

## **Nationalization Scheme (Nitaqat) in Saudi Arabia and the Condition of Filipino Migrant Workers**

*Henelito A. SEVILLA, Jr.*<sup>1</sup>

**Abstract.** *The Philippines is one of few countries in the developing world that heavily relied on exporting its laborers to sustain its economic growth. Despite attempts by previous administrations to minimize sending Filipino workers abroad by improving working condition at home so that working abroad would no longer be compulsory but optional, many Filipinos continue to leave the country hoping to alleviate their families from poverty. This idea of working abroad has several implications for migrant workers especially in regions where labor policies are not clearly laid down and that rights and welfare of migrant workers are not protected.*

*This paper seeks to elucidate the conditions of Overseas Filipinos Workers (OFWs) in Saudi Arabia which strictly implemented “Saudization”<sup>2</sup> policy since 2011. In particular, the paper tries to address the following questions: What does “Saudization” (nitaqat) mean from Filipinos’ perspectives?; Who are affected by this policy and Why have OFWs been affected by such policy?; How did undocumented or illegal OFWs survive in previous years?; What policies they have implemented to counter it?*

*This paper is centered on its main thesis that Saudi Nationalization policy, which is centered on solving socio-economic problems facing the young and unemployed population in several Gulf countries, has been the driver for these governments to strictly implement such a law and that many migrant workers including Filipinos working on specific areas together with undocumented ones are gravely affected.*

### **1. Why Saudization (nitaqat) Policy?**

The lifeblood that makes the economy of many countries in the Middle East and North African region (MENA) survive is the presence of crude oil that lies

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<sup>1</sup> Henelito A. Sevilla, Jr is an Assistant Professor at the Asian Center, University of the Philippines, Diliman. He holds a Ph.D. in International Relations from the University of Tehran, a Master’s degree in International Relations from the University of Shahid Behesti, Tehran, Islamic Republic of Iran and Bachelor of Science in International Relations at the King Faisal Center for Islamic, Arabic and Asian Studies, Mindanao State University, Marawi City, Philippines. Dr. Sevilla’s research interests include political economy of the Middle East, Iranian foreign policy, Persian Gulf security issues, US foreign policy in Middle East and North African region, oil and gas security and terrorism. He may be reached at junior\_sevilla@yahoo.com .

beneath its land surface. From the time the world economy became addicted to the use of oil, Arab economies particularly along the Gulf region have also transformed from being traditionally mining and fishing economies into wealthy oil producing economies.

The discovery of oil, though considered a blessing for many of them, has also produced longer negative implications to their economy, to their system of governance including their culture. Apart from this, crude oil puts the region into the limelight of a world geostrategic competition where rivalries, interests and political struggles over the control of the region as become the dominant discourses for more than a century now.

The geo-economic importance of crude oil in the region has also benefited many economies in the developing world such as countries in Africa and Asia, which sent millions of workers to the region to take advantage of the petro dollar bubble and earn better salaries than the amount they can get from their own countries. The world's biggest economies also actively participated in this development, having taken advantage of the opportunity to massively invest in the oil and services sectors. Such investments gave them the opportunity to control the movement of production and marketing of crude oil and its finished products at the international markets.

Whereas, major Arab-oil producing countries thought that improving accumulation of petro wealth will give them both economic and political leverage not just in the Middle East region but also in the international community. However, accumulating petro wealth enabled these countries to depend on services, food and industrial supplies from abroad. In addition, they also became so much dependent on foreign workers who provide them household, medical, managerial, and security services.

Their economic and political sectors are run by corporations and individuals mainly from the Western countries.<sup>3</sup> Their labor sectors are occupied by millions of expats from the developing world. Their security apparatus is run by hired foreign advisers, where arms and tanks are supplied mainly from big arms suppliers such as the USA, Europe and Russia. Their children's education is supplied by a western oriented educational system and their children are mostly cared for by expats maids such as the Filipinas.

While some Arab countries in the region have successfully carried out the transformation of their economies from being oil driven economies to investment

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<sup>3</sup> Anne Alexander, "The Crisis in the Middle East," *International Socialism Journal*, (Winter: 2003), <http://pubs.socialistreviewindex.org.uk/isj93/alexander.htm>.

and tourism driven economies like the United Arab Emirates (UAE), most other economies have remained traditional. In many cases, the massive amount of money these economies accumulated did not produce a sustainable economic change by boosting production capacities in the past years. Instead it encouraged overspending which contributed to the gradual diminishing rate of their sovereign funds. Critical to this, the money these economies paid to foreign workers was not used inside their countries but was transferred to the labor sending countries. The long run effect of this economic cycle is the draining on their treasuries.

Labor exporting countries, for more than four decades now, continue to send workers to Arab countries. They continue to reap the benefits of earning hard cash from the remittances of their workers abroad while the receiving Arab countries enjoy the services provided by expats yet in the detriment of their own labor force.

In the last decade, beginning the year 2000 up to the present, Arab oil producing countries like Saudi Arabia are beginning to notice socio-economic problems particularly among their young population who despite holding university degrees are unable to find work especially in the private sector. Recognizing these increasing socio-economic trends, many Arab countries adopted some economic reforms to address unemployment problem facing new university graduates. In spite of these reforms very little successes were achieved.

