



MIGRANT LABOUR IN THE CONSTRUCTION SECTOR IN THE STATE OF QATAR

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EXECUTIVE SUMMARY

1. DLA Piper¹ has been instructed by the State of Qatar to undertake an independent review of the legislative and enforcement framework of Qatar's labour laws in the light of the numerous allegations made regarding the conditions for migrant workers in the construction sector.² This report makes a number of significant recommendations for change.³
2. In drafting this report, DLA Piper has reviewed and considered:
 - the international conventions and standards ratified by Qatar;⁴
 - Qatar's Constitution;
 - existing national legislation and the legislative framework applicable to migrant workers;
 - Bilateral Treaties relating to the supply of labour;
 - the UN Special Rapporteurs' Report on the Human Rights of Migrants in Qatar;⁵
 - the International Labour Organisation's ("ILO") reports on Qatar's Compliance with the Forced Labour Convention 1930⁶ and the ILO judgment on the freedom of association and collective bargaining;⁷
 - the report recently published by Human Rights Watch on the subject of migrant workers' rights in the construction sector in Qatar;⁸
 - the report recently published by Amnesty International on the subject of migrant workers' rights in the construction sector in Qatar;⁹

¹ DLA Piper UK LLP which is part of DLA Piper, a leading international law firm.

² All relevant definitions are set out throughout this report and in the Glossary at **Annex V**.

³ The views and recommendations in this report are entirely those of DLA Piper. It is for the State of Qatar, and in particular the Ministry of Foreign Affairs, the Ministry of Labour and Social Affairs, and the Ministry of Interior, to determine the extent to which it accepts and, if deemed appropriate, implements any of the recommended action set out in this report.

⁴ For the sake of completeness, DLA Piper has also considered the relevant provisions of international standards that have not been ratified by the State of Qatar.

⁵ UN Special Rapporteur's Report on the Human Rights of Migrants (Special Rapporteur M. François Crépeau) draft dated 10 November 2013 and full report dated 23 April 2014, (A/HRC/26/35/Add.1) see full report at **Annex F**.

⁶ Report of the Director-General, Eighth Supplementary Report: Report to the committee set up to examine the representation alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), made under article 24 of the ILO Constitution by the International Trade Union Confederation and the Building and Woodworkers International, 320th Session, Geneva, 13 - 27 March 2014 (GB.320/INS/14/8) ("**ILO Eighth Supplementary Report**").

⁷ Complaint against the Government of Qatar presented by the International Trade Union Confederation, Case No. 2988 (GB.320/INS/12) ("**ILO Judgment**").

⁸ *Building a Better World Cup - Protecting Migrant Workers in Qatar Ahead of FIFA 2022* Human Rights Watch 2012 ("**HRW Report**").

- the preliminary report issued by Engineers Against Poverty in relation to employment standards in construction in Qatar;¹⁰ and
 - the report recently published by the International Trade Union Confederation in relation to migrant workers' rights in the construction sector in Qatar.¹¹
3. Qatar has seen a significant influx of migrant workers over a very short period of time, most notably in the construction sector; this situation poses unique challenges for the State of Qatar. Currently, it is estimated that there are 1.39 million migrant workers in Qatar. Qatar, therefore, has the highest ratio of migrants to citizens in the world,¹² with migrant workers making up over 85% of the total population.
 4. The majority of the migrant workers in Qatar are in the country at the Government's invitation. They have received work permits in order to satisfy Qatar's labour needs, which have been created by Qatar's thriving economy and the massive construction projects which are underway. Our understanding of the pattern of migration flows into Qatar is that Qatar's labour needs are fulfilled by migrant workers on the basis of short to medium term employment contracts, and there is no intention on the part of either the migrant workers or the State of Qatar for those migrant workers to permanently settle in Qatar.
 5. The protection and rights of migrant workers in Gulf Countries have been subject to much comment. Qatar, in particular, has come under intense scrutiny following its successful bid in 2010 to host the FIFA 2022 World Cup. Indeed, the nature of the construction projects and the association with a universally recognised, extremely high profile sport has led to much global commentary on the issue of migrant workers in Qatar (some of which, in our opinion, is factually inaccurate).¹³
 6. In this regard, the State of Qatar has been open in the face of continued criticism. The State of Qatar has engaged with Amnesty International and Human Rights Watch, both of which

⁹ *The Dark Side of Migration* Amnesty International 2013 ("**Amnesty Report**").

¹⁰ *Improving employment standards in construction in Qatar* Engineers Against Poverty October 2013 ("**Engineers Against Poverty Report**"), see **Annex L**.

¹¹ *The Case Against Qatar, Host of the FIFA 2022 World Cup*, ITUC Special Report March 2014 ("**ITUC Report**").

¹² UN Special Rapporteur's Report on the Human Rights of Migrants, see **Annex F**.

¹³ For example, on 15 February 2014, the Guardian reported that "*more than 400 Nepalese migrant workers have died on Qatar's building sites as the Gulf state prepares to host the World Cup in 2022*". See <http://www.theguardian.com/football/2014/feb/16/qatar-world-cup-400-deaths-nepalese>. The Guardian stated that these "grim statistics" were to be published in a report by the Pravasi Nepali Co-ordination Committee (PNCC), a Nepalese-based migrant workers' rights organisation. However, PNCC shortly after responded issuing a statement that these statistics were "*completely baseless*".

have had unrestricted access to Qatar, met with various ministries and held press conferences in Doha. Amnesty International has used data and statistics provided by the University of Qatar (a state-funded institution) to develop its report. In the UN Special Rapporteur's Report on the Human Rights of Migrants, the Rapporteur notes the "support and cooperation" given by the State of Qatar before and during his mission. We commend the open approach which has been taken by the State of Qatar and encourage this to continue in the future.

7. As detailed throughout this report, we recognise that various legislative and administrative measures are in the process of being proposed and reviewed both in the course of the routine legislative and public administrative cycle (in line with the "Qatar National Vision 2030"¹⁴) and in response to external comment. In particular, we understand that the key relevant ministries, namely the Ministry of Foreign Affairs (in particular the Bureau for Human Rights), the Ministry of Interior (including the Human Rights Department), the Ministry of Labour and Social Affairs, the Supreme Judiciary Council, and the Supreme Council of Health, are actively assessing and considering improvements to the current legislative and enforcement frameworks through a process of legislative reform and the strengthening of existing enforcement mechanisms.
8. Notwithstanding these reform initiatives we make a number of recommendations in this report. We have reviewed the relevant legislation and approach to governance and conclude that, while there are shortcomings, much appropriate legislation is already in place. However, we have found a number of enforcement issues which need to be addressed.
9. We set out below a summary of our recommendations to the State of Qatar, which are addressed in more detail at the end of each Issue section of this report. Where relevant, we also make reference to the various initiatives already underway to improve the working environment for migrant workers in the construction sector in Qatar.¹⁵

Overarching Observation

10. As a general observation, and relevant to all aspects of our review, we believe that **increased transparency and communication between the State of Qatar, State of Origin**

¹⁴ See further paragraph 22 below.

¹⁵ Where reference is made to initiatives and developments that are currently underway, this review reflects the status of these initiatives and developments as at the date of this review.

governments, and major actors in public and private sectors, are critical to implementing the recommendations contained in this report.

11. This process of clarification and communication should include improving both intra-Government communication and co-ordination (i.e. reporting within and across the various departments charged with the management of migrant workers in Qatar, and the proper dissemination of information to all relevant bodies, regularly and uniformly) and also, of equal importance, inter-Government communications between the relevant entities in the States of Origin (and their representatives in Qatar) and the State of Qatar (and Qatar's representatives in the State of Origin), in particular in relation to migrant workers' welfare and rights.
12. In addition, we recommend an appropriate **focus on communication and information-sharing with key non-government stakeholders and private contractors**, including significant entities such as the Supreme Committee for Delivery and Legacy,¹⁶ the Qatar Foundation,¹⁷ other contracting authorities and other non-government actors. Establishing regular, transparent and reliable lines of communication, and working groups, between all these entities should be prioritised, and would immediately begin to address the lack of information exchange giving rise to many of the issues we deal with in this report.
13. We recommend that **the State of Qatar adopt a comprehensive set of worker welfare standards setting out the minimum mandatory requirements for all public contracting authority construction projects in Qatar.**¹⁸ These worker welfare standards should be mandatory and incorporated in all Lead Contracts issued by public contracting authorities. Lead Contractors should be required to ensure that these standards are incorporated in all Sub-Contracts. Importantly, all contracts should include an appropriate contractual enforcement mechanism (such as impact on contractual payments) to deter any failure to comply with the standards, by Contractors and their Sub-Contractors. We have referred below to specific issues which could be addressed by the adoption of such standards (and made reference to relevant existing Qatar Foundation and Supreme Committee standards), and the recommended enforcement mechanisms that should be considered. The standards should be reflective of, if not the same as, those standards prescribed by the Qatar Foundation or

¹⁶ Also referred to as the "Supreme Committee" tasked with organising the 2022 World Cup. See further paragraph 23.

¹⁷ The Qatar Foundation for Education, Science and Community Development is a private, non-profit organization for public good that serves the people of Qatar by supporting and operating programs in three core mission areas: education, science and research, and community development.

Supreme Committee.¹⁹ However, we note that the aforementioned standards would benefit from clarifying the intended contractual enforcement mechanisms to be employed in order to ensure implementation and compliance through the contractual chain.

¹⁸ We understand this project is already underway, see further paragraph 30.

¹⁹ Supreme Committee Workers' Welfare Standards at **Annex C** and Qatar Foundation Mandatory Standards of Migrant Workers' Welfare at **Annex D**.

