنفيذية لهذا القانون، في أي حالة من الحالتين الآتيتين:

(أ) قيام العامل بفسخ العقد، بعد فترة التجربة، وبدون سبب يرجع إلى صاحب العمل.

(ب) قيام العامل، بعد فترة التجربة، بترك العمل لدى صاحب العمل بدون سبب مقبول.

### المادة (5)

1 - يبرم عقد، وفقاً للنموذج المعتمد من الوزارة، بين مكتب الاستقدام وصاحب العمل لتنظيم الالتزامات الخاصة باستقدام العامل، على أن يتضمن هذا العقد بوجه خاص ما يأتي:

أ. الشروط التي يحددها صاحب العمل في العامل الذي يكلف المكتب باستقدامه

ب. الحقوق والالتزامات الأساسية التي يلتزم بها صاحب العمل تجاه العامل وخاصة نوع العمل ومقدار الأجر الشامل.

ج. الالتزامات المالية اللازمة لانتقال العامل من بلده إلى الدولة، ومقابل الخدمات المستحقة للمكتب وغيرها، ويجوز للوزير أو من يفوضه إصدار قرار بضوابط وبقيمة هذا المقابل.

د. المدة المحددة لتنفيذ إجراءات الاستقدام

2 - إذا خالف مكتب الاستقدام الشروط المتفق عليها في العقد، المنصوص عليه في البند (1) من هذه المادة، يكون لصاحب العمل الحق في رفض تشغيل العامل الذي استقدمه ويكون إخطار الرفض كتابياً وتطبق أحكام المادة 4/4 من هذا القانون، وذلك دون الإخلال بحق

صاحب العمل في مطالبة مكتب الاستقدام بالتعويض عن أي ضرر يلحقه نتيجة الإخلال بشروط العقد.

### عقد العمل

#### **المادة (6)**

يلتزم صاحب العمل بإبرام عقد عمل مع العامل وفقاً للنموذج المعتمد من الوزارة، ويُشترط أن يكون العقد مكتوباً من أربع نسخ تسلّم إحداها للعامل والأخرى لصاحب العمل وتودع الثالثة لدى مكتب الاستقدام والرابعة لدى الوزارة.

وفي جميع الأحوال يجوز لأطراف العقد إثبات أية شروط إضافية بعقد ملحق.

#### **المادة (7)**

يجب أن يتضمن عقد العمل أسماء أطرافه، ومكان العمل، وتاريخ إبرامه، وتاريخ بدء العمل، ونوعه، ومدة العقد، ومقدار الأجر الشامل، وطريقة دفعه، والإجازات المسموح بها للعامل، وفترة التجربة، وفترات الراحة والأوضاع التي قد ينتج عنها انتهاء العقد بالإضافة إلى أية شروط أخرى تقتضيها طبيعة العمل، وترد في نموذج العقد المُعتمد من الوزارة.

وفي جميع الأحوال يجب أن لا تجاوز مدة العقد الأولى سنتين ويجوز تجديده لمدد أخرى باتفاق الطرفين

#### **المادة (8)**

لا تسمع عند الإنكار وعدم توافر العذر الشرعي دعوى المطالبة بأي حق من الحقوق المترتبة بمقتضى أحكام هذا القانون بعد مضي ستة أشهر من تاريخ انتهاء علاقة العمل.

#### **المادة (9)**

يُوضع العامل تحت التجربة لمدة ستة أشهر من تاريخ تسلمه العمل.

### المادة (10)

يجب سداد الأجر الشهري بدرهم الإمارات خلال مدة لا تجاوز عشرة أيام من تاريخ استحقاقه، وللوزارة أن تضع النظام الذي تراه أنسب لكيفية وضمان سداد الأجر

ويُستحق الأجر الشامل للعامل من تاريخ دخول العامل للدولة، أو من تاريخ تعديل وضعه، ويثبت أداء الأجر الشامل بموجب إيصال خطي أو أية وسيلة إثبات أخرى تقررها الوزارة.

### المادة (11)

1 - يستقطع من الأجر الشامل للعامل ما يلزم لاستيفاء الديون تنفيذاً لحكم قضائي وبما لا يجاوز ربع الأجر الشامل

2 - إذا ارتكب العامل فعلاً نجم عنه ضرر لصاحب العمل بفقد أو إتلاف أدوات أو آلات أو منتجات أو مواد مملوكة لهذا الأخير، أو مما يكون في عهدة العامل أو تحت تصرفه، متى ما كان ذلك ناشئاً عن خطأ العامل الجسيم أو مخالفته التعليمات ، يكون لصاحب العمل ، في هذه الحالة ، بموافقة العامل، وبموافقة الجهة المعنية بالوزارة إذا لم يوافق العامل، أن يُستقطع من الأجر الشامل ، وبما لا يجاوز الربع، ما يلزم لجبر الضرر على النحو الذي تقدره الوزارة ، وإذا لم يتم الصلح بالموافقة على ما تقرره الوزارة يُحال النزاع إلى القضاء.

3 - في جميع الأحوال، يجوز أن يتم الاستقطاع من مكافأة نهاية الخدمة إذا لم يتيسر الاستقطاع من الأجر لسداد المبالغ الثابت استحقاقها على العامل

### تنظيم العمل

### المادة (1)

1 - للعامل الحق في يوم راحة أسبوعية بأجر شامل وفقاً لما تحدده اللائحة التنفيذية لهذا القانون، ويجوز تشغيله في يوم راحته الأسبوعية، وفي هذه الحالة يكون له الحق في يوم راحة بديل أو يُمنح بدلاً نقدياً عنه بما يعادل الأجر الشامل لذلك اليوم.

2 - تنظم اللائحة التنفيذية لهذا القانون أوقات العمل والراحة بحيث لا تقل الراحة اليومية للعامل عن اثنتي عشرة ساعة يومياً، على أن تكون منها على الأقل ثماني ساعات متواصل

### الإجازات

#### المادة (13)

1 - يستحق العامل إجازة سنوية لمدة ثلاثين يوماً عن كل سنة، وتكون مدفوعة الأجر قبل القيام بها، وإذا كانت مدة الخدمة أقل من سنة وأكثر من ستة أشهر استحق إجازة يومين عن كل شهر. ولصاحب العمل تحديد موعد بدء الإجازة السنوية، وله عند الضرورة تجزئتها إلى فترتين على الأكثر، فإذا استدعت ظروف العمل تشغيل العامل في أثناء إجازته السنوية كلها أو بعضها ولم ترحل مدة الإجازة التي عمل خلالها إلى السنة التالية، وجب أن يؤدي إليه صاحب العمل أجره مضافاً إليه بدل إجازة عن أيام عمله يساوي أجره الأساسي. وفي جميع الأحوال لا يجوز تشغيل العامل أثناء إجازته السنوية أكثر من مرة واحدة خلال سنتين متتاليتين.