Nationalization in the labor market is one strategic economic policy adopted by Saudi Arabia. Although, the nationalization or the nitaqat policy has been approved some years ago, it was only recently that the Saudi government has strictly implemented it by gradually discouraging illegal or undocumented foreign workers to work in the Saudi labor market particularly the private business sectors, which accumulate a larger number of foreign workers in comparison to the local workers. Saudi government has offered incentives to local companies who employed Saudi nationals.

Such policy if strictly followed by Saudi companies could help address the problem of local unemployment but it would also have an impact on the quality of services or products it would produce and deliver once local workers take over. Apart from this, Saudi companies must be ready to give higher salaries to local workers relative to the expats minimum salary rate.<sup>4</sup> Of course a “hierarchy of foreign workers” is also practiced in the Kingdom wherein salary depends on the

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<sup>4</sup> Daymien Gayle, “Saudi Arabian Official Filmed Beating Foreign Workers with a belt as they visit passport office to get their visas,” *Miami Newsday*, May 29, 2013, <http://www.miamiexpress.com/national/8473-saudi-arabian-official-filmed-beating-foreign-workers-with-a-belt-as-they-visit-passport-office-to-get-their-visas.html>.

country of origin. Arab and Western workers occupy the highest salary bracket whereas; workers from Africa, Indian subcontinent and Southeast Asia received the lower salary scheme.<sup>5</sup>

In a country with about 7.5 million legal foreign workers<sup>6</sup>, the full implementation of this policy will require Saudi to carefully calculate its move since an immediate replacement of the expats labor market by local workers may create a crisis in the economy due to a lack of technical expertise that can offer the quality of services.

Private sector in Saudi Arabia alone employs around 6 million migrant workers while only over one million Saudis remain jobless. The Saudization was launched in June 11, 2011 after previous measures failed to achieve significant results. For many analysts, the nitaqat is the most radical form of nationalization and in a country where labor markets depend much on foreign workers, the nitaqat system may be difficult to achieve. In fact according to Saudi Labor Minister Adel Faqih, 90 percent of Saudi Arabia's private sector is populated by foreigners.<sup>7</sup>

In this policy, the Saudi government put private companies into four categories: excellent and green or blue for complying companies while yellow and red for non-complying companies. The red-coded companies had until September 11---to comply with Saudization requirements while yellow coded ones have until December 11--- to comply. Yellow coded companies that fail to comply with the government's requirements will immediately be denied renewal of work visas for foreign workers beyond six years. Meanwhile, red coded companies who do not meet the government's requirements, will be unable to renew the work visas of foreign workers.<sup>8</sup> According to analysts Safi Jannaty, the new policy which imposes a fee or penalty on private companies employing more foreign workers might not be very effective in addressing the issue of unemployment of Saudi nationals since private companies are inclined to pay the higher fee or penalty as they still would

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<sup>5</sup> Ibid.

<sup>6</sup> "New Plans to Nab Illegal Reveals", Arab News, April 16, 2013, <http://www.arabnews.com/news/448234>.

<sup>7</sup> Bea Cupen, Saudi labor ministry: 'Saudization' policy a failure. December 10, 2011. <http://www.gmanetwork.com/news/story/241292/pinoyabroad/saudi-labor-ministry-saudization-policy-a-failure>

<sup>8</sup> Ibid

still be saving substantial sums.<sup>9</sup> As of January 8, 2013, the nitaqat system has so far been able to employ 400,000 Saudi citizens.<sup>10</sup>

## ***2. Migrant Workers and Saudization (Nitaqat) Policy: Sectors in Economy Affected***

There have been discussions in the Philippines on the possible impact of nationalization of Saudi Arabia labor market on Philippine economy. Given the strategic contribution of overseas Filipino workers, Saudi nationalization will force the Philippine government to create alternative sources of income for thousands of Filipinos affected by this policy.

Three outcomes, may be mentioned with the implementation of this policy: **First** is that nitaqat would possibly lead to repatriation of thousands of Filipinos illegally working in the Kingdom; **second**, is the loss of thousands of jobs for these repatriated Filipinos and; **third**, is the decrease in remittances of Filipinos to the Philippines. As the results of this, many families who depend from money abroad will be affected and in return the country's economy will also be affected.

There are currently about one and half million (1.5) Filipino workers (OFWs) in the Kingdom. Saudi Arabia is the highest recruiting country from the overall two million Filipino workers in the Middle East and North African (MENA) region. Saudi's dependence to foreign workers and its familiarity with Filipino service quality in healthcare, education, oil industry and house hold services are undeniable. However given that oil revenue will not last in the future and therefore the country can no longer afford to provide an absolute financial support to its citizenry; Saudi would need a strategic policy if it want to achieve sustainable stability in the future.