RECOMMENDATIONS

Recruitment Agents and Recruitment Fees

- 13.1 **Strengthen Bilateral Treaties.** Interaction and collaboration with States of Origin to review existing Bilateral Treaties, along with the introduction of a more stringent and comprehensive framework for monitoring and enforcement of workers welfare standards. In particular, we consider that there should be improved enforcement to prevent recruitment agencies outside Qatar charging migrant workers for recruitment services (which, in fact, are prohibited by Qatari law) and to monitor the engagement of ethical recruitment agencies in Qatar.²⁰ Further we recommend that the prescribed model employment terms referred to in the Bilateral Treaties (based on the Migrant Worker Model Employment Contract²¹) should be developed.
- 13.2 **Effective communication and information dissemination.** Increased and enhanced communication to the migrant workers to ensure their understanding of material issues relevant to their recruitment and employment, including the introduction of "Labour Information Bureaus"²² and information "orientation"²³ requirements prior to embarkation and upon arrival in Qatar.
- 13.3 **Strengthen legislative prohibition relating to charging and receipt of recruitment fees in Qatar.** We note that Qatari Labour Law²⁴ prohibits the receipt of fees from a migrant worker in Qatar. We recommend extending this prohibition by amending the existing Labour Law to prohibit the charging and receipt of recruitment fees from migrant workers (by any person in Qatar) to: *"receipt from the worker of any sums representing recruitment fees, charges or expenses or any other costs, directly or indirectly, in whole or in part."* The State of Qatar could take a more robust stance and prohibit employers and recruitment agents in Qatar from any dealing with foreign recruitment agencies in the States of Origin that charge any recruitment fees to migrant workers, regardless of whether or not such fees are permissible under local law. All contracts with foreign recruitment agents should include an express term

²⁰ We recognise that this requires cooperation from the State of Origin governments.

²¹ See further paragraph 13.12 below.

²² See further paragraph 66.1 *et seq.* on Labour Information Bureaus.

²³ See further paragraph 42 on migrant worker "orientation".

²⁴ For example, Article 33 of the Labour Law and Article 19 of Ministerial Order No.8 of 2005.

stating that foreign recruitment agents will not charge migrant workers recruitment fees;

13.4 Verification with migrant workers. We recommend the implementation of a targeted verification requirement with migrant workers. This may be at the migrant workers' "orientation" session, or at the point of signature of an offer for employment, or at the point of attestation of the employment contract in the State of Origin, using Labour Information Bureaus within the Embassies of Qatar. This verification should cover:

- whether recruitment fees have been paid by the migrant worker;
- whether a Migrant Worker Employment Model Contract (or employment contract incorporating similar terms²⁵) has been adopted;
- whether the migrant worker has been given the appropriate explanation of the proposed role; and
- whether the correct wage has been adopted and explained to the migrant worker.

This verification process should be repeated when migrant workers enter Qatar.

13.5 Streamlining of the system of redress. There are currently limited redress mechanisms in place (through the Ministry of Labour and Social Affairs complaints process and / or through the State of Origin embassies) which provide migrant workers with protection against abusive practices relating to the payment of recruitment fees and changes to their terms and conditions of work. We recommend the implementation of a streamlined process of redress, including developing reporting mechanisms,²⁶ strengthening the existing mediation / conciliation services and introducing a fast track procedure for major complaints.²⁷

13.6 Raising awareness of methods of reporting for migrant workers. We propose that there should be a point of contact within the Ministry of Labour and Social Affairs for complaints relating to recruitment agents. Furthermore, we suggest that each major

²⁵ See paragraph 13.12 below.

²⁶ See paragraph 13.6 below on reporting.

²⁷ See further Access to Justice recommendations below at paragraph 13.49 *et seq.*

employer be required to have a compliance / reporting officer that migrant workers can approach to discuss concerns on an anonymous basis if necessary. That officer should report any concerns to the employer and a dedicated representative at the Ministry of Labour and Social Affairs.

- 13.7 **Review of licensing of recruitment agents.** We recommend that there should be a review of the process of licensing of recruitment agents in Qatar and a comprehensive vetting process introduced. We propose that the grant of a licence should be subject to the obligation to respect the Migrant Worker Employment Model Contract, which reflects provisions relating to the prohibition of payments of recruitment fees by the migrant worker. Repeated non-compliance with the Migrant Worker Employment Model Contract should result in loss of licence.²⁸
- 13.8 **Unethical recruitment agents to be blacklisted.** Foreign and domestic recruitment agents found to engage in unethical practices should be blacklisted. We would encourage the State of Qatar to liaise with the States of Origin and with international NGOs in order to identify ethical recruitment agencies.

Kafala Sponsorship System

- 13.9 **Review of and proposals for the modification / reform of the "kafala" sponsorship system.**²⁹ We recommend that the State of Qatar conducts a wide-ranging and comprehensive review of the *kafala* sponsorship system with a view to implementing reforms which strengthen and protect the rights of free movement of migrant workers in accordance with Qatar's international obligations. The review should address whether certain aspects of the system should be abolished or phased out over time. The review should focus, in particular, on the following recommendations:

- 13.9.1 **Review of and proposals for the modification / reform of the exit visa system.** There should be a comprehensive review of the requirement for an exit visa. The State of Qatar should review and reconsider the existing exit visa system under the *kafala* system. We recommend that, in the absence of

²⁸

See paragraph 13.12 below.

²⁹

We welcome the on-going consultation on this matter, as referred to in the Report of Qatar National Human Rights Committee in accordance with Paragraph 15(C) of the Annex to Human Rights Council Resolutions 5/1.

compelling evidence to the contrary, a migrant worker seeking to leave Qatar should be granted an exit visa as of right. We recommend that the exit visa is phased out over time;

- 13.9.2 **The Sponsorship Law should be amended to allow migrant workers the right to apply to the Ministry of Interior for an exit visa prior to their departure.** In the transitional period while the exit visa requirement is being reviewed, the default position should be that exit visas are granted as of right within a period of 48 to 72 hours. The Ministry of Interior should carry out checks of alleged wrongdoing with the employer / sponsor. Where the employer / sponsor alleges wrongdoing, the burden of proof should be on the employer / sponsor to evidence any objection to the grant of the exit visa, and in the absence of compelling evidence to support any justifiable restraint, an exit visa should be granted;
- 13.9.3 **Existing Qatari legislation relating to the confiscation of passports should be enforced and penalties increased.** Employers / sponsors retaining passports in violation of Qatari Labour Law should be subject to penalties, including sufficiently heavy fines and loss of sponsorship licence in the event of repeated breach. The Labour Inspection Department should make enquiries as to the whereabouts of migrant worker passports during the course of inspections. Employers / sponsors that are repeatedly found to retain passports should also face the sanction of blacklisting³⁰ and the application of sanctions should be publicised to act as a further deterrent;
- 13.9.4 **Revocation of the right of an employer / sponsor who abuses the *kafala* system and / or breaches Qatari Sponsorship Law from objecting to a migrant worker transferring employment.** We understand that the Ministry of Interior is responsible for transfer of sponsorship, but we propose that it should carry out this function in consultation with the Ministry of Labour and Social Affairs. This would mean an employer that is in breach of his obligations to migrant workers under the *kafala* sponsorship system and Qatari Sponsorship Laws should no longer have the right to prevent the

transfer of the migrant worker to another employer by virtue of refusing to grant the required 'No Objection Certificate'. The No Objection Certificate from the employer should not be a necessary pre-requisite in order to action the request. In the event that an employer / sponsor disputes the request for transfer, they should have a prescribed period of time in which to lodge their objection to the transfer (for example up to 72 hours). The burden of proof should rest on the employer / sponsor to demonstrate and adduce evidence to support their objection to the transfer. The grounds for objection should be limited in substance. In the event of a significant breach of Sponsorship Law by the employer or relevant labour law, the default position should be that the Ministry of Labour and Social Affairs should order the transfer;

- 13.9.5 **Clarification of the legal position and rights of migrant workers that are deemed to have "absconded"**. There is a lack of clarity and co-ordination as to the proper application, framework and appropriate supervision of this sponsorship termination mechanism. Migrant workers should be afforded due process of law including the right not to be unlawfully detained at the point the employer / sponsor makes an absconding report to the Ministry of Interior.

Contract Misrepresentation and Substitution

- 13.10 **Worker welfare standards (the same as or similar to those of the Qatar Foundation or Supreme Committee) should be made mandatory in all contracts issued by public contracting authorities.**
- 13.11 **Lead Contractors should be made responsible for cascading mandatory worker welfare standards through all Sub-Contracts and Lead Contractors should be responsible for adherence to these standards by their Sub-Contractors.** Failure to adhere to mandatory standards should be dealt with by appropriate penalties.
- 13.12 **Introduction of a new standard form migrant worker employment contract (for example the proposed "Migrant Worker Model Employment Contract").³¹** The

³⁰ Insofar as recommendations are made for blacklisting, we agree with the Special Rapporteur's comment that "*When a company is blacklisted, attention must also be paid to the rights of those people who are currently working in that company*". See page 11, Special Rapporteur Report on the Human Rights of Migrants at **Annex F**.