2 - يدخل في حساب مدة الإجازة السنوية الممنوحة للعامل أيام العطلات المقررة قانوناً، أو اتفاقاً، أو أية مدد أخرى بسبب المرض إذا تداخلت مع هذه الإجازة.

3 - مع مراعاة ما نصت عليه المادة (7) من هذا القانون يجوز للعامل في حالة تجديد عقد العمل تجميع الإجازة المستحقة له عن أكثر من سنتين والحصول عليها مُجمعة.

4 - يتحمل صاحب العمل كل سنتين قيمة تذكرة سفر العامل إلى بلده وعودته منه، أو البديل النقدي المساوي لأجر الإجازة المستحقة للعامل عن سنتين بالإضافة لقيمة التذكرة إذا أبدى العامل رغبته في الاستمرار بالعمل وعدم القيام بالإجازة.

5 - إذا انتهى عقد العمل أو تم فسخه من أحد طرفيه دون أن يكون العامل قد حصل على إجازته السنوية، استحق العامل عنها بدلاً نقدياً مساوياً لأجره عن عدد أيام الإجازة المستحقة له، ويُحسب الأجر بفتته وقت استحقاق الإجازة إلا إذا كان عدم الحصول على الإجازة راجعاً لصاحب العمل فيحسب الأجر، في هذه الحالة، بفتته وقت صرفه للعامل.

#### المادة (14)

للعامل الحق في إجازة مرضية لمدة لا تزيد على ثلاثين يوماً في السنة التعاقدية، ويحصل عليها متصلة أو متقطعة متى ثبتت حاجته إليها بتقرير طبي صادر من الجهة الصحية المعتمدة رسمياً في الدولة، وتحسب على النحو الآتي:

1 - الخمسة عشر يوماً الأولى بأجر شامل

2 - الخمسة عشر يوماً التالية بدون أجر.

#### التزامات صاحب العمل والعامل

#### المادة (15)

يلتزم صاحب العمل بالتزامات الواردة في عقد العمل وملحقاته، بالإضافة إلى ما يأتي:

1 - توفير مستلزمات أداء العمل المتفق عليه

2 - تهيئة مكان لائق لسكن العامل.

- 3 - تقديم احتياجات العامل من وجبات الطعام والملابس المناسبة لأداء العمل طالما يعمل لديه بنظام الدوام الكامل وليس بنظام التشغيل المؤقت، إلا إذا أتفق على خلاف ذلك.
- 4 - تحمل تكاليف العلاج الطبي للعامل وفقاً للنظام الصحي المعمول به في الدولة.
- 5 - معاملة العامل معاملة حسنة تحفظ له كرامته وسلامته بدنه.
- 6 - عدم تشغيل العامل لدى الغير إلا وفقاً للشروط والأوضاع المقررة باللائحة التنفيذية لهذا القانون. وعدم تشغيل أي عامل لديه إلا إذا كان مُرخصاً للعامل بالعمل وفقاً لأحكام هذا القانون ولائحته التنفيذية.
- 7 - دفع التعويض اللازم الناتج عن إصابات العمل والأمراض المهنية وفقاً لجداول التعويضات الملحقة بقانون تنظيم علاقات العمل المعمول به، إلا إذا قامت شركة التأمين بسداد هذا التعويض.
- 8 - عدم تشغيل العامل بمهنة تختلف عن طبيعة عمله إلا برضاه وبشرط أن تكون من المهن المشمولة بهذا القانون.
- 9 - ضمان حق العامل في الاحتفاظ بوثائقه الثبوتية الخاصة به.
- 10 - منح ورثة العامل المتوفي أثناء الخدمة الأجر الشامل للشهر الذي توفي فيه، وأية مستحقات أخرى للعامل.
- 11 - أن لا يتقاضى، بنفسه أو بوسيط عنه، من العامل أية مبالغ أو أي مقابل، ما لم يكن منصوصاً عليه بهذا القانون أو باللائحة التنفيذية أو بنموذج العقد المُعتمد من الوزارة.
- 12 - أن يُخطر الوزارة، بأي إخلال من العامل بما تفرضه الأنظمة القانونية السارية، وعلى صاحب العمل أن يلتزم بما تطلبه منه الوزارة في هذه الأحوال.

### المادة (16)

## يلتزم العامل بالالتزامات الواردة في عقد العمل بالإضافة إلى ما يأتي:

- 1 - أداء العمل بنفسه تبعاً لتوجيه وإشراف صاحب العمل، وطبقاً لما هو محدد بالعقد، وأن يبذل في تأديته العناية اللازمة، وألا ينقطع عن العمل بغير عذر مقبول
- 2 - مراعاة عادات وتقاليد المجتمع والالتزام بالأداب العامة
- 3 - الالتزام بأوامر صاحب العمل الخاصة بتنفيذ العمل المتفق عليه ما لم يكن في هذه الأوامر ما يخالف العقد أو القانون أو النظام العام والأداب العامة أو ما يعرضه للخطر أو المساءلة القانونية.
- 4 - المحافظة على ممتلكات صاحب العمل وأدوات العمل وكل ما يكون في عهده، أو تحت تصرفه، والاعتناء بها العناية اللازمة والقيام بجميع الإجراءات الضرورية لحفظها وسلامتها
- 5 - احترام الخصوصية وعدم إفشاء الأسرار التي يطلع عليه بحكم عمله ولو بعد انتهائه.
- 6 - عدم استخدام أدوات العمل خارج مكان العمل إلا بموافقة صاحب العمل والاحتفاظ بهذه الأدوات في الأماكن المخصصة لها
- 7 - تقديم العون والمساعدة اللازمة في حالات الكوارث والأخطار التي تهدد مكان العمل أو سلامة الموجودين فيه.
- 8 - الا يعمل تحت أية صورة من الصور إلا بموجب تصريح عمل صادر له من الوزارة ووفقاً لشروط هذا التصريح.
- 9 - أن يُخطر الوزارة في حال تغيير محل إقامته المدون في تصريح العمل خلال فترة زمنية لا تتعدى سبعة أيام من تاريخ التغيير

## المادة (17)

يجب على صاحب العمل إبلاغ الوزارة خلال خمسة أيام من تغييب العامل عن العمل دون سبب مشروع.

كما يجب على العامل إبلاغ الوزارة خلال (48) ساعة من تركه للعمل دون علم صاحب العمل

### **المادة (18)**

على صاحب العمل والعامل الالتزام باشتراطات الصحة والسلامة المهنية المعتمدة وأساليب الوقاية الصحية وفقاً لما تنص عليه اللائحة التنفيذية لهذا القانون، وأية تشريعات أخرى سارية بالدولة.