The traditional practice of a welfare system by subsidizing almost all aspects of Saudis' economic needs would jeopardize the country's future economic sustainability. Money that Saudi has generated from crude oil is spent for public services, while the youth are not well prepared to do the tasks normally done by foreign workers. In addition to this, salaries given to foreign workers are not spent inside the country but are sent to the expats home countries such as Yemen, India, Pakistan and the Philippines. Thus, the long but dangerous implications would be the gradual draining of the Saudi economy. Such condition may not be felt by many Saudis right now but the implementation of nitaqat suggests that the government is

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<sup>9</sup> Safi H. Jannaty, *Dammam*. Saudization program. November 16, 2012. Arab News. <http://arabnews.com/saudization-program>.

<sup>10</sup> Fakeih: No going back on Saudization. <http://www.arabnews.com/fakeih-no-going-back-saudization>.

aware of the possible implications of these practices to the country's economic sustainability.

With this in mind, there is no doubt that the policy leaves labor sending countries to worry about the job security of their own people including the possible immediate impact on the value of foreign remittances which invariably help keep their economies afloat. The strict and immediate implementation of this policy may create fear among Filipino workers in Saudi Arabia and may force the Philippine government to look for alternative markets for Filipino workers. The implementation of nitaqat means that at least 10 percent of the labor force of all construction companies and a minimum of 70 percent of the staff headcount of about 300,000 firms in the Kingdom of Saudi Arabia<sup>11</sup> will be taken over by Saudi workers, replacing foreign workers including the Filipinos. Once that would happen, an expected negative impact on about \$1.5 billion remittances from the OFWs from Saudi Arabia will be felt. Aside from this, it is expected that an estimated number of 150,000 from the 1.5 million OFWs in Saudi Arabia could possibly be displaced.<sup>12</sup> Such number of OFWs is bigger than the number of OFWs being repatriated from Libya, Syria, Egypt, Yemen and other MENA countries due to political turmoil.<sup>13</sup>

Many of these Filipinos are either undocumented or have opted to stay in the Kingdom after they have finished their contract to look for possible new employers. Others have switched to new jobs without transferring their residency papers while thousands more were abandoned by their original sponsors.<sup>14</sup> Sponsors are required to provide a permission of no objection to Filipino workers before they can get an exit visa. The other remaining Filipino workers are working for private or small companies that do not simply comply with the government policies on nitaqat.<sup>15</sup> Dispute between the employees and their original employers will be settled in the labor court, whereas household service workers (HSW) who left their

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<sup>11</sup> How Saudization will affect the Philippines. Manila Times. 09 August 2011. <http://www.manilatimes.net/index.php/opinion/4024-how-saudization-will-affect-the-philippines>.

<sup>12</sup> Ibid.

<sup>13</sup> Jerome Aning. Labor chief allays OFWs' fears of 'Saudization'. June 30th, 2011. Philippine Daily Inquirer. <http://globalnation.inquirer.net/5072/labor-chief-allays-ofws-e2%80%99-fears-of-e2%80%98saudization-e2%80%99#ixzz2RvQPY6EO>.

<sup>14</sup> Illegal OFWs in Saudi Arabia breathe easier as king suspends crackdown. April 7, 2013. GMS News Online. <http://www.gmanetwork.com/news/story/302800/pinoyabroad/news/illegal-ofws-in-saudi-arabia-breathe-easier-as-king-suspends-crackdown>.

<sup>15</sup> Mayen Haymalim, and Jose Rodel Clapano, "Illegal OFWs can Correct Status, go back to Saudi," *The Philippine Star*, July 12, 2013, <http://www.philstar.com/metro/2013/07/12/964471/illegal-ofws-can-correct-status-go-back-saudi>

employer may either return back to their old employers or find a new one. Filipino employees can also transfer to private companies as a skilled worker.<sup>16</sup>

The Saudi Kingdom had given a three month-delay on the crack down on migrant workers. On March 28, 2013, it had started crack down operations which has resulted to a massive camping of Filipino undocumented workers outside the Philippine Consulate office in Jeddah and are calling the Philippine government for a mass repatriation in spite of the kingdom's announcement of additional three months reprieve on crackdown against illegal workers.<sup>17</sup> The Philippine Embassy in Saudi together with other concerned Filipino workers is using social media to disseminate information to other Filipinos. Many OFWs are also employed in other jobs apart from the original job they have in their original contract.

Saudi labor law prohibits employers to allow employees to work for other employers. Should there be a violation to this, both employees and employers will be fined accordingly.

Article 39 of the Saudi Labor Law states that

"It is not allowed for an employer to let his (foreign) worker go out and work for others. It is also not allowed for a worker to engage in work for another employer. The employer is not allowed to employ workers who are under the sponsorship of others. The Ministry of Labor shall inspect the firms and investigate the violations discovered by its inspectors, and then forward them to the Ministry of Interior to take penal actions against them".

"The employer is not allowed to let his worker engage in work for his own benefit. The worker would also not be permitted to work on his own account. The Ministry of Interior shall arrest, deport and take punitive measures against these violators who are working for their own benefit in the streets and public squares as well as against those who run away (from their sponsors)."<sup>18</sup>

The practice of sponsorship in Saudi Arabia has made sponsors very rich yet it created a chaotic situation in Saudi labor market. Sponsors bring in foreign workers yet these workers do not necessarily for them. Workers are sold to other employers to work and in return the workers would pay the sponsor a fixed amount at the end of every month. Such transactions have made these sponsors or "kafeels"

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<sup>16</sup> Ibid.