³¹ For example, see **Annex B**.

suggested form should be endorsed by the State of Qatar and be prescribed for use by all public contracting authorities. The Migrant Worker Model Employment Contract (or similar) should be adopted as a standard form for all public procurement contracts going forward, and compliance with the standard should form part of the Pre-Qualification Questionnaire for all procurement contracts. Failure to use the Migrant Worker Model Employment Contract or similar terms should result in a contract being void and unenforceable. Blacklisting should be adopted for serious non-compliance. Financial penalties should be incorporated into Lead Contracts (which should also cover failings by Sub-Contractors).³²

- 13.13 **Ministry of Labour to monitor migrant worker employment contracts.** We recommend that where migrant worker employment contracts are being authorised, attested and verified by the Ministry of Labour and Social Affairs or the Ministry of Foreign Affairs (represented by the embassies), the employment contracts are properly reviewed by a dedicated team, and that a system of monitoring be introduced to ensure that the Migrant Worker Model Employment Contract (or equivalent, once made legally binding) is being used. This system of monitoring should include contract attestation and certification in the State of Origin prior to embarkation and then contract verification upon arrival in Qatar.
- 13.14 **Labour Inspection Department to undertake employment contract checks during inspections.** Proper enquiries need to be made at various points, both prior to embarkation and upon arrival in Qatar, in order to detect and manage issues relating to migrant worker employment contracts. Labour inspectors should be charged with spot-checking contracts and penalties should be levied against employers that are found to have knowingly or negligently failed to prevent misrepresentation and / or contract substitution. Where a migrant worker accuses an employer of inducing them to work in Qatar under false or misleading pretences, the onus should be on the employer, along with the recruitment agents in both Qatar and the State of Origin, to establish that this is not the case.
- 13.15 **Translation of migrant worker employment contracts.** Employment contracts should be translated and explained to migrant workers in a language they understand

³²

We note that these measures are already being introduced into all Qatar Foundation and Supreme Committee contracts following the introduction of these entities' respective contracts.

before they sign. The enforceability of the migrant worker employment contract should also be conditional upon the employer's compliance with this requirement.³³

- 13.16 **Public contracting authorities should publish the results of audits and any rectification plans pursuant to these worker welfare obligations.** This will increase transparency and accountability.

Wages

- 13.17 **Qatari Labour Information Bureaus to increase knowledge and understanding.** We recommend that Qatari Labour Information Bureaus actively promote knowledge of terms and conditions and rates of pay in the State of Origin, as well as on an on-going basis in Qatar.
- 13.18 **Consideration should be given to introducing a minimum wage.** We recommend that the State of Qatar, in consultation with States of Origin, undertakes an expert evaluation of the appropriate Relevant Minimum Wage³⁴ rates for each type of construction worker in Qatar which an employer would be required to pay. This requirement should be clearly stated in the Bilateral Treaties as well as provided in the Migrant Worker Model Employment Contract appended to them, and should be legally binding on all employers operating in the construction sector in Qatar. There should be civil and criminal sanctions for non-compliance with this requirement, with the right of an appropriate inspection of records to demonstrate compliance with these obligations, and an inspector should undertake regular spot-checks.
- 13.19 **Sanctions for employers' / sponsors' failure to pay wages.** We recommend that in the event of proven failure to pay wages by any employer / sponsor, that employer / sponsor should automatically be disqualified from objecting to a transfer of employment or exit visa being granted, or should have an appropriate short period of time in which he must prove that the wages have been paid. The default position should be that the transfer will be granted, and in the event of repeat offences of failure to pay such employer / sponsor should be disqualified from being a sponsor.

³³ See, for example, paragraph 16.1 of the Schedule to the proposed Migrant Worker Model Employment Contract at **Annex B**.
³⁴ Please see Issue 4.

- 13.20 **Preventing undue delay for payment of wages.** We recommend that the payment process in respect of projects ultimately funded by the State of Qatar needs revisiting to ensure that there is no undue delay which would impact upon the payment of wages to migrant workers through Sub-Contracting entities, or be used as an excuse for delay in payment. We also recommend introducing appropriate sanctions for late payment throughout the chain of contracting, for example suspension of contracts and financial penalties provided for in the contract for the Lead Contractor in the event of late payment of wages, reduction of payment period in all contracts from 90 to 60 days, Lead Contractors should be under an obligation to pay their Sub-Contractors promptly and these obligations should be reflected in all contracts in the supply chain.
- 13.21 **Monitoring of payment of wages electronically.** We recommend that the State of Qatar should give consideration to implementing a scheme whereby payment of migrant worker wages is monitored electronically by, or in conjunction with, the Qatar Central Bank.

Health & Safety

- 13.22 **We recommend that immediate steps are taken to demonstrate the importance placed on health and safety standards by the Ministry of Labour and Social Affairs.** This should include:
- 13.22.1 **Blacklisting of Contractors / employers that breach health and safety standards.** Regular publication of the names of Contractors and employers that have breached the relevant health and safety standards by the Labour Inspection Department or other relevant department within the Ministry of Labour and Social Affairs; and
- 13.22.2 **Introduction of further criminal sanctions.** Increased criminal sanctions of greater severity ought to be introduced for employers who repeatedly breach the Qatari Labour Law in respect of health and safety.
- 13.23 **Joint and several liability for Lead Contractors and their Sub-Contractors.** We recommend imposing joint and several civil and criminal liability for health and safety breaches on Lead Contractors and their Sub-Contractors. Failure to directly enforce health and safety standards on site should result in vicarious liability for the Lead Contractor, as well as liability for Sub-Contractors breaching health and safety

standards. We recommend criminal sanctions for repeat offenders to ensure that the Lead Contractors effectively work together with the Ministry of Labour and Social Affairs to enforce Qatari health and safety law.

- 13.24 **Introduction of electronic ID cards, incorporating migrant workers' health card** (to be paid for by employer / sponsor) for all migrant workers upon arrival into Qatar.
- 13.25 **Introduction of health and safety teams.** We recommend requiring Lead Contractors to establish health and safety teams, who would be responsible for site safety measures for the Lead Contractor and all Sub-Contractors on-site. Lead contractors should also ensure there are sufficient contract provisions in place to ensure sub-contractors comply with health and safety standards. These should be in line with Qatar Foundation and the Supreme Committee worker welfare standards.³⁵
- 13.26 **Introduction of dedicated managerial staff.** We would recommend enhancing the existing law by requiring construction employers to appoint managerial staff dedicated to being accountable for health and safety matters.
- 13.27 **Publication of health and safety guidance.** We would also suggest adopting a guidance document for employers and workers which either adopts the Supreme Committee for Delivery and Legacy's Worker Welfare Standards³⁶ or sets out the State of Qatar's own comparable standards, and provides for migrant worker entitlements under Qatari Labour Law.
- 13.28 **Role of health and safety checks in inspections.** We recommend inspections should place greater weight on compliance with health and safety standards.
- 13.29 **Reporting / dissemination of national statistics and data in relation to work-related injuries and deaths.** We strongly recommend the regular collection and reporting / dissemination of national statistics and data in relation to **work-related** injuries and deaths, the causes and the extent to which these are attributable to breaches of health and safety rules. We recommend publishing this data in an anonymous format every 6 months.

³⁵

See for example Supreme Committee Workers' Welfare Standards sections 13 & 14 at **Annex C**.

³⁶

See **Annex C**.

- 13.30 **Commissioning of an independent study into the migrant worker deaths from cardiac arrest (over the next three years).** The final report should be shared with the appropriate global health authorities.
- 13.31 **Allow for proper investigation into unexpected or sudden deaths.** We also strongly recommend that the Law No. 2 of 2012 on autopsy of human bodies is extended to allow for autopsies or post-mortem examinations in cases of unexpected or sudden deaths.

Accommodation

- 13.32 **Facilitate the communication and implementation of Qatar's prescribed standards of accommodation through guidance.** We recommend that the Ministry of Municipality and Urban Planning's "Worker Accommodation - Planning Regulation" guidelines which provide for the minimum standards of worker accommodation in Qatar³⁷ be widely publicised and distributed with immediate effect.
- 13.33 We would recommend in addition to the new Planning Regulation, that the existing accommodation standards (as contained in Resolution No. 17) be amended to include the following:
- 13.33.1 **Requiring Contractors / employers to ensure all workers receive an induction (in their language of choice) to the accommodation upon arrival.** An induction would be an opportunity to set out the "ground rules" of living in the accommodation. The induction should also cover health and safety standards at the accommodation, and the complaint reporting procedures and allocated worker welfare officer; and
- 13.33.2 **Requiring Contractors / employers to appoint a worker welfare officer for each accommodation site.** This welfare officer should be responsible for receiving and acting on workers' complaints. In addition, there should be a health and safety representative (see Issue 5 above for further details on our recommendations for health and safety representatives) appointed in relation to any concerns about the health and safety standards on site.

- 13.34 **Monitoring and enforcement of accommodation standards should be heightened.** Specifically the Workers Accommodation standards described above should be adopted in all Government contracts. Contractors should be required to confirm compliance with the standards as a prerequisite in any tender process. The grant of planning permission should be conditional upon an undertaking to adhere to and comply with the Planning Regulation. Implementation of the standards should be closely monitored, through comprehensive and compulsory accommodation site inspections as part of the labour inspections carried out by the Labour Inspections Department.³⁸
- 13.35 **Increasing the capacity of standardised labour accommodation.**
- 13.36 **We would recommend creating an additional step in the complaints procedure for migrant workers.** Complaints relating to accommodation standards should be directed to a designated worker welfare officer within the business (who is a representative of the employer) to give the employer the opportunity to remedy the complaint, where possible within a prescribed period of time.³⁹ In the event that the complaint is not remedied, migrant workers should have a secondary independent complaints reporting mechanism available to them, where complaints can be made directly to the Labour Inspection Department. We recommend that non-retaliation provisions be adopted into law protecting migrant workers from any detrimental treatment as a result of them raising a complaint. We recommend that these complaints are treated confidentially. We would recommend the regular review and publication of the total number of inspections undertaken.
- 13.37 **Contractors / employers to make available to each migrant worker safe and secure storage facilities,** where migrant workers may store and freely access their personal documents (i.e. identification documents such as passports).
- 13.38 **Accommodation information to be provided to migrant workers during initial "orientation".** We recommend that as part of the "orientation" process, guidance is provided to prospective migrant workers at the outset about the living conditions and accommodation standards to be expected when they move to Qatar.