### **التفتيش**

### **المادة (19)**

يحدد الوزير من يتولى من مأموري الضبط القضائي القيام بالمهام الآتية:

- 1 - مراقبة تنفيذ أحكام هذا القانون واللوائح والقرارات الصادرة تنفيذاً له.
- 2 - ضبط كل ما يقع بالمخالفة لأحكام هذا القانون واللوائح والقرارات الصادرة تنفيذاً له.
- 3 - التفتيش على مكاتب الاستقدام.
- 4 - التفتيش على أماكن عمل وإقامة العمال، مع مراعاة أحكام المادة (20) من هذا القانون.

### **المادة (20)**

مع مراعاة أحكام المادة (19) من هذا القانون، لا يجوز للمفتشين دخول أماكن عمل وإقامة العمال إلا بإذن من أصحابها، أو إذن النيابة العامة، وذلك في الحالتين التاليتين:

1. وجود شكوى من العامل أو من صاحب العمل.

2. وجود دلائل معقولة على وقوع مخالفات لأحكام هذا القانون واللوائح والقرارات الصادرة تنفيذاً له.

### تسوية المنازعات

#### المادة (2)

- 1 - إذا وقع نزاع بين طرفي العقد، وفشلا في تسويته ودياً وجب عليهما إحالته إلى الوزارة.
- 2 - تقوم الوزارة باتخاذ ما تراه مناسباً لتسوية النزاع ودياً خلال أسبوعين وفقاً للإجراءات المنصوص عليها في اللائحة التنفيذية لهذا القانون.
- 3 - لا تُقبل الدعوى أمام المحكمة المختصة قبل إتباع الإجراءات المنصوص عليها في هذا القانون ولائحته التنفيذية.

### انتهاء العقد

#### المادة (22)

- 1 - ينتهي عقد العمل في إحدى الحالات الآتية:
  - أ. انتهاء مدته، ما لم يجدد وفقاً لأحكام هذا القانون ولائحته التنفيذية والقرارات الوزارية الصادرة في هذا الشأن.
  - ب. وفاة العامل، أو إصابته بعجز أثناء العمل وبسببه، ويثبت العجز وتحدد نسبته بتقرير من لجنة طبية مختصة، ويتحمل صاحب العمل تكاليف إعادة جثمان العامل المتوفي، أو العامل العاجز إلى بلده.
  - ج. وفاة صاحب العمل، ويجوز أن يستمر العقد إلى نهاية مدته بموافقة الوزارة.

د. إدانة العامل في جنائية أو الحكم عليه بعقوبة مقيدة للحرية في جنائية أو في جنحة.

ه. اتفاق الطرفين على إنهاء العقد.

و. بلوغ العامل سن الستين، ويحدد الوزير الحالات التي يجوز فيها مدّ الخدمة لما بعد هذا السن.

ز. استنفاد الإجازة المرضية، أو عدم اللياقة الصحية للعمل.

ح. انقطاع العامل عن العمل بدون عذر مقبول خلال السنة التعاقدية لمدة عشرة أيام متصلة أو خمسة عشر يوماً متقطعة.

ط. ثبوت إخلال أحد طرفي العقد بالالتزامات المقررة عليه قانوناً أو اتفاقاً، وتُطبق، في هذه الحالة أحكام المادة 23 من هذا القانون.

2. يجب على صاحب العمل أداء جميع مستحقات العامل المالية خلال عشرة أيام من تاريخ انتهاء العقد.

### المادة (23)

1 - لأي من طرفي عقد العمل فسخه بالإرادة المنفردة إذا أخل الطرف الآخر بالتزاماته المنصوص عليها في المادتين (15) و (16) من هذا القانون.

2 - لصاحب العمل وللعامل فسخ العقد، فإذا كان فسخ العقد من طرف صاحب العمل، وبسبب لا يعود للعامل فيلتزم صاحب العمل بتوفير تذكرة سفر لعودة العامل إلى بلده بالإضافة لدفع تعويض يعادل الأجر الشامل لمدة شهر، وأية مستحقات أخرى للعامل في ذمة صاحب العمل، وأية تعويضات أخرى قد تحكم بها المحكمة.

3 - إذا كان فسخ العقد من طرف العامل وبسبب يرجع إليه بعد فترة التجربة تحمل العامل مصاريف عودته إلى بلده، بالإضافة لدفع تعويض لصاحب العمل يعادل الأجر الشامل لمدة

شهر وأية مستحقات أخرى لصاحب العمل في ذمة العامل وأية تعويضات أخرى قد تحكم بها المحكمة .

4 - في جميع أحوال انتهاء علاقة العمل تكون للوزارة الصلاحية في منح العامل تصريح عمل جديد أو عدم منحه طبقاً للقواعد التي تقرها في هذا الشأن، وبمراعاة الأحكام النافذة في الدولة.

#### المادة (24)

يكون لجميع المبالغ المستحقة للعامل، أو لورثته بمقتضى أحكام هذا القانون، امتياز على جميع أموال صاحب العمل من منقول وعقار وتستوفى مباشرة بعد المبالغ المستحقة للخزانة العامة والنفقة الشرعية.

#### المادة (25)

في كافة حالات انتهاء علاقة العمل لا يكون صاحب العمل ملزماً بمصاريف عودة العامل إلى بلده إذا التحق العامل بعمل آخر، على النحو المبين باللائحة التنفيذية لهذا القانون.

#### مكافأة نهاية الخدمة

#### المادة (26)

1 - يستحق العامل الذي أكمل سنة أو أكثر في الخدمة المستمرة مكافأة نهاية الخدمة عند انتهاء خدمته ولا تدخل أيام الانقطاع عن العمل بدون أجر في حساب مدة الخدمة، وتُحسب المكافأة على أساس أجر أربعة عشر يوماً عن السنة، على أن تسلم للعامل مستحقاته من مكافأة نهاية الخدمة عند انتهاء العقد، ويتجدد حساب المكافأة بتجديد العقد.

2 - يستحق العامل مكافأة عن كسور السنة الأخيرة بنسبة ما قضاه منها في العمل بشرط أن يكون قد أكمل سنة من الخدمة المستمرة.

## المادة (27)

يُحرم العامل من مكافأة نهاية الخدمة إذا انتهى عقد العمل للانقطاع غير المشروع عن العمل، أو إذا تمَّ فسخ العقد من قبل العامل بدون سبب مشروع.

## المادة (28)

- 1 - كل عامل يحبس احتياطياً، يوقف صرف أجره الشامل طوال مدة الحبس.
- 2 - إذا كانت الدعوى الجنائية مرفوعة بناء على بلاغ من صاحب العمل وانتهى التحقيق إلى الحفظ أو صدر حكم نهائي ببراءة العامل صرف له أجره الشامل عن مدة الحبس، وفي حالة الإدانة يحرم من هذا الأجر.
- 3 - إذا كانت الدعوى الجنائية مرفوعة بناء على بلاغ من غير صاحب العمل وتمت إدانة العامل فلا يصرف ما تم وقفه من أجره الشامل، أما إذا حفظ التحقيق أو تمت براءته فيلزم المبلغ بدفع الأجر.