<sup>17</sup> Andrea Medina, "From Nitaqat to Tent City: A Look into the Saudi crackdown on Illegal workers." *GMA News Online*, April 18, 2013, accessed July 18, 2013, <http://www.gmanetwork.com/news/story/304500/pinoyabroad/news/from-nitaqat-to-tent-city-a-look-into-the-saudi-crackdown-on-illegal-workers>.

<sup>18</sup> "Saudi Crackdown on Illegal Workers worries OFWs", ABS-CBN News, April 4, 2013, <http://www.abs-cbnnews.com/global-filipino/04/03/13/saudi-crackdown-illegal-workers-worries-ofws>.

become rich while workers' welfare and security are jeopardized. Such practice is a violation of the Saudi labor law and the Residence Law. Aware of the existing 'black visa market' the Saudi authorities have initiated massive campaign against violators. Due to worries from government nitaqat campaign, sponsors have stopped operating and therefore left expat workers to lose their opportunity to work. Once known by the authorities, such expat workers may be transferred to other sponsors without prior consent from the original sponsor and expat workers may be asked not to pay the original sponsor. Moreover, in cases where the sponsors are individuals and not a company or entity, then nitaqat would not be applied to them even if they have house hold helpers, hence the Ministry of Labor may not be able to force the sponsors to transfer the sponsorship to other individual or entity.<sup>19</sup>

Recognizing the complexity of the problem mentioned above, the Philippine government through its leading agencies has been convincing the OFWs in Saudi to immediately process their working status to make sure that they would pass the requirements to legally work in the country. At the same time the Philippine embassy in the Kingdom urged Filipino workers who have been wrongfully terminated to seek assistance from the Philippine Overseas Labor Office (POLO) in Riyadh, Jeddah and al-Khobar<sup>20</sup> to file necessary complains with the Saudi Labor Office.

The Commission on Filipino Overseas Filipinos indicates that in 2011, there were around 20,000 undocumented Filipinos in Saudi Arabia. The 2012 report of the Philippine Overseas Labor Office (POLO) and the Overseas Workers' Welfare Administration (OWWA) indicated that there were around 20,000 undocumented workers in Riyadh, 10,000 in Jeddah and in the Western region, 300 in Eastern region and 100 in Central regions. Once they are caught that they have not complied with the requirements or they are undocumented the Saudi government will impose penalty on them ranging from 1,000 to 50,000 riyals or an equivalent of P11,002 to 550,105 Philippine pesos.<sup>21</sup> Given this situation, non-correction of working status by OFWs may lead to more problematic results.

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<sup>19</sup> Qaisar H. Matawea, "Do not allow sponsors to Exploit their Employees," *Arab News*, May 20, 2013, <http://arabnews.com/news/452221>.

<sup>20</sup> "Philippine Embassy: 'Nitaqat' Termination Appealable," *Sun Star*, July 17, 2011, accessed July 17, 2013, <http://www.sunstar.com.ph/manila/local-news/2011/07/17/philippine-embassy-nitaqat-termination-appealable-167370>.

<sup>21</sup> Andrei Medina. From Nitaqat to Tent City: A look into the Saudi crackdown on illegal workers. April 18, 2013. GMA News Online. <http://www.gmanetwork.com/news/story/304500/pinoyabroad/news/from-nitaqat-to-tent-city-a-look-into-the-saudi-crackdown-on-illegal-workers>.



### **3. Philippine Migrant Policies: Unilateral, Bilateral and Multilateral Approaches**

There had been many incidents relating to the security of Overseas Filipino Workers (OFWs) abroad in the past. Managing and solving problems of OFWs may require not only a unilateral action from the Philippine government through its responsible agencies but also through bilateral and multilateral efforts. Despite contingency plans and other mechanisms adopted unilaterally by the government to protect and repatriate OFWs in times of conflict in a politically unstable country, bilateral and multilateral levels of engagement would still be preferred and deliver best results. This means that in a situation where safety of Filipino workers is jeopardized in a third country, the Philippine government may most of the time feel unable to help if there is no corresponding assistance or coordination from other agencies or government of the third country. Philippine government's ability to influence the events in other countries to protect her nationals is restrained by the very essence of non-intervention and respect of the domestic policies and laws of the receiving country. Thus, in an event where Filipino workers are involved in drug cases or crimes in a third country, the Philippine government could only deliver an appeal but it is handicapped to influence the decision. This situation is very important because in the Philippines, many Filipinos do not seem to understand the limitation of their government to do something for them in another country.<sup>22</sup>

The cases of Filipino drug mules in China, and the cases of many Filipinos in various jails in Middle East countries due to crimes such as murder, drug cases, overstaying, breach of contract, etc., are indicative of a persistent need to alleviate the living status of millions of Filipinos without decent source of incomes. Much work has to be done to address this economic disease.