³⁷
The Planning Regulation is annexed at **Annex R**.

- 13.39 **Addressing shortages of land.** In the longer term, we recommend that the Ministry of Municipality Affairs and Urban Planning (and Ministry of Labour and Social Affairs) engage with private Contractors and planning authorities in relation to designating enough land for migrant workers' accommodation, and address any land shortages.

Inspections

- 13.40 **Enhancement of Labour Inspection Department.** We welcome the continuing enhancement of the Labour Inspections Department, so that it can perform its function with sufficient coverage and rigour. We recommend further increasing the number of inspectors and heightened training of Inspectors in conjunction with the ILO. We consider more comprehensive, unannounced inspections including regular interviews with migrant workers are required, which should include addressing key issues such as payment of recruitment fees, retention of passports and timely payment of wages directly with migrant workers.
- 13.41 **Bolstering the powers of inspectors.** We recommend giving inspectors the power to impose sanctions for the failure to adhere to improvement notices, such as financial penalties and the power to suspend the activities of the employer (for example, for failure to adhere to an improvement notice or requiring lower graded contractors to improve their grading).
- 13.42 **Steps should be taken to ensure inspectors receive comprehensive training in order to perform their role.** This training should be compulsory for all inspectors and should include occupational health and safety, labour inspection and training on human rights standards and the Ministry of Municipality and Urban Planning's Workers Accommodation Regulation.
- 13.43 **Availability of interpreters for migrant worker interviews.** We recommend the use of interpreters in migrant worker interviews.

³⁸ We note that the Labour Inspections Department already has the power to inspect accommodation sites but the thoroughness of this aspect of the inspection is not clear.

³⁹ The complaint process should be made confidential and complainants should be protected from the threat of retaliation.

- 13.44 **Increase transparency.** We recommend publishing guidance which sets out the Labour Inspection Department's functions, procedures, and the prescribed checks on compliance with legislation during inspections.

Freedom of Association / Collective Bargaining

- 13.45 **Adoption of worker welfare standards.** We recommend as an immediate interim measure the adoption of the Supreme Committee Worker Welfare Standards (or similar standards) for all public contracts.
- 13.46 **Dissemination and communication of information.** We recommend that the Ministry of Labour and Social Affairs should regularly compile and publish data regarding mediation, conciliation and arbitration regarding collective disputes.
- 13.47 **Cooperation with ILO.** We also recommend that the State of Qatar responds promptly to any outstanding ILO requests for the provision of documentation or other information in compliance with Qatar's reporting obligations.
- 13.48 **Consultation with stakeholders on freedom of association.** The Ministry of Labour and Social Affairs should engage and consult with relevant stakeholders and publish proposals allowing migrant workers the right to freedom of association and workers' representation. Where the State of Qatar perceives grounds for limiting these rights, such as public safety and security, these justifications should be properly developed for consultation.

Access to Justice

- 13.49 **Dissemination of information to migrant workers.** Both the Ministry of Labour and Social Affairs and State of Origin embassies should coordinate the effective dissemination of information between themselves and to migrant workers. This would include the Ministry of Labour and Social Affairs briefing foreign labour attachés and hosting briefing sessions.
- 13.50 **Improved interpretation services.** We recommend an improved interpretation service for migrant workers for all forms of dispute resolution. The translation services should be publicised and the use of the services monitored to identify any future resourcing needs.

- 13.51 **Access to the Ministry of Labour and Social Affairs by migrant workers.** The Ministry of Labour and Social Affairs' general accessibility to migrant workers should be reviewed. In particular, physical access and access via the internet (assuming that this is deemed to be an appropriate resource for some of the migrant workers) should be reassessed. We understand that there is call for the Ministry of Labour and Social Affairs' online facilities to be improved and available in a wider range of languages. We would suggest consultation with State of Origin embassies to facilitate this process.
- 13.52 **Development of existing mediation / conciliation process.** We welcome the use of mediation as a method of resolving disputes out of court and suggest that the existing process of mediation / conciliation should be reviewed and developed.
- 13.53 **Abolition of legal fees / expert charges related to bringing a claim.** We strongly recommend that all fees (or expert charges) for claimants should be abolished.
- 13.54 **Eligibility for interim relief.** We recommend a review of the eligibility for interim relief, and that the conditions for any grant of interim relief should be revisited.
- 13.55 **Fast track procedure for major categories of complaints.** We believe a specialist fast track procedure should be set up for the major categories of complaints, namely those relating to: repatriation costs, late payment of salaries, end of service benefits and leave allowance. We recommend that breaches of the new legally binding Migrant Worker Model Employment Contract be included in this procedure.
14. **On-going review by independent monitoring body.** We believe that Qatar should ensure timely completion of the existing and recommended programme of reform by instituting a robust review process. We recommend the introduction of an independent monitoring and reporting body, for example the independent National Human Rights Committee, to report on an on-going basis the changes implemented in response to these recommendations.

TERMS OF REFERENCE

15. This report comprises an independent review of the legislative and enforcement framework of the State of Qatar's labour laws in the light of the numerous allegations made regarding the conditions for migrant workers in the construction sector. This report does not extend to the conditions of domestic workers.
16. In particular, DLA Piper's terms of reference require, in light of the concerns raised by the allegations made:
 - 16.1 a review of existing legislation in the context of relevant ratified international conventions and standards;
 - 16.2 identification of the extent to which the legislation meets those conventions and standards, and the extent to which the legislation is enforced; and
 - 16.3 recommendations for action to address any apparent shortcomings.

METHODOLOGY

17. In preparing this report on migrant labour in the construction sector in Qatar, DLA Piper reviewed various reports, including those published by the UN Special Rapporteur, the ILO, ITUC, Amnesty and HRW. This was followed by a detailed review of the relevant legislative framework, including relevant international and national legislation, Bilateral Treaties and international standards of best practice.
18. The purpose of this report is not to scrutinise each individual allegation to determine its reliability or otherwise. Rather, we are concerned with undertaking a comprehensive review in order to assess the allegations that there is a systemic failure of Qatari law, public administration and judicial process to protect migrant workers in Qatar.
19. DLA Piper engaged in a detailed consultation with the State of Qatar in Doha (in particular with the Ministry of Foreign Affairs (including the Bureau of Human Rights), the Ministry of Labour and Social Affairs, the Ministry of Interior (including the Human Rights Department), Supreme Council of Health and the Judiciary) and consultation with major stakeholders including the National Human Rights Committee, the Supreme Committee for Delivery and Legacy, major State of Origin embassies (namely India, Nepal, Bangladesh and Philippines), non-government actors (for example Amnesty, HRW, the Supreme Committee, and the Qatar Foundation) and Contractors.
20. In its report, HRW state that they interviewed 73 migrant workers in the construction sector (along with undertaking three group interviews)⁴⁰ and Amnesty report speaking to some 210 migrant workers in total.⁴¹ We have not investigated these statements any further, but we have taken them at face value and taken cognisance of the issues they have raised.

⁴⁰ Pages 2 and 28, HRW Report.

⁴¹ Page 12, Amnesty Report.

BACKGROUND

21. The State of Qatar is a sovereign and independent Arab state, and is a member of the Gulf Cooperation Council ("**GCC**"). Qatar's economy rapidly expanded in the early 1970's, following its independence in 1971, and Qatar quickly achieved one of the highest per capita incomes in the world through its oil and natural gas revenues. The State of Qatar commenced exporting liquefied natural gas ("**LNG**") in 1997, and by 2012 it had exported nearly 4.3 trillion cubic feet of LNG.⁴²
22. It is clear that the State of Qatar is in the process of significant, exponential growth. The process of development is set out in the "Qatar National Vision 2030", which states that by 2030 the State of Qatar aims to be an "advanced country, capable of sustaining its development and providing a high standard of living for all of its people for generations to come."⁴³ This process of development entails probably one of the largest influx of migrant workers that has been seen in modern times.
23. One high profile component of this development is the planning and preparation for the FIFA Football World Cup, which will be hosted in Qatar in 2022 ("**FIFA 2022**"). Qatar won the bid to host FIFA 2022 in December 2010 and in 2011 the Qatar 2022 Supreme Committee for Delivery and Legacy ("**Supreme Committee**") was established.⁴⁴ As a result, billions of dollars of investment are being injected into developing the State of Qatar's infrastructure including significant construction projects, which has generated a boom in construction work and, accordingly, a dramatic influx of migrant workers to work on these projects.⁴⁵
24. With such a seismic shift in the migrant worker population over such a short period of time (there were, in the third quarter of 2013, around 1.39 million⁴⁶ foreign nationals working in Qatar, making up 94% of the total workforce), this has necessarily created a gargantuan challenge for the public administration of the State of Qatar, at all levels.

⁴² Exxon Mobil http://www.exxonmobil.no/Qatar-English/PA/Files/QATAR_USAT.pdf, US Energy Information Administration, Qatar (2014) <http://www.eia.gov/countries/cab.cfm?fips=qa>

⁴³ Pillars of Qatar National Vision 2030 http://www.gsdg.gov.qa/portal/page/portal/gsdg_en/qatar_national_vision

⁴⁴ The Supreme Committee was established by Emiri Decree No 27 of 2011. The Supreme Committee is tasked with the national delivery of the World Cup in Qatar, including interaction with a range of key stakeholder audiences, including national and international business, government officials, sports organisations and local and overseas visitors. The Emiri Decree No 3 of 2014, and the Emiri Decree No 83 of 2011, established the structure and workings of the Supreme Committee, which is presided over by HH the Emir of Qatar as Chairman.