## العقوبات

## المادة (29)

مع عدم الإخلال بأية عقوبة أشد ينص عليها أي قانون آخر، يُعاقب بالحبس مدة لا تجاوز ستة أشهر وبالغرامة التي لا تقل عن عشرة آلاف درهم ولا تجاوز مائة ألف درهم أو بإحدى هاتين العقوبتين:

- 1 - كل من عرقل أو منع أحد الموظفين المكلفين بتطبيق أحكام هذا القانون أو اللوائح أو القرارات الصادرة تنفيذاً له من أداء عمله أو شرع في ذلك.
- 2 - كل موظف مكلف بتنفيذ أحكام هذا القانون أفشى سراً من الأسرار التي يكون قد اطلع عليها بحكم وظيفته ولو بعد ترك العمل.

4 - كل من سهل للعامل ترك العمل أو آواه، بغرض استغلاله أو تشغيله بطريقة غير مشروعة، وللمحكمة أن تقضي بالإبعاد عند الإدانة.

### المادة (30)

1 - مع عدم الإخلال بأية عقوبة أشد ينص عليها أي قانون آخر، يُعاقب كل من يخالف أي حكم من أحكام المادة في البنود (1/3 و 2 و 3 و 4) من هذا القانون، بالغرامة التي لا تقل عن خمسين ألف درهم ولا تجاوز مائة ألف درهم وتضاعف العقوبة في حالة العودة لارتكاب هذا العمل خلال سنة من تاريخ الحكم عليه.

2 - يُعاقب بذات العقوبة المبينة في البند 1 من هذه المادة مكتب الاستقدام الذي يخالف أي حكم من أحكام المادة (4) من هذا القانون.

### المادة (31)

مع عدم الإخلال بأية عقوبة أشد ينص عليها أي قانون آخر، يُعاقب بالغرامة التي لا تجاوز عشرة آلاف درهم كل من خالف أي حكم آخر من أحكام هذا القانون أو اللوائح أو القرارات الصادرة تنفيذاً له.

### أحكام ختامية

### المادة (32)

يكون مكتب الاستقدام هو صاحب العمل في التشغيل المؤقت دون أن ينال ذلك من التزامات العامل قبل الشخص الطبيعي أو أسرته المستفيدين من الخدمة، وتنظم اللائحة التنفيذية لهذا القانون إجراءات وشروط التشغيل المؤقت.

### المادة (33)

اللغة العربية هي لغة العقود، وعند استخدام لغة أجنبية إلى جانب اللغة العربية، يكون النص العربي هو المعتمد .

### المادة (34)

تُعى الدعاوى المقامة من العمال وفقاً لأحكام هذا القانون، من جميع الرسوم القضائية في جميع مراحل التقاضي ويكون نظرها على وجه الاستعجال.

### المادة (35)

على المكاتب العاملة في مجال الاستقدام أو التشغيل المؤقت للعمال أن تسوي أوضاعها وفقاً لأحكام هذا القانون واللوائح والقرارات الصادرة تنفيذاً له خلال ستة أشهر من تاريخ العمل بهذا القانون.

### المادة (36)

مع مراعاة ما نصت عليه المادة (5 / ج) من هذا القانون، تحدد بقرار من مجلس الوزراء الرسوم المستحقة على تنفيذ أحكام هذا القانون.

### المادة (37)

يقع باطلاً كل شرط في عقد أو اتفاق يخالف أحكام هذا القانون ولو كان سابقاً على نفاذه ما لم يكن أكثر فائدة للعامل.

### المادة (38)

تختص محاكم الدولة بالنظر في المنازعات والدعاوى المرفوعة بسبب مخالفة أحكام هذا القانون أو اللوائح أو القرارات الصادرة تنفيذاً له والعقود التي ينظمها.

### المادة (39)

يلغى كل حكم يخالف أو يتعارض مع أحكام هذا القانون.

### المادة (40)

يُصدر مجلس الوزراء، أو مَنْ يفوضه، اللائحة التنفيذية والقرارات اللازمة لتنفيذ أحكام هذا القانون خلال مدة لا تتجاوز ستة أشهر من تاريخ نفاذه، ويظل العمل مستمرا بالقواعد السارية وقت إصدار هذا القانون لحين إقرار اللوائح والقرارات الجديدة.

### المادة (41)

يُنشر هذا القانون في الجريدة الرسمية، ويُعمل به بعد شهرين من تاريخ نشره.

خليفة بن زايد آل نهيان

رئيس دولة الإمارات العربية المتحدة

ملحق بقانون اتحادي رقم (15) لسنة 2017

بشأن عمال الخدمة المساعدة

أنواع مهن عمال الخدمة المساعدة	
المهنة	م
مستخدم	1
بحار	2
حارس	3
راعي	4
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## APPENDIX N:

### Ministerial Resolution No. 1283 for 2010

#### Licensing and Regulation of Private Recruitment Agencies

The Minister of Labour:

- After reviewing Federal Law No. (1) for 1972 and the amendments thereto regarding ministry competencies and ministerial powers,
- Federal Law No. (8) for 1980 and the amendments thereto regarding the regulation of work relationships,
- And Minister of Labour Resolution No. (233) for 1998 regarding licensing rules for mediation in using or recruiting non-national workers.

It was decided:

#### Article (1)

The following words and statements, whenever mentioned in this Resolution, shall have the meanings provided next to them unless otherwise specified in the text:

The State:	the United Arab Emirates.
The Ministry:	the Minister of Labour.
The Minister:	the Minister of Labour.
The Competent Authorities:	the competent federal authorities.
Private Recruitment Agency:	Any natural or legal person for whom a permit was issued to practice all or some of the activities mentioned in Article (2) of this Resolution.
Agency:	Private Recruitment Agency
License:	The written permit issued by the Ministry in accordance with the provisions of this Resolution and the regulations or decisions pertaining thereto to exercise the work of the Agency.

Employer:	Any natural or legal person who employs or wishes to employ one or more people for a wage, whatever its type.
Employee:	Any natural person looking for work or working at any employer.
Employment:	Employing any worker present inside the State in accordance with the relevant regulations.
Recruitment:	The introduction of a natural person into the country for the purposes of employing him in accordance with the regulations in force.

### **Article (2)**

The exercise of each or some of the following activities shall be considered exercising the work of an Agency:

- (a) Mediation between the parties of the work or their representatives and negotiating on their behalf in relation to the conditions of the contract and the employment, whether this may or may not lead to a work relationship, and without the Agency becoming a party in the work relationship that might arise as a result of such mediation. This activity includes the collection and maintenance of a database or information on the employees, work opportunities available, employment requests, and any other related information, to be put at the disposal of the interested party.
- (b) “Temporary Employment” by using the employee for the purpose of enabling a third party (employer), whether that third party was a natural or legal person, to execute a job or service under the supervision and management of that employer. In this case, the Agency becomes an employer with a direct work relationship with the concerned employee. The two cases mentioned in items (a, b) of this Article apply regardless of whether the employee is recruited from abroad or is initially present in the country.