It becomes clear to many Filipinos and foreign observers that exporting Filipino skilled workers abroad has become a necessity rather than a choice at least up to the present despite of many official announcements that the government is working to alleviate the economy and provide more jobs to Filipinos so that going abroad would no longer be a necessity.

Exporting Filipino labor has become a national and transnational business by which not only the Philippine government is involved but also other entities and countries have participated. Given this situation, the transnational trends of labor export and migration requires a multiplicity of mechanisms to safeguard the lives and protect the welfare of every Overseas Filipino Workers (OFWs). However, since the government has the supreme authority to make policies and enter into

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<sup>22</sup> See cases of Filipinos in China being tried in Chinese courts due to drug crimes.

agreements with other entities relating to Filipino workers, it is but prudent that it must exert all efforts to make sure that her citizens abroad are protected.

In relation the protection of OFWs, the Philippine government has come up with multitude strategies to protect the dignity and lives of OFWs. Several programs were implemented and the government has entered into bilateral and multilateral agreements.

The Migrant Workers and Overseas Filipino Act of 1995 or otherwise known as Republic Act No. 8042 institutes various policies relating to overseas employment which sets a higher degree of standardized protection of the welfare of migrant workers together with their immediate families especially in times of crisis.<sup>23</sup> Republic Act 10022 or the so called Amended Migrant Workers' Act also helps to “intensify protection for Overseas Filipino Workers (OFWs), as they will be employed in the countries where the rights and welfare of migrant workers are protected.”<sup>24</sup> Under this Amended Migrant Workers Act, the Department of Foreign Affairs through their embassies abroad are directed to make a survey to find out if there are existing laws that protect migrant workers in those countries. There are criteria for the said survey and this include the following: (1) if the receiving country has existing labor and social laws protecting the rights of migrant workers; (2) if the receiving country is a signatory to and/or ratifier of multilateral conventions, declarations or resolutions relating to the protection of migrant workers; (3) if the country has concluded a bilateral agreement or arrangement on the protection of the rights of overseas Filipino workers and; (4) the receiving country is taking positive and concrete measures to implement the first three criteria.<sup>25</sup>

To strengthen its resolve the Philippine Overseas Employment Administration (POEA) conducts pre-departure seminars to prospective migrant workers through the Philippine Labor Market Information and Training Programs which includes: Pre-employment Orientation Seminar; National Manpower Registry to identify available jobs and skills in the labor markets; Pre-departure

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<sup>23</sup> Migrant Workers and Overseas Filipino Act of 1995 (Republic Act No. 8042), Philippine Overseas Employment Administration (POEA), accessed July 19, 2013, <http://www.poea.gov.ph/rules/ra8042.html>.

<sup>24</sup> Amended Migrant Workers Act to intensify Protection of OFWs, Philippine Official Gazette, updated November 26, 2010, accessed July 19, 2013, <http://www.gov.ph/2010/10/05/amended-migrant-workers-act-to-intensify-protection-of-ofws/>.

<sup>25</sup> Amended Migrant Workers Act to intensify Protection of OFWs, Philippine Official Gazette, updated November 26, 2010, accessed July 19, 2013, <http://www.gov.ph/2010/10/05/amended-migrant-workers-act-to-intensify-protection-of-ofws/>.

Orientation Seminar; Technical Training for Filipino Workers; Skills Testing and Certification.<sup>26</sup>

In addition to this, the Philippine government has also entered into bilateral agreements with the Kingdom of Saudi Arabia to make sure that its almost 1.5 million workers are duly protected. The recent signed *Standard Employment Contract* by the Philippine Secretary of Department of Labor and Employment (DOLE) Rosalinda D. Baldoz and Deputy Labor Minister Mufreh Al-Haqabani of the Kingdom of Saudi Arabia, manifest the continued bilateral cooperation between the two countries. The contract is a historic move between two countries and “recognizes among others, the SR1,500 minimum entry-level salary, weekly rest days and daily rest periods, paid vacation leave, non-withholding of passports and work permits, free communication, and humane treatment” for Filipino Overseas Workers working in the Kingdom. It can be recalled that in June 2011, the Philippines and Saudi had both voted for the adoption of the International Labor Organization (ILO) Convention 189 concerning decent work for domestic helpers.<sup>27</sup>

Recently the Philippines is the second country next to Uruguay that ratified 35 International Labor Conventions into which 33 of them are enforced.<sup>28</sup> “Under the Convention, each ILO member-state shall take measures set out in the Convention to ensure the effective promotion and protection of the human rights of all domestic workers and to respect, promote and realize the fundamental principles and rights at work of domestic workers, namely: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and elimination of discrimination in respect of employment and occupation.”<sup>29</sup> The

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<sup>26</sup> Liberty T. Casco, Deputy Administrator, Philippine Overseas Employment Administration (POEA) “The Role of Pre-departure Information and Training Programs for Migrants” Power Point Presentation, presented at International Organization for Migration, European Commission in Brussels Belgium, November 6, 2012, accessed July 19, 2013, [www.labourmigration.eu/events/document/160?format=raw](http://www.labourmigration.eu/events/document/160?format=raw)