⁴⁵ This report adopts the conventional phraseology "migrant workers" when referring to non-national workers seeking employment in Qatar.

⁴⁶ Qatar Ministry of Development, Planning and Statistics, Labour Force Survey, Q3 2013, Table 6.

25. It should not be forgotten that Qatar is a country with a relatively small population that has undertaken significant legislative and public administrative reforms over the past two decades in order to align itself with international standards, and these reforms are continuing at a considerable pace within the context of the 2030 Vision.
26. Following a public referendum on 29 April 2003, His Highness the Emir decreed the Permanent Constitution of the State of Qatar ("the **Constitution**") on 8 June 2004.⁴⁷ The Constitution provides that the political system is democratic.⁴⁸ The Qatar Advisory Council is charged with national legislative development. The Constitution further provides that the State shall respect international charters and conventions and shall strive to implement all international agreements, charters and conventions to which it is party.⁴⁹ Insofar as the present report is concerned, the Constitution provides specifically:

"The State shall guarantee freedom of economic enterprise on the basis of social justice and balanced cooperation between private and public activity in order to achieve socio-economic development, increase production, ensure public welfare, raise the standard of living and provide job opportunities in accordance with the provisions of the Law."⁵⁰

The employee–employer relationship shall be based on the ideals of social justice and shall be regulated by the Law."⁵¹

All persons are equal before the Law and there shall be no discrimination whatsoever on grounds of gender, race, language or religion."⁵²

Every person who is a legal resident of the State of Qatar shall enjoy the protection of his person and property in accordance with the provisions of the Law."⁵³

27. His Highness the Emir is the Head of State. The executive authority is the Council of Ministers. The legislative authority consists of the Advisory Council. The judicial authority in Qatar is independent.⁵⁴

⁴⁷ The Permanent Constitution of the State of Qatar can be accessed here:

<http://www.almeezan.qa/LawPage.aspx?id=2284&language=en>

⁴⁸ Article 1 *ibid.*

⁴⁹ Article 6 *ibid.*

⁵⁰ Article 28 *ibid.*

⁵¹ Article 30 *ibid.*

⁵² Article 35 *ibid.*

⁵³ Article 52 *ibid.*

28. Qatar has a population of approximately 2 million inhabitants. According to a report by the Supreme Council of Health⁵⁵ as of September 2013 there were 1,332,838 migrant workers situate in Qatar from the following five major States of Origin: India, Nepal, Philippines, Bangladesh, and Sri Lanka.
29. The issue of migrant workers is a complex one. The State of Qatar shares responsibility for the welfare of migrant workers with the State of Origin governments and, the national and international businesses and contracting authorities that are involved in the development of major construction projects (including the FIFA 2022 projects). These other parties have a critical role to play in working with the State of Qatar to implement positive changes where required.⁵⁶ This includes having regard to the appropriate application of the UN Guiding Principles.⁵⁷
30. We welcome the positive progress already made by major actors such as the Qatar Foundation and the Supreme Committee in developing comprehensive welfare standards. We have made numerous recommendations in relation to the role of Lead Contractors and Sub-Contractors, which follow, in large part, the proposed standards and guidance developed by both the Qatar Foundation and the Supreme Committee. We understand that the State of Qatar is developing its own set of standards, aligned with those of the Qatar Foundation and Supreme Committee, which will be adopted for all Government projects going forward. In particular we welcome the Ministry of Municipality and Urban Planning's recently published planning and accommodation standards.⁵⁸
31. We believe that this report makes a serious contribution to protecting the rights and welfare of migrant workers in the construction sector in Qatar and provides the State of Qatar with a range of potential measures which will assist it in its process of legislative and public administrative reform within the framework of the 2030 Vision.

⁵⁴ Article 77 *ibid*.

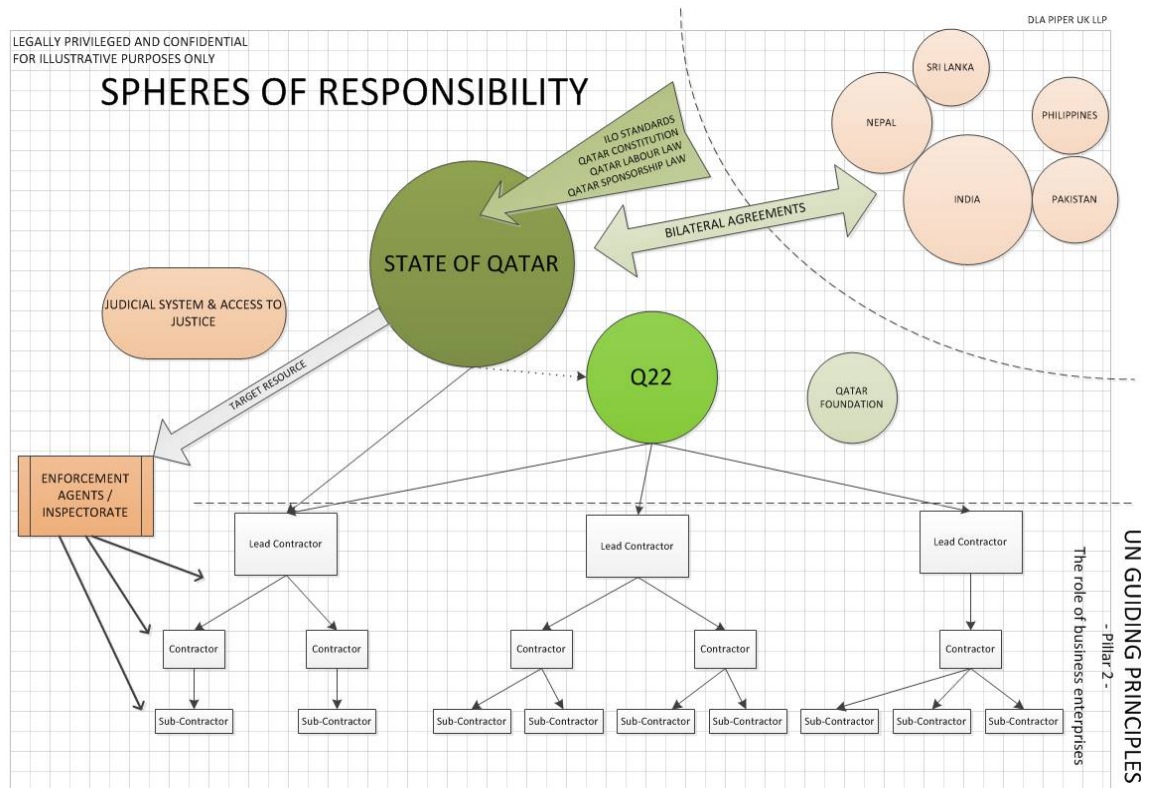
⁵⁵ Supreme Council of Health - Migrant Workers in Qatar - Statistics 2012-2013. This report was provided by the Supreme Council of Health based on data provided by the Ministry of Interior (See **Annex H**).

⁵⁶ Some changes are already well-underway, and the Qatar Foundation standards and the Supreme Committee's Workers' Welfare Standards set a very high standard which we largely endorse. These standards set a benchmark which businesses should strive to adhere to, whether by including and reflecting those standards in their contract terms as Contractors, or working to meet the standards as Sub-Contractors. The standards can be found at Annex C and D. See also Redco Construction Al Mana - Health, Safety and Welfare Management Practices at **Annex E**.

⁵⁷ For further detail on the UN Guiding Principles see:
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

⁵⁸ See **Annex R**.

SPHERES OF RESPONSIBILITY



32. In this report, we have considered particular issues in the light of the relevant government and non-government actors, and their obligations. Self-evidently issues relating to the movement and rights of migrant workers necessarily involve multi-jurisdictional considerations, and implicate both public and private actors.
33. The spheres of responsibility, we believe, can be split into three major groups, namely:
- 33.1 the State of Qatar (particularly the relevant Ministry of Foreign Affairs (including the Bureau of Human Rights), the Ministry of Labour and Social Affairs, the Ministry of Interior (including the Human Rights Department), the Supreme Council of Health and the Judiciary);
 - 33.2 the governments of the States of Origin of migrant workers; and
 - 33.3 non-State actors, such as the Qatar Foundation, the Supreme Committee and the National Human Rights Committee, and other public contracting entities and the private sector, particularly large multi-nationals and Lead Contractors.

STRUCTURE OF REPORT

34. For presentational purposes and for ease of reference, we have grouped the main issues into the following key categories, which broadly follow the typical narrative for migrant workers seeking employ in Qatar:
- 34.1 Recruitment agencies and recruitment fees (Issue 1);
 - 34.2 The "*kafala*" sponsorship system, including alleged forced labour, barriers to transfer and exit, the charge of absconding and enforcement action in relation to alleged abuses (Issue 2);
 - 34.3 Contract misrepresentation and substitution (Issue 3);
 - 34.4 Migrant worker wages and their payment (Issue 4);
 - 34.5 Health and safety of migrant workers (Issue 5);
 - 34.6 Migrant worker accommodation (Issue 6);
 - 34.7 Labour Inspections (Issue 7);
 - 34.8 Freedom of association and collective bargaining (Issue 8);
 - 34.9 Access to justice (Issue 9); and
 - 34.10 Conclusions.
35. In respect of each issue identified above, the salient points are addressed at the outset in a short executive issue summary. This is followed by an outline of the issues, our conclusions and our recommendations.