### **Article (3)**

- (a) It is prohibited to exercise any of the Agency activities mentioned in Article (2) of this Resolution without acquiring written and express permission from the Ministry

specifically for this purpose and in accordance with the provisions of this Resolution and the regulations and instructions pertaining thereto.

- (b) A person may acquire two independent permits to practice the two activities mentioned in Items (a, b) of Article (2) of this Resolution, provided he meets the conditions of practising each of them separately.

#### **Article (4)**

The following conditions must be met by all those applying for a permit to practice any of the activities of an Agency:

- (a) Must be a fully competent Emirati national if a natural person, or that every partner in the company applying for that permit is an Emirati national.
- (b) That the natural person, or any of the partners in the legal entity, had not been sentenced in a crime involving moral turpitude, dishonesty, human trafficking, or any of the crimes mentioned in the law regulating work relationships or the resolutions issued for its implementation, unless such an individual has been rehabilitated (if the conviction against him was to restrict freedom), or after one year from the date of the ruling if it was a fine.
- (c) To provide the Ministry with a bank guarantee for a value no less than three hundred thousand Dirhams throughout the period of permit validity if practising any of the mediation activities, and no less than one million Dirhams if practising temporary employment activities. This guarantee must be automatically renewable. The Ministry may allocate all or part of the guarantee stipulated in this article to settle any sum that may be payable by the Agency as a result of its default in its obligations under the provisions of this system and not abiding by the instructions and Decisions issued under it.
- (d) Shall have a headquarters with a clearly defined address solely for practising Agency business, and this headquarters must be licensed for that purpose in accordance with the criteria stipulated in the instructions and executive procedures issued based on this Resolution. Agency work may only be practiced through the specified headquarters.
- (e) To submit a written pledge not to make any changes to the body of associates, whether by addition or withdrawal, without the written consent of the Ministry.
- (f) The Agency shall employ a sufficient number of administrators and supervisors, who will have appropriate experience in their field of work.

- (g) The Agency manager, as well as the authorised signatory for legal matters, must be Emirati nationals, with university degrees and appropriate experience in this field.
- (h) To pay the legally requested fees upon the initial approval of license to practice the requested activity.
- (i) Must not be the owner or partner of an establishment that has repeatedly defaulted on its payment of employees' wages in accordance with the conditions and regulations at the Ministry, or be found to have owned fictitious establishments, or had committed a fundamental violation of the housing requirements.
- (j) To submit a written pledge, if applying for a license to practice the activity of a temporary employment Agency, of the following:
  1. The employer shall implement all the obligations imposed by the regulations in force in the country (such as the payment of wages, housing, etc.), and pay two thousand Dirhams as insurance for every recruited employee, in addition to what is stipulated in Cabinet of Ministers Resolution No. (27) for 2010, regarding the fees and fines for services provided by the Ministry of Labour.
  2. The total number of employees working for third parties at any time must not be less than twenty employees, and the durations of their employment with their employers must not exceed the durations specified by the Ministry for this purpose.

The Minister may exempt the applicant from some of the conditions mentioned in this Article, without violation of the guarantee of employee rights, if the Agency works mostly in employing nationals.

#### **Article (5)**

The Ministry may revoke the license of an Agency or temporarily suspend it from operating for a maximum of one year, in any of the following cases: 1- If the license holder does not meet any of the conditions upon which his license was issued under this Resolution. 2- If any of the documents or data submitting for licensing purposes are found to be untrue. 3- If the Agency violates the provisions of this Resolution, the regulations and instructions pertaining thereto, or related legislation. 4- If the Agency commits any act involving some form of forced labour or human trafficking. 5- If the license is not renewed according to the instructions pertaining thereto. b. The decision to revoke the license shall be issued by the Minister. With the exception of the cases mentioned in Item (4) of this Article, revocation shall not take place without prior warning to the Agency to amend the violation within the specified period.

## **Article (6)**

The Agency is prohibited from:

- a. Employing or recruiting any worker who falls under the category of children not permitted to work according to applicable laws in the country.
- b. Acquiring, directly or indirectly, from the worker himself or through mediation, any sums, monies, rights or gains under the name of commission, fees, or anything else for any reason and through any means whatsoever. The Ministry may oblige the Agency to submit a pledge to such effect, while obliging it to refund to the worker any amounts paid to any entity or person inside or outside the country with whom the Agency had dealt on the matter.
- c. Exercising its activity to serve any employer for the purpose of providing him with labour force or substituting employees for others at a time when the employer is facing group labour disputes, or if a decision has been issued to suspend his establishment.
- d. Conducting business with any person or other Agency, whether in the country or abroad, for the purposes of recruiting labour force and using them temporarily, unless that person or Agency is licensed to exercise that activity in accordance with applicable laws in the country providing the labour force or in the United Arab Emirates.
- e. The temporary employment Agency shall not employ its workers at another Agency regardless of the latter's activity.

## **Article (7)**

The Agency may open branches within the same Emirate where it is licensed or in any other Emirate after obtaining a new permit from the Ministry.

## **Article (8)**

The Mediation Agency shall be responsible for returning the worker to his country at its own expense, as well as being responsible for the harm it may cause to others as a result of its activity, without prejudice to the authority of the Ministry to impose any applicable administrative procedures on the Agency, in any of the following cases:

1. The Agency's failure to adhere to the conditions of the agreement reached with the employer.
2. The worker's failure to pass the medical examination, or if he is found to be unfit to work according to official medical reports.
3. The failure of the worker to meet the qualifications, level of skill, or specialisation required for employing him.

4. The worker's failure to sign the draft contract to be endorsed by the Ministry prior to his recruitment.

#### **Article (9)**

The Agency shall adhere to the following:

1. The contracts it signs with the employer and employee shall be written and specifically recognise the obligations of each party. If the text of the contract overlooks any obligation, the Agency shall be responsible for said obligation in such case.
2. It shall provide proof that the worker signed the draft contract prior to the final commitment with him and before being assigned to work.
3. It shall keep records for the employees who were employed by the Agency for a minimum of three years, including all details of each worker, where he was hired, the details of the hiring establishment, the wage, copies of the contracts, and other details specified by the Ministry.
4. It shall provide the Ministry with quarterly lists of the employment contracts it has signed, including all data pertaining to each worker, where he was hired, the details of the hiring establishment, the wage and copies of the contracts as requested.