<sup>27</sup> “Philippine and Saudi Arabia sign Labor Deals,” UCA News, May 20, 2013, accessed July 19, 2013, <http://www.ucanews.com/news/philippines-and-saudi-arabia-sign-labor-deal/68301>

<sup>28</sup> Report from ILO, generated by APPLIS July 19, 2013. Accessed July 19, 2013, <http://webfusion.ilo.org/public/applis/appl-byCtry.cfm?lang=EN&CTYCHOICE=0840&hdroff=1>

<sup>29</sup> “Aquino Ratifies Labor Conventions for Domestic Workers,” June 2, 2012, Sun Star, accessed July 19, 2013, <http://www.sunstar.com.ph/manila/local-news/2012/06/02/aquino-ratifies-labor-convention-domestic-workers-224796>.

ratification has gained approval from the global alliance of Overseas Filipinos Migrante International.<sup>30</sup>

#### **4. Philippine Response to Saudization (Nitaqat)**

The Philippine government should have been in a better position to assess the impact of the Nitaqat on the hiring and repatriation of the Filipino workers in Saudi Arabia. In fact the closure of ten (10) foreign posts in other countries by the DFA and DBM as part of the austerity measure of the Aquino administration had led to an assumption that more resources could be channeled to Philippine missions in Middle East given the density of Filipino workers there compared to other countries and regions in the world. Although, some analysts would disagree on the nitaqat's direct negative impact on the Philippine economy, such condition has been downgraded by the POEA saying that the policy would be implemented in a 'gradual and calibrated' manner.<sup>31</sup> This assumption proved true when the Kingdom of Saudi Arabia has given for the second time a four month extension to foreign workers to correct their working permits. In fact, many have been granted working permits. Despite this, the government has received report of cases of Filipinos who went on vacation but are being denied re-entry into the Kingdom.<sup>32</sup> In view of this, the government has asked Filipino workers to visit Philippine missions near their areas so that they would be assessed properly. In addition to this the Philippine Vice President and Presidential Adviser on Overseas Filipino Worker (OFW) Jejomar C. Binay has for many times reminded the OFWs in Saudi Arabia to process their paper as soon as possible to legalize their stay in this country, amidst reports that after the Kingdom has announced an extension Filipino expatriate "no longer feel the urgency to correct their status."<sup>33</sup>

As of this time of writing, the Philippine government has not yet been able to come up a specific course of action when it comes to Saudization. This was affirmed by Eric Endaya, Department of Foreign Affairs (DFA) executive director by inviting civil society groups or non-governmental organizations to submit a

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<sup>30</sup> "Migrante welcomes Aquino's signing of ILO Convention on Domestic Work." June 1, 2012, <http://migranteinternational.org/?p=2390>.

<sup>31</sup> Bea Cupen, Saudi labor ministry: 'Saudization' policy a failure. December 10, 2011. <http://www.gmanetwork.com/news/story/241292/pinoyabroad/saudi-labor-ministry-saudization-policy-a-failure>

<sup>32</sup> ANC and Willard Cheng, ABS-CBN News. PH seeks clarification of Saudization policy. 07/11/2011. <http://www.abs-cbnnews.com/global-filipino/07/11/11/ph-seeks-clarification-saudization-policy>

<sup>33</sup> "OFWs in Saudi Told to Process Papers, Told to Avoid Rush," Philippine Information Agency, July 12, 2013, <http://www.pia.gov.ph/news/index.php?article=241373610822>.

position paper on the Saudization to DFA, Malacañang, and Congress and even to Labor Department. Endaya added that such proposal will “pave the way for the government to really start creating policies.”

For sure now, three possible alternative solutions can be cited to solve the problem of OFWs in Saudi Arabia. These however are short range solutions to the problem at hand. **One** would be that the government must double its effort to push Filipinos to change their working status from being undocumented to documented so that they can enjoy protection while living and working in the Kingdom. In relation to this, OFWs with questionable status must also be vigilant enough to know whether the company that employs them has met the requirements set forth by the Kingdom. They have to find out if the company that employs them belong to a Blue (excellent) or Green color and not in Yellow or in Red colors.<sup>34</sup> Yellow listed companies are given a period of nine months as of June 11 to improve their rate of nationalization before restrictions come into effect, while Red firms are given six months.<sup>35</sup> Since many affected Filipinos may come from private sectors in Saudi labor force, it will be proper then that Philippine post in that country should assist these Filipinos in providing proper information on how to change their status. Filipinos may also visit government website <http://www.mol.gov.sa/announces.aspx> to visit their companies' status. Information is provided in both English, Malaysian, Indian, Tagalog, Bengali, Indonesian, Urdo and Turkish languages.<sup>36</sup>

**Secondly**, the Philippine government through its responsible agencies may consider finding an alternative labor markets for repatriated Filipinos from Saudi such as to Guam, Australia and Canada.<sup>37</sup> The issue regarding this option is whether skills required in alternative markets match the skills of repatriated OFWs from Saudi Arabia. In cases where skill mismatch would occur, the Philippines has

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<sup>34</sup> Companies deemed Excellent or Green would be granted the most privileges in visa requests and operations for non-Saudis. Yellow listed companies are given a period of nine months as of June 11 to improve their rate of nationalization before restrictions come into effect, while Red firms are given six months. In the restrictions, Yellow listed companies will find themselves barred from transferring visas of non-Saudi workers to their sponsorship, while Red companies will be barred from new visas, substitute visas and seasonal work visas, and from opening new branches or facilities with the Labor Office. “New Saudization Program,” Saudi Gazette, November 27, 2011, <http://ofwempowerment.com/ofw-guide/new-saudization-program/>.