ISSUE 1: RECRUITMENT AGENTS AND RECRUITMENT FEES

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

36. A critical issue which needs to be addressed is the use of foreign recruitment agents employed to source migrant workers for employment in Qatar. Our understanding is that a large number of recruitment agents and "middlemen" in the States of Origin require fees from prospective workers in order to arrange for and facilitate their employment in Qatar. The indebtedness caused by the payment of these fees significantly burdens the migrant workers arriving into Qatar.
37. In relation to recruitment fees, HRW alleges that *"Qatar has not taken adequate steps to protect workers from these [recruitment fees]. While the Qatari labour law prohibits recruitment agents licensed in Qatar from charging workers fees or expenses associated with their recruitment, it does nothing to restrict Qatar-based recruiting agents or employers from working with recruiting agencies abroad that charge such fees."*⁵⁹
38. Amnesty alleges that *"some employers use their knowledge of workers' debt in their home countries to offer them reduced salaries on arrival. Workers in such a situation are not able to leave their jobs to go home, because their debt payments prevent it, and are unable to find another job."*⁶⁰
39. Under the Qatari national Labour Law, collection by a recruitment service in Qatar of any form of recruitment fees paid by migrant workers is expressly prohibited. This legislation regulates Qatari employers and Qatari recruitment agents, and infringement of the law is punishable with fines. However, we note that the relevant Qatari Labour Law does not have extraterritorial effect and as such is not applicable to those foreign recruitment agents or "middlemen" operating outside the State of Qatar.
40. In our view, there is a serious issue of abuse which requires prompt attention. However, it is only through coordinated action between the State of Qatar and the relevant entities in the States of Origin that these abusive practices will be eliminated. In order to assist in this process, we have sought to address the salient points arising from our review in this first

⁵⁹ Page 53, HRW Report.
⁶⁰ Page 35, Amnesty Report.

chapter, as we see the issue as being critical and intrinsically linked to the majority of the issues that follow.

41. Our review indicates that there are shortcomings insofar as the effectiveness of the existing Qatari legislation is concerned. We note that in some States of Origin the payment of recruitment fees by prospective workers is not prohibited, for example, in Nepal. As such, where employers and their recruitment agents based in Qatar use non-Qatari recruitment agents to recruit migrant workers (and those foreign agents can legitimately charge such fees under their own national laws), the practical effect is that the migrant workers coming to work in Qatar are still incurring the recruitment fees, despite the fact of the prohibition under the Qatari Labour Law. Therefore we recommend legislative amendments to strengthen the prohibition of the receipt of recruitment fees from migrant workers.
42. In addition to those legislative amendments, we suggest that effective information dissemination to migrant workers and their foreign agents is key to addressing this issue. Prospective migrant workers require, in all instances, effective "orientation" (i.e. induction into the rights and obligations of migrant workers in Qatar), both prior to embarkation and upon arrival in Qatar, in particular drawing to their attention that the payment of recruitment fees to an employer or recruitment agent based in Qatar is precluded by national law. This "orientation" training should either be given by (duly qualified) local foreign recruitment agents (under supervision of duly qualified companies), or the relevant State of Origin ministry, both in conjunction with the Qatar Embassy in the State of Origin. As a measure of monitoring and enforcement, the Labour Inspection Department should be charged with questioning migrant workers during their routine inspections as to whether any recruitment fees were paid.⁶¹

SUBSTANTIVE REVIEW

Issues

43. Foreign recruitment agents collect recruitment fees from migrant workers in order for those migrant workers to obtain work in Qatar.
44. We understand that recruitment agents and employers in Qatar are aware that migrant workers have paid such fees, despite this being prohibited under the Qatari Labour Law. Furthermore,

⁶¹ This recommendation is also dealt with in more detail in the Labour Inspections section below.

there is anecdotal evidence to suggest that in some cases employers in Qatar even deduct the cost of recruitment fees (paid by the employer directly or indirectly to the foreign recruitment agents) from migrant workers' salaries.⁶²

45. The Bilateral Treaties currently in place between the State of Qatar and States of Origin provide that the Qatari employer should bear the costs of transportation (or "travel expenses"⁶³) of the migrant worker from the State of Origin to the State of Qatar. However, we note that they make no express provision in relation to the prohibition of the collection of any form of recruitment fees directly or indirectly from migrant workers. State of Origin governments, in conjunction with the State of Qatar, are inadequately monitoring and enforcing the provisions relating to the payment of these costs in the Bilateral Treaties. Furthermore, we understand that there is a serious issue with the information provided to migrant workers before they arrive in Qatar. The Bilateral Treaties anticipate that all incoming migrant workers will be duly informed of the terms and conditions of their employment in Qatar.⁶⁴
46. It is also alleged that the agents and "middlemen" are providing misleading information to the migrant workers about the nature of the work, in particular their wages, and are failing to provide suitable information pertaining to their rights and obligations as migrant workers in Qatar. For example, migrant workers arriving in Qatar may find that their job description and wage level are different to that agreed in the State of Origin, and that they may have paid a recruitment fee (often causing them to incur a significant debt) where such fees are prohibited under Qatari law.

⁶² Page 53, HRW Report.

⁶³ See for example Article 6 (1) of the Qatar-Nepal bilateral agreement: "*The employer shall bear all travel expenses of the workers from the Kingdom of Nepal to the place of work in the State of Qatar upon entering the service for the first time as well as the expenses of the return passage.*" (at **Annex A**).

⁶⁴ See for example Article 4 of the Qatar - Nepal bilateral agreement at **Annex A**.

47. We understand that the recruitment fees charged to migrant workers can typically be approximately \$1,250 on average,⁶⁵ dependant on the migration fees levied in the State of Origin, as well as the fees levied in Qatar.⁶⁶
48. Recruitment and Processing Fees are defined in the Supreme Committee's Worker's Welfare Standards as:
- "any fees, costs or expenses charged by a Recruitment Agent or a Contractor in respect of a proposed Worker obtaining employment in the State of Qatar including any fees, costs or expenses related to medical tests, police clearances, recruitment advertisements, interviews, insurance, government taxes in the country of origin, pre-departure orientations, airline tickets and airport taxes and any fees, costs or expenses charged by the Recruitment Agent to recuperate any Placement Fees."*⁶⁷
49. We understand that migrant workers, largely without the means to make any payments upfront, may seek to borrow monies from private money lenders in order to obtain jobs in Qatar.⁶⁸ The loans from money lenders (often unlicensed or unregistered) tend to attract high interest.⁶⁹ We understand from the Amnesty and HRW Reports, and Guardian press reports, that such money lenders allegedly adopt methods of physical threats and violence and other forms of criminality against family members in the event of non-payment by migrant workers.

Conclusions on Recruitment Fees

50. Our understanding of the framework governing the recruitment process into Qatar is as follows (see also illustration below):

50.1 An employer based in Qatar requires manpower and seeks authorisation from the Ministry of Labour and Social Affairs, using a standard form request;

⁶⁵ See page 52, HRW Report which refers to fees ranging from US\$726 - US\$3,651. See also page 14, World Bank Study: "The Qatar-Nepal Remittance Corridor: Enhancing the Impact of Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process" dated July 2011 (the "**World Bank Study**") which refers to the cost of migration for Nepali workers of around US\$1,216 (which takes on average 4 - 6 months' salary to recover).

⁶⁶ As an indication of the sums that may be involved, the World Bank Study also reports that the official migration fees levied in Qatar (as at June 2009) were as follows: Visa submission fee - 220 QAR, Medical fee - 100 QAR; Visa fee - 1,150 QAR; ID card fee - 50 QAR. We understand the fees levied as at the date of this report from the employer are as follows: work authorisation fee - 100 QAR; contract certification fee - 20 QAR per contract; Visa submission fee - 220 QAR, Visa fee - 1,150 QAR; ID card fee - 50 QAR; Medical test fee - 100 QAR; Medical card fee - 100 QAR.

⁶⁷ Definitions, page 5 Supreme Committee Worker's Welfare Standards at **Annex C**.

⁶⁸ See for example page 11 of the World Bank Study which reports that 43% of 105 Nepali worker respondents used local money lenders that charged high interest rates ranging from 24 - 36%.

⁶⁹ *Ibid*.

- 50.2 This authorisation specifies the number of migrant workers permitted, their nationality and the type of work. This request for authorisation is reviewed and, where appropriate, authorised by the Ministry of Labour and Social Affairs;
- 50.3 A recruitment service company based in Qatar is used to liaise with the State of Origin to source the migrant workers, and then processes the relevant paperwork;
- 50.4 The employer based in Qatar pays a service fee / commission to the recruitment service company based in Qatar, travel expenses and any other costs of the recruitment service company. In addition, the employer in Qatar is required under Qatari Labour Law, and as per provisions in the Bilateral Treaties with the States of Origin, to pay all the migrant workers' travel costs to and from Qatar. We note that recruitment service companies (and employers) based in Qatar are prohibited from receiving, directly, from the migrant workers any recruitment fees, expenses or other costs, as per Article 33 of the Qatari Labour Law (discussed in further detail at paragraph 52 *et seq.* below);
- 50.5 The local agents in the States of Origin source migrant workers and seek the requisite authorisations for the migrant workers' departure;
- 50.6 The Qatari recruitment service company requests the necessary visas for entry into Qatar from the Ministry of Interior;⁷⁰
- 50.7 The migrant workers' employment contract is then attested by the relevant authority in Qatar and then the Ministry of Foreign Affairs in the State of Origin authorises departure;
- 50.8 The migrant workers are then screened for health issues in the State of Origin prior to embarkation;⁷¹
- 50.9 The migrant workers arrive in Qatar and are again screened for health issues;⁷²

⁷⁰ See Article 2 of the Sponsorship Law requiring that every migrant worker holds a valid passport and an entry visa showing the purpose of entry.