#### **Article (10)**

The temporary employment Agency shall adhere to the following: -

- To implement, at all times, all legally stipulated obligations on any employer towards the employee, except for what has been excluded by special text in this Resolution or in the other Decisions issued by the Ministry. The Agency may not, in any way, fail to implement these obligations due to the employer's failure to fulfil its obligations with the Agency, and it shall be the main party responsible, in all cases, for the implementation of these obligations.
- To not keep the employee with an employer in a way that would exceed the duration of employment specified by the Ministry.
- To provide the employee with a copy of the employment conditions as agreed upon with the employer, and explain the duties required of that employee.
- To provide the employing establishment with employees throughout the agreed upon period without any violation of this Resolution and the decisions issued based thereupon, and at the necessary level of qualifications and skills.

### **Article (11)**

The employer shall be obligated to the employee as follows:

- a. Payment of wages and other gains to the employee in case the Agency delays in payment.  
This does not negate the Ministry's authority to take action against the Agency through the stipulated administrative and judicial procedures.
- b. Ensure all proper occupational health and safety conditions for the worker, in line with the nature of the work and job hazards in accordance with the applicable laws.
- c. Not assign the employee any jobs or services that fall outside the general framework of the work or service agreed upon with the Agency.
- d. Not work the employee for more than the hours agreed upon with the Agency, except in accordance with the provisions pertaining to overtime according to applicable laws. e- Provide the employee with the instructions for the duties he is to undertake in writing within the general work framework as agreed with the Agency.
- e. Show the employee the attendance sheet prior to sending it to the Agency, and include in it any reservations the employee may have had regarding the content.
- f. Notify the Ministry and Agency immediately of any work accidents or injuries the employee sustains.
- g. Meet all his obligations to the Agency, provided that the said obligations are due to the provision of labour force.
- h. Not employ the worker at any other party except in accordance with the regulations and instructions issued by the Ministry.

### **Article (12)**

The Agency license shall be valid for one year, and renewed annually in light of the continued fulfilment of the conditions required for licensing. It must be renewed within one month from the date of its expiry; otherwise that license shall be considered null and void, unless the license holder provides the Ministry with an acceptable excuse within the thirty days following that month. If the license is considered null and void, a new license meeting all the required conditions shall be necessary to resume activity.

### **Article (13)**

The Ministry shall set regulations for the fees the Agency is authorised to obtain from employers in exchange for the services it provides.

**Article (14)**

All agencies that have already been licensed by the Ministry must meet these conditions within a maximum of six months from the date this Resolution's entry into force, in accordance with the terms and conditions mentioned therein, and as per the instructions pertaining thereto.

**Article (15)**

The Minister shall specify the competent body within the Ministry for issuing the regulations, instructions and forms necessary to implement the provisions of this Resolution, as well as the procedures that need to be followed to in order to issue permits and resume Agency activities.

**Article (16)**

Any violation of the provisions of this Resolution shall be considered a violation of the peremptory norms of the decisions issued to execute the aforementioned law regulating work relations. The penalties mentioned in this law shall be implemented in addition to the administrative procedures taken by the Ministry in this respect.

**Article (17)**

The implementation of the aforementioned Cabinet of Ministers Resolution No. (233) for 1998 shall render any decisions and provisions contrary to or inconsistent with that Resolution null and void.

**Article (18)**

This Resolution shall be published in the Official Gazette and shall be put into force one month following its publication date.

Saqr Ghobash  
Minister of Labour  
Issued by us in Abu Dhabi on: 23/12/2010

## APPENDIX O:

### Federal Law No. 51 of 2006

#### **On Combating Human Trafficking Crimes As amended under Federal Law No. (1) of 2015**

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

Having perused: -

The Constitution;

- Federal Law No. (1) of 1972 on the Competences of Ministries and the Powers of Ministers, and the amending laws thereto,
- Federal Law No. (6) of 1973 on Entry and Residence of Foreigners, and the amending laws thereto,
- Federal Law No. (8) of 1980 on Regulation of Labor Relations, and the amending laws thereto,
- Penal Code issued by Federal Law No. (3) of 1987, and the amending laws thereto,
- Criminal Procedure Law issued by Federal Law No. (35) of 1992, and the amending laws thereto,
- Federal Law No. (15) of 2005 On Regulation of Participations in Camel Races;
- Based on the proposal of the Minister of Justice, the approval of the Cabinet and the ratification of the Supreme Council of the Federation,

Hereby issue the following Law:

#### **Article (1)<sup>8</sup>**

The following terms and expressions shall have the meanings set out against them, unless the context requires otherwise:

The State: the United Arab Emirates.

The Ministry: the Minister of Justice.

The Minister: the Minister of Justice.

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<sup>8</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes

The Competent Authorities:	the competent federal authorities.
The Competent entities:	the local concerned authorities.
Organized Criminal Gang:	a group of three or more people who collaborate to carry out a premeditated act with the intent of committing a human trafficking crime for the sake of gaining directly or indirectly a financial or any other material benefit.
A Trans-national Crime:	A crime shall be deemed trans-national if it is: <ol style="list-style-type: none"> <li>1. Committed in more than one country,</li> <li>2. Committed in one country but preparation, planning, direction and supervision were carried out from another country,</li> <li>3. Committed in one country but the perpetrators were an organized criminal gang involved in criminal activities in several countries,</li> <li>4. Committed in one country but its repercussions reflected on another country.</li> </ol>
Property:	property of any kind whatsoever, whether moral or material, movable or immovable, in addition to instruments and deeds which establish the ownership of such property or any rights related thereto.
Proceeds:	monies ensuing from (in)direct commission of a crime of those stipulated in this Law.
Child:	Any person who is under 18 years old.

The Committee:

National Committee to Combat Human  
Trafficking (NCCHT).

**Article (1) bis (1)<sup>9</sup>**

1. Whoever commits any of the following shall be deemed a perpetrator of a human trafficking crime:

A. Selling persons, offering persons for selling or buying, or promising the same.

B. Soliciting persons, employing, recruiting, transferring, deporting, harboring, receiving, receiving or sending the same whether within the country or across the national borders thereof, by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability the person for the purpose of exploitation.

C. Giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation of the latter.

2. The following shall be deemed human trafficking, even if the same does not incorporate the use of any of the means provided in the previous Paragraph:

A. Recruiting a child, transferring, deporting, harboring or receiving the same for the purpose of exploitation.

B. Selling a child, offering the same for selling or buying.

3. Under this Article, exploitation includes all forms of sexual exploitation, engaging others in prostitution, servitude, forced labor, organ-trafficking, coerced service, enslavement, mendicancy, and quasi-slavery practices.

**Article (1) bis (2)<sup>10</sup>**

All phases of collecting evidence, investigation, and trials of relevance to human trafficking crimes shall be subject to the following procedures:

1. Identify the victim and the witness with their legal rights, in a language understood thereby, and allow them to express their legal and social needs.