<sup>35</sup> Ibid.

<sup>36</sup> “additional Facilitations and Exemptions for Corrections of Violations of Residence and labor laws,” <http://www.mol.gov.sa/>.

<sup>37</sup> POEA: Saudization will be Implemented Gradually, No Impact Yet on OFws,” July 15, 2012. OFW Online, [http://www.ofwguide.com/article\\_item-1566/POEA--Saudization-Will-Be-Implemented-Gradually--No-Impact-Yet-on-OFWs.html#ixzz2ZZFOawfH](http://www.ofwguide.com/article_item-1566/POEA--Saudization-Will-Be-Implemented-Gradually--No-Impact-Yet-on-OFWs.html#ixzz2ZZFOawfH).

standing training centers to train and honed OFWs to meet the criteria set forth by the new alternative markets. Although such option would not guarantee for an immediate employment, it would however prepare OFWs to acquire skills per requested by the alternative labor markets abroad.

**Third option** would be through gradual repatriation of OFWs. There are about 120, 000 OFWs directly affected by the Saudization apart from the 28,000 undocumented OFWs.<sup>38</sup> Out from this number 10, 000 to 12,000 have sought repatriation help from the Philippine Embassy in the Kingdom while others are still trying to legalize their status by transferring to another sponsor.<sup>39</sup> However, repatriation is not just happening in Saudi Arabia. Other neighboring countries in the region have also records of OFWs repatriation. These cases of repatriation in some Middle Eastern countries have added an additional burden to the Philippine government budget spending apart from the recent repatriation efforts in Libya and Syria. It can be recalled that in 2011, Vice President Binay had asked the released of almost P24 million from the President’s Social Fund to buy tickets for 1,084 OFWs staying at the Hajj Terminal in Jeddah. Binay also noted that the government was also paying 15 riyals daily for every Filipino housed at the Hajj Terminal, creates a “serious drain” on the “limited resources” of the Philippine embassy in Saudi.<sup>40</sup> This amount will be almost ten to eleven times if expenses of 12,000 OFWs who sought for repatriation will be shouldered by the government. In addition to this, the government would still spend money for its reintegration program for repatriated OFWs. The Philippine government has set aside around P50 million in the proposed budget of 2012 to support the reintegration of returning OFWs through livelihood programs. This is on top of governments P2 billion reintegration fund, recently launched in partnership with the Land bank of the Philippines and the Development Banks of the Philippines, to provide OFWs sustainable business opportunities.<sup>41</sup>

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<sup>38</sup> “P’Noy Government urged to Prepare for OFWs Reverse Migration Phenomenon, “ Press Release, Before its News, June 11, 2013, <http://beforeitsnews.com/middle-east/2013/06/pnoy-govt-urged-to-prepare-for-ofws-reverse-migration-phenomenon-2452112.html>.

<sup>39</sup> Ibid.

<sup>40</sup> Mike Frialde, “Binay Asked for P24 million Repatriation Budget for Saudi OFWs,” PhilStar, April 18, 2012, <http://www.philstar.com/headlines/677233/binay-asks-p24-million-repatriation-budget-saudi-ofws>.

<sup>41</sup> How Saudization will affect the Philippines . Manila Times. 09 August 2011. <http://www.manilatimes.net/index.php/opinion/4024-how-saudization-will-affect-the-philippines>.

In addition to budget problem, the government finds it difficult to repatriate some OFWs in Saudi given that they would have to obtain exit visa from their original employers. Sometimes these employers are hard to find,<sup>42</sup> given that many of these Filipino workers have either lost contact from their original employers or have escaped from their abusive employers; Obtaining exit visa for these Filipino workers is difficult.

In relations to financial and technical constrains cited above, new issue arising from “sex for repatriation” activities involving high ranking labor officials have also been dealt with seriously by the government. The allegations involving Filipino labor officials in Saudi Arabia “demanding sex” from OFWs in “exchange for plane tickets to Manila.” DFA Secretary del Rosario, in response to this allegations, formed a ‘fact-finding body’ to investigate the scandals and has called home the Philippine ambassadors to Saudi Arabia, Qatar, Oman, the United Arab Emirates, Bahrain, Egypt, Libya and Lebanon for consultations.<sup>43</sup> Moreover, the DFA has also expanded investigation to include Singapore, Malaysia, and Hong Kong which also run shelters for distressed Filipino Migrant workers.<sup>44</sup> In line with the “sex for repatriation” scandal, it is but an urgent call to the responsible Philippine agencies (DFA, PEOA, DOLE) to start cleaning up their agencies if they want to see a successful implementation of migrant policies and protection of the rights and welfare of OFWs in distress areas such as in Middle East region. For as long as greedy labor officials continue to man the shelter centers abroad, abuses continue to be expected especially to women. The replacements of those who were allegedly involved in scandal by women officers may perhaps help in minimizing abuses to women but it should not be taken as the final and concrete solution to the problem.