⁷¹ See the Executive Board of the Health Ministers' Council for Cooperation Council States "Rules and Regulations for Medical Examination of Expatriates Recruited for work in the GCC States, December 2010 (See **Annex T**) which sets out details of the medical examination which must be carried out for every migrant worker prior to embarkation. The Medical Centres which conduct the medical examination must be approved by the Executive Board of the Health Ministers Council for Cooperation Council States.

⁷² We understand this process comprises a chest scan and a blood test for communicable diseases.

- 50.10 The migrant workers are provided with a residence permit, within seven working days of arrival in Qatar.⁷³ The application for this permit is the responsibility of the employer / sponsor;
- 50.11 Renewal of the residence permit must be completed within 90 days from the date of expiry of the visa.⁷⁴ Again, this is the responsibility of the employer / sponsor;
- 50.12 The duration of employment will generally be limited to five years (but this is subject to renewal);⁷⁵
- 50.13 When a migrant worker leaves Qatar permanently, they may not usually return before a period of two years has passed from the date of departure.⁷⁶

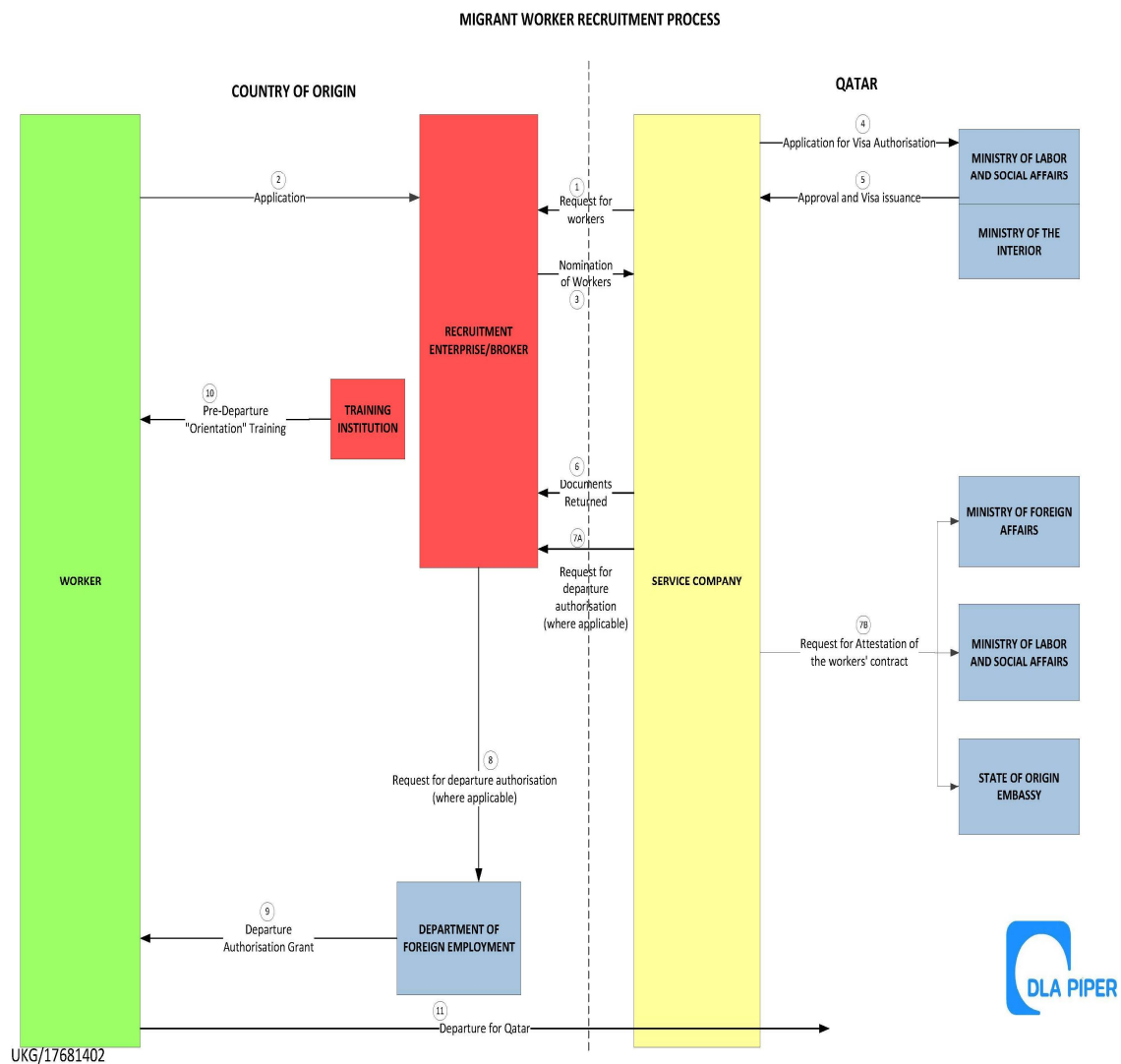
⁷³ See Article 5 of the Sponsorship Law.

⁷⁴ See Article 9 of the Sponsorship Law.

⁷⁵ See for example Article 40 of the Labour Law.

⁷⁶ A worker may return before a period of 2 years if they receive a "No Objection Certificate" from their employer. See Article 4 of the Sponsorship Law (subject to exceptions, by written consent of the Minister of Interior and sponsor).

ILLUSTRATION OF THE MIGRANT WORKER RECRUITMENT PROCESS



51. We note that, along with Qatar, none of the major States of Origin have ratified the international labour conventions on Migration For Employment⁷⁷ or the Private Employment Agencies Convention.⁷⁸

52. However, Article 33 of the Qatari Labour Law states:

"The person who is licensed to recruit workers from abroad [for others] shall be prohibited from doing the following: to receive from the worker any sums representing recruitment fees or expenses or any other costs." (emphasis added)

53. This is similar to, although not a mirror of, the provisions of Article 7(1) of the Private Employment Agencies Convention, which states that private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.

54. Article 19 of Ministerial Order no. 8 of 2005 (governing the conditions and procedures of the permit for bringing workers from abroad for a third party)⁷⁹ provides that:

"The permit holder shall be prohibited from:

Receiving any amounts from the worker in form of fees or charges imposed to bring him from abroad or any other costs."

55. The applicable Qatari legislation therefore clearly prohibits the payment by migrant workers of fees to their recruitment agent or prospective employer *in Qatar*.

56. We understand that many migrant workers are incurring debts in their home countries, by taking out private loans subject to very high interest rates, in order to pay the recruitment agent's fees in the State of Origin. As stated above, those fees may be legitimately paid by migrant workers to their recruitment agents in their States of Origin, where such fees are legal (although often capped), despite the receipt of any such fees by an employer or recruitment agent in Qatar being prohibited in Qatar.

⁷⁷ 1949 (no.97).

⁷⁸ 1997 (no.181).

⁷⁹ See **Annex K**.

57. The role of the foreign recruitment agents in the State of Origin, the significance of this debt, incurred at the outset of the migrant workers' journey, and the impact it has on the migrant workers' situation whilst in Qatar should not be underestimated.
58. For example, one of the allegations levelled in the HRW Report is that: *"Workers who took on large debts in their home countries and committed to paying high interest rates on loans found that agents had lied or misled them about the salaries they would earn, or even the jobs they would have, in Qatar."*⁸⁰
59. Plainly this issue cannot be said to fall within the State of Qatar's jurisdiction; Article 33 of Qatar's Labour Law does not have extraterritorial application. In practice, this issue needs to be addressed by the migrant workers' States of Origin. We accept, on this basis, that this issue is very difficult to detect and police from Qatar. In our view it will require a concerted effort by both the States of Origin and the State of Qatar in order to take action with a view to eliminating the abuse. Many States of Origin are heavily dependent on remittances from migrant workers. We note Engineers Against Poverty's proposal that, in the light of this, the State of Qatar should use its leverage with the State of Origin governments with a view to stepping up their efforts to address corruption and abuse by recruitment agents.⁸¹ This is in addition to the demonstrable policing and enforcement of Article 33 of the Labour Law within Qatar.
60. Furthermore, on the basis of the interviews conducted in the scope of our review, it appears that some of the activity of the foreign recruitment agents could be categorised as corrupt practices, pursuant to which unethical labour brokers, "middlemen" and other parties source and facilitate the passage of migrant workers who are "induced" into employment contracts in Qatar. Where commission or bribes are being paid along the way, these may be funded by the "recruitment fees" which are paid by the migrant workers.⁸²
61. On this point, we note that some allegations make reference to forced labour and human trafficking. In our view, these issues are triggered by the alleged falsification of the terms of employment and apparent coercion (including requiring significant "recruitment fees" from prospective workers) exerted by foreign recruitment agents / brokers and "middlemen". In

⁸⁰ Page 57, HRW Report.

⁸¹ See page 5, Engineers Against Poverty Report at **Annex L**.

⁸² According to the Verité report on Corruption and Labor Trafficking in Global Supply Chains (White Paper, December 2013 (www.verite.org)) it is estimated that "trafficking" of persons for labour generates approximately US\$32 billion annually in illicit profits for perpetrators.

this regard, it should be noted that the supply of potential migrant workers exceeds demand in many States of Origin. As such, the payment of "fees" by migrant workers competing to secure a position is commonplace, thus facilitating abuse.