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<sup>9</sup> The text of this Article has been added under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

<sup>10</sup> The text of this Article has been added under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

2. Submit the victim, should the need arise for such measure, to examination before any medical entity to receive psychological or physical treatment, where such person shall be admitted into one of the medical or psychological rehabilitation centers, if deemed necessary.
3. Admit the victim into one of the sheltering centers or any other approved entity, should a need for such measure arises.
4. Provide the necessary security for the victim and the witness, whenever they need the same.
5. Allow the victim and the witness to stay in the State, should the investigation or trial entail their stay, and based on an order issued by the public prosecution or the court, as the case may be.
6. The permissibility of the court to delegate an attorney for the victim upon request thereof, where the court shall estimate the attorney's fees. The decision of the court in this regard shall be conclusive, where fees shall be paid under a certificate issued by the court which pays the said fees.

### **Article (2)<sup>11</sup>**

Whoever commits any of the human trafficking crimes provided for in Article (1) bis of this Law shall be punished by temporary imprisonment for a term of no less than five years, and a fine of no less than one hundred thousand dirhams.

The penalty of life imprisonment shall apply in any one of the following cases:

1. If the victim is a child or a person with disability.
2. If the act is committed by threat of murder or grave harm or involved physical or psychological torture, or if the perpetrator was armed.
3. The perpetrator of the crime has created or assumed a leading role in an organized criminal gang, has been a member therein or participated in the actions thereof while being aware of the purposes of such gang.
4. The perpetrator is the spouse, a relative, antecedent, descendant, or guardian of the victim.
5. If the perpetrator is a public servant, or assigned to public service, where he exploited the occupation or assignments thereof to commit the crime.
6. If the committed crime is trans-national.

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<sup>11</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

7. If the victim has been inflicted, as a result of the crime, with an incurable disease or permanent disability.

### **Article (3)<sup>12</sup>**

1. Any person who was aware of a plan to commit any of the crimes provided for herein but failed to inform the concerned authorities shall be punished by imprisonment for a period of no less than one and no more than five years and a fine of no less than five thousand dirhams or by both penalties.
2. The person who failed to inform the authorities may be pardoned from the said penalty, if he/she was the perpetrator's spouse, antecedent, descendant, sibling or the like of in-laws.

### **Article (4)**

Any person who uses force or threat of force, or offers or promises a gift or advantage of any kind for prompting another person to give false testimony or withhold true information, or give false information or statements before any judicial body on proceedings related to committing any of the crimes provided for herein, shall be punished by imprisonment for a period of no less than five years.

### **Article (5)**

Any person who possesses, harbors, or dispenses articles gained through any of the crimes provided for herein, or knowingly hides a person or more of those who have taken part therein, with the intention of helping him/her to escape justice while being aware of the same, or participates in concealment of the crime shall be punished by temporary imprisonment.

### **Article (6)**

Any person who assaults, resists by force, or threatens to use force against any officers enforcing this Law, shall be punished by imprisonment for a term of no less than five years.

### **Article (6) bis<sup>13</sup>**

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<sup>12</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

<sup>13</sup> The text of this Article has been added under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

Whoever publishes by any means of publication the names or photos of victims or witnesses of human trafficking crimes shall be punished by imprisonment and fine of no less than ten thousand dirham or by both penalties.

#### **Article (7)**

A corporate entity shall be punished by a fine of no less than one hundred thousand dirhams, and no more than one million dirhams, if its representatives, directors or agents commit, in its name or for its account, one of the human trafficking crimes enumerated herein; without prejudice to the responsibility and punishment of its dependent natural person. In addition to that penalty, a court may order temporary dissolution, or total closure of the corporate entity or closure of one of its branches.

#### **Article (8)<sup>14</sup>**

1. Any person who attempts to commit one of the crimes enumerated in Articles (2), (4) or (6) of this Law shall be punished by the penalty of a complete crime.
2. Any person who collaborates in committing one of the crimes provided for in Articles (1) bis (1), (2), (4), (5) and (6) of this Law, as a direct participant or accomplice shall be deemed a perpetrator of the crime.

#### **Article (9)<sup>15</sup>**

Without prejudice to the bona fide rights of others, the following shall be ruled in all cases:

1. Confiscation of the crime's tools, monies and proceeds resulting therefrom.
2. Deport the foreigner who is convicted in any of the crimes stipulated in this Law.
3. Close the property in which the human trafficking crime took place, where opening the same shall not be permitted except for a legitimate purpose, subject to the approval of the public prosecution.

#### **Article (10)**

Crimes provided for in this law shall be punished by the penalties stated herein, without prejudice to any more severe penalty provided for in any other law.

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<sup>14</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

<sup>15</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

### **Article (11)**

Any of the perpetrators of a crime, who takes the initiative to report to judicial or administrative authorities of what he/she knows about the crime before its commission, which results in discovering the crime before its occurrence, or in the arrest of its perpetrators or preventing its commission, shall be exempted from the penalties provided for in this law. If an individual reports a crime after its discovery, such individual may be exempted from the penalty or may be subject to mitigated penalty, in the event that he/she has assisted the concerned authorities during investigation to arrest other perpetrators of the crime.

### **Article (11) bis (1)<sup>16</sup>**

1. It shall be impermissible to interrogate the victim, civilly or criminally for any crime of the crimes stipulated in this Law, whenever the same is established or directly connected to being a victim.

2. In exception of the provision of Clause (1) of this Article, it shall be permissible to interrogate the victim civilly and criminally on the human trafficking crime in the following cases:

A. If he/she contributed in person, without being subject to any coercion whether moral or material, to the perpetration of one of the human trafficking crimes.

B. If the person is a foreigner incoming to the country for work, and violated the work contract and the residence regulation.

C. If the person failed to report the crime or the collusion thereof to the competent authorities while being able to.

In the crimes stipulated in this Law, it is presumed that the perpetrator is aware of the victim's age.

### **Article (11) bis (2)<sup>17</sup>**

In the crimes stipulated in this Law, it is presumed that the perpetrator is aware of the victim's age.

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<sup>16</sup> The text of this Article has been added under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

<sup>17</sup> The text of this Article has been added under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

### **Article (12)<sup>18</sup>**

Under this law, a committee shall be established and known as “National Committee to Combat Human Trafficking”, the formation and chairmanship of which shall be determined under a resolution issued by the Cabinet, based on the Minister’s proposal.