What is needed are diplomats, and labor officers who are disciplined, honest and committed to the programs of the government to achieve the maximum level of protection for Filipino workers abroad.

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<sup>42</sup> Maria Aleta Nieva Nishimori, “Money is not an Issue in Repatriating Stranded OFWs,” ABS-CBN News, April 30, 2013, <http://www.abs-cbnnews.com/global-filipino/04/30/13/money-not-issue-repatriating-stranded-ofws>.

<sup>43</sup> Tarra Quismundo and Jerome Aning. Filipinas in Saudi Arabia complain of sexual abuse. *Philippine Daily Inquirer*. 23-06-2013. <http://www.asianewsnet.net/Filipinas-in-Saudi-Arabia-complain-of-sexual-abuse-48286.htm>

<sup>44</sup> Esther Tanquintic-Misa. Three Filipinas Confirm Sex for Repatriation in Riyadh, Saudi Arabia, Philippine Foreign Affairs Ofc Widen Scope of Investigation to Southeast Asia and Hong Kong. June 25, 2013. <http://au.ibtimes.com/articles/482694/20130625/filipinas-sex-riyadh-saudi-arabia-philippines-investigation.htm#.Uc1E7NjMvIW>.

## 5. Conclusion

Nationalization program being implemented in various countries in (Persian) Gulf has been seen by many observers in the Arab world as the most efficient tool in solving the unemployment problem confronting the Arab youth sector. Decades of foreign labor dependency has produced not only a socio-economic crisis but also a political difficulty for the Persian Gulf de facto regimes once they would continue to deny them. The increasing rate of unemployed Arab youth in many of these countries including Saudi Arabia can be compared to a ticking time bomb ready to explode to challenge the legitimacy of the status quo.

The Arab uprisings in various countries in the Middle East region have indicated the socio-economic and political deficits many of these societies are facing and hence, governments must address peoples' demands for economic and political reforms if they want to stay in power.

Saudi Arabia's nationalization or nitaqat policy, may contribute to the efficiency of the Kingdom's economy by employing many of its unemployed youth in private sectors. It may also lead to a reform in Saudi's labor market to minimize illegal expat workers; and may discourage illegal recruiting activities by its own nationals or by any other recruiting entities operating in the Kingdom. However, the nitaqat policy has also created fears among those affected expats working in the Kingdom. Aside from this, it may also decrease the amount of remittances to labor sending countries.

Like India, Pakistan and other labor sending countries in Africa and Southeast Asia, the Philippines has also hugely depended from the remittances of its Filipino Overseas Workers (OFWs) to keep its economy afloat. The implementation of the nitaqat policy by the Kingdom of Saudi Arabia which employs about 1.5 million OFWs is something that must be taken seriously by the Philippine government. Although the Philippine government "accords high priority to the protection of Overseas Filipino Workers in the Middle East and North African countries,"<sup>45</sup> it should not be complacent to the current performance of temporarily solving the problems being faced by thousands of OFWs in Saudi Arabia who are due for repatriation.

Despite the economic benefits from the country's four decades of labor exports, the Philippines previous administrations had not been able to transform

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<sup>45</sup> Henelito A. Sevilla, Jr., "The Emergency Evacuation of Overseas Filipino Workers (OFWs) from Libya and Syria," Middle East Institute, February 9, 2013, accessed, July 19, 2013, <http://www.mei.edu/content/emergency-evacuation-overseas-filipino-workers-ofws-libya-and-syria>



these benefits into a sustainable socio-economic investment for the country in which working abroad is no longer a choice but an option.

The nitaqat policy being implemented in Saudi Arabia provides a warning to labor sending countries like the Philippines that their national policy of sending workers abroad to ease employment problem at home could not be sustainable in the long run and that the Philippine government should exert all efforts to create a productive working environment at home.

In doing this, the government will be facing crucial multiple tasks on how to achieve great gains from ideal great economic policies it has been adopting and implementing while at the same time teaching and encouraging Filipinos to save and contribute in building up the Philippine economy rather than just being consumers. Moreover, although it is the primary responsibility of the government to protect and provide basic services to the Filipino people, the Filipino people themselves must also share this responsibility and assess the government in its genuine programs instead of just relying everything and blaming the government of every failure that may affect the entire Philippine society.

For the government to realize its highly ambitious program to transform the idea of migrating abroad for work as a choice and not as a necessity, it has to do something to change the attitude of the people on how to save and invest for the future and not just being subject to a current practice of one day millionaire spending. It will be time for the Philippine government to engage with private sectors to establish a viable environment for small businesses.