



Muhammad Ali Jinnah Ahmad

& Dr. SherinKunhibava

UNEMPLOYMENT RISK PROTECTION FOR MIGRANT WORKER'S WOES

The current dilemma migrant workers in the Gulf and Asian countries have initiated a need in Islamic finance to emerge with a solution. Migrant workers have been badly affected as a consequence of the recent global downturn as many construction projects have been put on hold or abandoned (Thibodeaux, 2010). A reports in Al-Jazeera (Suri, 2010), Reuters (Solomon, 2010), CNN (Neisloss, 2009), and BBC (Allen, 2009) have stressed on the difficulty of Indian migrant workers who have had to return to their home countries without their wages being completely paid. Many migrant workers face uncertain futures, and are burdened by unpaid debts and family obligations. Thus, there must be a mechanism and lesson that can be learnt especially from the risk management perspective.

Currently the majority of migrant workers fall outside unemployment insurance systems. Usually in host countries, there are no formal mechanisms for migrant workers to pay into an unemployment insurance system. Unfortunately, these overseas workers are also not covered by any unemployment insurance scheme in their own countries. A review of the benefits for workers around the world has proved that there are benefits provided for at the state or government levels in many developed countries, but the benefits are not tailor made for overseas workers. For the governmental support, in 2006, the Gulf Cooperation Council States (GCC) promulgated a unified law on social security law to cover the citizens of the Member states who worked in other member states (for example a Kuwaiti who worked in Saudi) to cover the emergencies of old age, disability and death.

In United Kingdom (UK), migrant workers are required to pay tax and National insurance, which is deducted from their salary by the employer and forwarded to the appropriate government agency. Whereas in Australia, fund for social security benefits which includes unemployment benefits, are through the income tax system. The benefit rates are indexed to the Consumer Price Index and are adjusted twice a year according to the amount of underlying inflation or deflation. There are two types of payments in Australia depending on the needs of the person. The first is known as the Youth Allowance and are paid to young people aged 16-20. The second type of payment is called Newstart Allowance and is paid to unemployed people over the age of 21 and under pension eligibility age.

Besides that, in Canada, the government through the portal Service Canada provides Employment insurance temporary income support for those between jobs, cannot work for reasons of sickness, childbirth, or parenting; or who are providing care for a family member who is gravely ill. Then, for United States of America, Unemployment Compensation (UC) is a public benefit funded by federal and state UC. UC is a form of insurance where the employer must have paid into the unemployment fund on the employees' behalf. The employee must have worked for the employer for at least one or two years before the employee can get the UC (Hussain, 2009).

Nevertheless, the governmental support for unemployment insurance has its limitations and does not cover all unemployed persons (except for countries that have a system like Australia). For example if the worker is a part-timer or voluntarily left his/her employment, then they would be unable to recover unemployment benefits if they are citizens of countries like the US. If the unemployed person has never worked, then they would not be able to obtain any benefits from the governmental support where they are citizens of countries like Canada or UK. The most important thing that, these government support schemes for unemployed workers may not cover specific needs of migrant workers.

Besides governmental support, there is also private employment insurance. Kishore (2010) in his article opined that private employment insurance would possibly have lesser issues than government's unemployment support. One of the main issues with governmental unemployment support is the reluctance of those receiving unemployment benefits to go back to work (Gruat, 2009). It is therefore not surprising that private unemployment insurance has been given recent attention (Kishore, 2010).

Concerns over the development of unemployment insurance are relevant for Islamic finance as a large numbers of migrant workers are predominantly from Muslim countries. However, the development of commercial unemployment insurance contract practiced today contains substantial uncertainties and gambling elements, rendering the contract to be defective and impermissible in Islamic teaching. In Islam, all transactions must be shariah-compliant by avoiding any contracts which involves usury (riba'), gambling (maysir), uncertainties (gharar), and



other prohibitions such as investment in alcohol, gambling and pornography.

Being different in term of concept and practice, takaful is based on a set of principles that are both Shariah compliant and economically viable. Takaful industries should take this opportunity to become an alternative choice for migrant workers as their unemployment risk protection. Takaful can provide a solution by creating a pool of fund for the migrants workers to help themselves if any crisis or other unintended consequences happens. Furthermore, based on the practices on several takaful companies in Malaysia, a Foreign Workers Compensation Scheme has been introduced to assist the participants who lose their ability to work due to an accident or illness. This is specifically to cover the cost of sending back the foreign workers to their country of origin in the event of death or permanent total disablement. Perhaps, the concept of income protection scheme can be packaged so that it becomes portable and can be applied as a solution for migrant workers who are facing a massive retrenchment due to the global financial crisis or other unintended consequences in the future.

Yet, there are still challenges that have to be solved. For example, by making takaful for unemployment voluntary there is the fear that only those who need it will take it up and there will be no sharing of risk. A way out of this is by making takaful for unemployment compulsory for all workers going overseas. The takaful product for migrant workers should be developed to specifically cater for some requirements which are a payment of an income for a period of time (e.g 4-6 months) where the migrant worker has lost his job through no fault of his own and a payment of his transport back to his home country.

In addition, it has to be made a compulsory requirement for the worker to take if he is to work overseas. Further,

the plan should apply to all migrant workers whether white collar or blue collar. The payment to the takaful fund should be a cut from the worker's salary on a monthly basis. This amount should not be substantial so as not to affect the worker's needed to remit money back to his home country. Therefore, to make the takaful product work and be successful, there has to be co-operation between the takaful providers and the companies seeking employment and the home's country's regulator. This will ensure better coverage and also regulation of the industry.

Unemployment insurance aims at supporting employees who are being laid off and become unemployed. Its purpose is to provide unemployed people with benefits to ensure their basic income and promote their return into employment. There is a definite need for unemployment insurance, and it is hoped that the takaful companies will take up the challenge to create a product to help migrant workers. There are definitely challenges that have to be overcome, however with the help of regulators the takaful product could be made compulsory for those seeking work overseas. State and government unemployment schemes exist especially in developed countries, but there is still room for private insurance and especially takaful companies to cater for the needs of migrant workers. Especially takaful because a large proportion of migrant workers are Muslim, and would want a Shariah compliant product. Most importantly an unemployment takaful scheme is important to uphold the rights of workers. The sorry plight of foreign workers and their families back at home should be taken as a lesson for everyone, the workers, takaful companies and regulators to develop a system for migrant worker, an unemployment takaful scheme.

1. The six countries are the Kingdom of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.