### **Article (13)<sup>19</sup>**

The Committee provided for in Article (12) of this Law shall assume the following:

1. Draw up a national comprehensive strategy to combat human trafficking, and develop the plans and mechanisms implementing the same, in coordination with the competent entities of the State.
2. Examine and update legislations and regulations concerning human trafficking, in a manner that achieves the required protection for victims and witnesses, in accordance with international requirements.
3. Develop a database including international legislations of relevance to human trafficking crimes, means of human trafficking and studies of relevance to the subject matter.
4. Prepare reports regarding the measures adopted by the State to combat human trafficking, in coordination with the competent entities of the State.
5. Study international, regional and local reports of relevance to combating human trafficking, and take the necessary measures and procedures in their regard.
6. Coordinate with the competent authorities and the competent entities to secure protection and support to victims of human trafficking; including the Care and Rehabilitation Program for Victim’s Social Integration.
7. Raise awareness concerning human trafficking issues.
8. Hold conferences, symposiums, and trainings and issue publications in a manner that meets the Committee’s objectives.
9. Participate with the competent entities of the State, in international conferences and forums of relevance to combatting human trafficking, and convey the State’s message in this regard during international ceremonies.
10. Develop adequate mechanisms to identify victims in human-trafficking cases.

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<sup>18</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

<sup>19</sup> The text of this Article has been amended under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

11. Assume any works assigned by the Committee in the field of combating human-trafficking crimes.

**Article (13) bis**<sup>20</sup>

The victim of human-trafficking crimes shall be exempted from civil-case fees upon filing the same to claim compensation for the damage resulting from the exploitation thereof in a human trafficking crime.

**Article (14)**

All natural and legal persons concerned with implementing the provisions of this Law shall comply with keeping the confidentiality of the information obtained thereby, in implementation of the provisions hereof, where such information shall not be disclosed except to the extent deemed necessary.

**Article (15)**

Any provision which violates or conflicts with the provisions of this Law shall be abolished.

**Article (16)**

This Law shall be published in the Official Gazette and shall enter into force one month as of the date of its publication.

**Khalifa bin Zayed Al Nahyan**

President of the United Arab Emirates

Promulgated by us at the Presidential Palace, Abu Dhabi,  
on 18th Shawal 1427, corresponding to 9th November 2006

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<sup>20</sup> The text of this Article has been added under Federal Law No. (1) of 2015, on amending some of the provisions of the Federal Law No. (51) of 2006 on Combating Human Trafficking Crimes.

## APPENDIX P:

### Ministerial Decree No. 788 of 2009 on Protection of Wages

After perusal of Federal Law No. (1) of 1972 concerning the jurisdictions of Ministries and powers of Ministers and the amending laws thereto; and

The Federal Law No. (8) of 1980 concerning the Regulation of Labour Relations and the amending laws thereto; and

The UAE Federal Penal Code promulgated by the Federal Law No. (3) of 1987 and the amending laws thereto; and

The Cabinet Decree No. 133/1 of 2007 which makes it mandatory for institutions and companies to transfer their workers' wages via banks; and

The Ministerial Decree No. (156) of 2003 on the Protection of Wages; and

The briefing given by the acting Undersecretary of the Ministry;

The Minister of Labour hereby promulgates the following Decree:

#### Article (1)

All institutions registered with the Ministry must pay their workers' wages once a month, at least, or on the dates specified in the work contract if wages are paid more frequently than monthly. The payment of wages should comply with the procedures and dates specified in this Decree. The institutions should, when requested, present all supporting documents that wages have been paid.

#### Article (2)

All institutions mentioned in Article (1) of this Decree must, as of 1 September 2009, start transferring all its workers' wages to the banks and financial institutions working in the UAE via the Wages Protection System (WPS). The payment process should be made by the deadlines specified in Article (3) of this Decree

#### Article (3)

All institutions mentioned in Article (1) of this Decree should transfer their workers' wages via WPS by the deadlines below:

Number of workers	Maximum period of time granted	Deadline
100 and above	3 months (starting September 1)	30 November 2009
15 to 99 workers	6 months (starting September 1)	28 February 2010
Less than 15	9 months (starting September 1)	31 May 2010

The above-mentioned periods shall not apply to:

1. Institutions which were already denied new work permits when the Decree was issued for failing to pay workers' wages on time;
2. Institutions which failed to pay their workers' wages for one month or more after this Decree was issued.

Institutions mentioned in items (1) and (2) above should start transferring wages in accordance with Article (2) of this Decree in order to lift the ban imposed on issuing new work permits, without prejudice to imposing other penalties on the institution in question.

#### **Article (4)**

Institutions failing to transfer their workers' wages in compliance with Article (2) of this Decree and within the periods specified in Article (3) of the same Decree will be denied the right to have new work permits. This ban will only be lifted in the month following the transfer of workers' wages in full.

#### **Article (5)**

Until the workers' wages are transferred in compliance with Article (2) of this Decree, it is mandatory for institutions with fifty workers or more to submit a monthly declaration as per the form attached to this decree. Nonetheless, the Undersecretary of the Ministry, or whoever is delegated to task, may apply Paragraph 1 of this Article to other institutions or exempt others from the provisions of the same Paragraph.

#### **Article (6)**

The declaration stipulated in Article (5) of this Decree should be submitted within two weeks from the wages' due date and in accordance with the procedures decided by the Undersecretary of the Ministry.

#### **Article (7)**

Taking into consideration Article (8) and Article (9) of this Decree, the authorized signatory of the institution will submit the declaration stipulated in Article (5) of this Decree, and will be held responsible for the information and data contained in the declaration, and may face civil and criminal liabilities for any violations.

#### **Article (8)**

If the Ministry is certain and assured that one of the following violations has occurred:

- (a) Wages are not paid within a month of their due date;
- (b) The declaration, stipulated in Article (5) of this Decree, has not been submitted within a month of the wages' due date

and taking into consideration the provisions of other Cabinet Decrees pertaining to other administrative procedures, the institution in question shall be denied the right to have a new work permit for the following periods:

Until the violation is rectified (the first violation);

- For one month after the violation is rectified (second violation);
- For two months after the violation is rectified (third violation);
- For three months after the violation is rectified (fourth violation).

If the Ministry arrives at a conclusion that the different bans mentioned above have been to no avail, it may, at its own discretion, decide to impose a ban on issuing any work permits to all institutions owned by the owner of the violating institution, provided they are owned by the same partners, and to refer all those responsible for the violation to the court. The ban shall persist until after the court proceedings or the violation is rectified, whichever comes first.

#### **Article (9)**

If the Ministry is certain and assured that the declaration, stipulated in Article (5) of this Decree, provides false information, the institution in question shall be denied the right to have a new work permit, and all those responsible for the false information shall be prosecuted, while the ban on work permits shall remain in force until after the court proceedings.

#### **Article (10)**

This Decree shall annul, as of the date it comes into force, the above-mentioned Cabinet Decree (156) of 2003 which makes it mandatory for the institutions to submit a certificate issued by an auditor.

#### **Article (11)**

This Decree shall be published in the Official Gazette and shall enter into force as of September 1, 2009.

Saqr Ghobash Saeed Ghobash  
Minister of Labour  
Issued in Abu Dhabi on 20/07/2009

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