62. There is anecdotal evidence to suggest that the amounts paid as "recruitment fees" include elements of corrupt or improper payment. Where a corrupt or improper payment has resulted in an indirect or direct benefit, for example by way of cheap manpower for a business, this arguably exposes that business to potential liability under bribery and corruption legislation in certain jurisdictions.⁸³ We would suggest that much of the alleged corrupt practice by foreign recruitment agents, "middlemen" and brokers could be dealt with by the adoption of effective anti-corruption legislation. This would give the State of Qatar jurisdiction over improper conduct occurring overseas but which has an effect in Qatar.
63. We spoke in particular to representatives of the Embassies of Nepal, India, Bangladesh and the Philippines on the subject of local recruitment agents and the debts incurred by migrant workers. All the embassy representatives stated that they were aware of the issues faced in their States of Origin and were taking various steps to try to combat abuse by their local recruitment agents. Notably, each embassy representative referred to lists they had available showing particular recruitment agents and employers that were blacklisted. However, it was not clear the extent to which this information was shared with the Ministry of Labour and Social Affairs or the Ministry of Interior in Qatar, or indeed the extent to which this information was readily available to the public. We would suggest this information is made public and reported regularly to the Ministry of Labour and Social Affairs. Furthermore we would strongly encourage the States of Origin to take positive steps to adopt similar anti-corruption legislation to seek to curb these practices where those States do not already have such legislation in place.

DLA Piper Recommendations

64. Bilateral Treaties and Cooperation between State of Qatar and States of Origin:

- 64.1 Bilateral Treaties with States of Origin should provide for a new standard employment contract (the "**Migrant Worker Model Employment Contract**"),

⁸³ Under both the US Foreign Corrupt Practices Act 1977 and the UK Bribery Act 2010, the payment of bribes is illegal and the Acts have wide-reaching extraterritorial effect. Furthermore, any business with a jurisdictional nexus to the UK or the US may face severe criminal penalties for failing to prevent bribery of or by their agents, joint venture partners, subsidiaries, suppliers or affiliates.

which will include express provisions prohibiting the payment of recruitment fees by migrant workers.⁸⁴ Terms of employment failing to adhere to the Migrant Worker Model Employment Contract terms, where detrimental to the employee, shall be void and unenforceable by the employer;

- 64.2 The State of Qatar and the States of Origin should introduce positive monitoring obligations and introduce a process beyond the existing joint committee meetings to review implementation of the Migrant Worker Model Employment Contract terms. For example, there should be a joint sub-committee set up between the State of Qatar and each State of Origin (which should include the relevant labour attachés) specifically tasked with monitoring the implementation of the Migrant Worker Model Employment Contracts. Further, the sub-committee should undertake a review of the complaints over a regular period, and any concerns that have been raised over that period with the relevant State of Origin embassy, and should identify and report on the details of breaches and any remedial action taken;
 - 64.3 The State of Qatar and the States of Origin should work together with international NGOs to identify and blacklist foreign recruitment agents who engage in abusive practices; and
 - 64.4 The State of Qatar should compile a list of accredited recruitment agents in the States of Origin. This list should be readily available.
65. **Worker welfare standards:** We believe that non-government actors also have a role to play in the protection of migrant workers. We note that the labour standards proposed in the standard form contracts of the Qatar Foundation and Supreme Committee set a high standard of protection for migrant workers (for example, they provide for the identification of any fees paid by workers and their prompt repayment by the employer). However, we recognise that these standards are nascent, and it has yet to be seen how these will be implemented and enforced in practice (in particular, how contractual penalty provisions will operate in practice). **Nevertheless, we would recommend that all public contracting authorities adopt these, or similar, standards as part of their prescribed procurement process in Qatar.** This, in our view, would significantly assist in preventing situations such as that reported in Amnesty's case study on Krantz;

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A draft Migrant Worker Model Employment Contract for discussion is attached at **Annex B**. This will require tailoring as the

66. **Dissemination of information:** We recommend that urgent attention is given to the dissemination of information to migrant workers in respect of the terms and conditions of their employment in Qatar, both in the State of Origin prior to embarkation and also upon their arrival in Qatar.
- 66.1 **In the States of Origin,** the Ministry of Labour and Social Affairs should work with its counterpart(s) in the State of Origin to introduce information and "orientation" centres ("**Labour Information Bureaus**") through Qatar Embassies in the States of Origin. These Labour Information Bureaus should provide "orientation" sessions, or host such training, prior to embarkation, for all prospective migrant workers, at no cost to the migrant workers. This "orientation" training should comprise a standardised curriculum prescribed by the Ministry of Labour and Social Affairs.
- 66.2 These Labour Information Bureaus should share information and strengthen guidance available to all parties based on experience. As described below, the Labour Information Bureaus should also undertake verification of proposed employment terms offered to migrant workers.⁸⁵
- 66.3 **In Qatar,** we suggest the Ministry of Labour and Social Affairs should also introduce Labour Information Bureaus with easily accessible (multi-lingual) information available to migrant workers on their rights in Qatar, with representatives available to discuss queries or concerns. Ideally these Labour Information Bureaus should be set-up in key areas populated by migrant workers.
- 66.4 We understand there are further proposals to send a labour attaché from the State of Qatar to each of Qatar's Embassies in States of Origin who will be tasked with information dissemination and issues relating to the blacklisting of rogue recruitment agencies in Qatar.
67. **Verification:** We recommend the implementation of a targeted verification requirement by the Labour Information Bureaus (within Embassies of Qatar) at the prospective migrant worker "orientation" session and / or point of signature of an offer for employment, and / or at

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Migrant Worker Model Employment Contract will vary according to the type of employment.
See paragraph 67.

the point of attestation of the employment contract in the State of Origin. This verification should cover:

- 67.1 whether recruitment fees have been paid by the migrant worker;
 - 67.2 whether the correct Migrant Worker Model Employment Contract (or employment contract incorporating similar terms) has been adopted;
 - 67.3 whether the migrant worker has been given the appropriate explanation of the proposed role; and
 - 67.4 whether the correct wage has been adopted and explained to the migrant worker.
68. This verification process should be repeated when migrant workers arrive in Qatar. Further, in the context of site inspections, when the Labour Inspection Department within the Ministry of Labour and Social Affairs undertakes interviews as part of its inspection process, one question it should be required to ask is whether the migrant worker has paid any recruitment fees and if so, to provide the full details to the inspector. This should be immediately flagged and promptly followed-up.
69. **Provision of training:** We recommend that the Ministry of Labour and Social Affairs develops its existing training to businesses in order to help them evaluate any issues in their labour supply chains. This training should also encourage whistleblowing and reporting by migrant workers and, where necessary, offer appropriate guarantees of protection against retaliation.⁸⁶
70. **Streamlining of the system of redress:** There are currently limited redress mechanisms in place (through the Ministry of Labour and Social Affairs' complaints process and / or through the State of Origin embassies) which provide migrant workers with protection against abusive practices relating to the payment of recruitment fees and changes to their terms and conditions of work. Without proper redress mechanisms, there will be insufficient information available to identify the scale of the issue and to develop suitable methods for eliminating the problems. The current system is, in our view, complex and needs to be streamlined.

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We understand that the Ministry of Labour and Social Affairs provides training to businesses in respect of work sites and worker accommodation, and this should be enhanced in light of this recommendation.

71. We consider that the fear of employer retaliation may impede effective reporting of improper recruitment practices. We recommend that steps are taken to **encourage reporting and allay concerns of retaliation**, whether by facilitating reports to labour inspectors, or to a designated body within the Ministry of Labour and Social Affairs, or to someone entrusted with a reporting role at the migrant workers' employment site or accommodation site.
72. **Raise awareness of methods of reporting for migrant workers:**
- 72.1 There are currently a number of ways by which migrant workers report abuse, including:
- attending the Ministry of Labour and Social Affairs, Labour Relations Department;
 - using a telephone hotline; and
 - communication by email.⁸⁷
- 72.2 There is also a Guidance and Advisory Team established by the Ministry of Labour and Social Affairs who are available to provide guidance to workers in the workplace and respond to any queries and complaints. We recommend that appropriate resources should be dedicated to researching the most effective methods of communication with migrant workers, and that those methods that are found to be the most effective are developed.
- 72.3 We propose that there should be a point of contact within the Ministry of Labour and Social Affairs specifically for complaints relating to recruitment agents.
- 72.4 We also propose that major employers be required to have a compliance / reporting officer that migrant workers can approach to discuss concerns on an anonymous basis when necessary. The designated compliance / reporting officer should report concerns on a regular basis, both to the employer and a dedicated representative in the Labour Relations Department at the Ministry of Labour and Social Affairs.
73. **We recommend amendments to the existing legislation (Article 33 of the Labour Law) to extend the prohibition on receipt of fees by licensed agents in Qatar to "directly or**

indirectly, in whole or in part, any fees or costs to the worker". This should also be reflected in Article 19 of the Ministerial Order No.8 of 2005. To the extent this does not encompass the receipt of funds directly or indirectly from the migrant worker by the sponsor or employer (or any other party) in Qatar this should also be expressly prohibited.

74. **Licensing of recruitment agents:** We recommend that there should be a review of the process of licensing of recruitment agents in Qatar, and a comprehensive vetting process.

74.1 **We suggest heightened vetting / due diligence** in relation to the awareness and practices of recruitment agents in Qatar, including self-reporting and targeted questions of migrant workers on this topic during Labour Inspection visits. This may include a requirement that recruitment agents provide ethical recruitment certification in respect of any foreign recruitment agent or broker used. We suggest that vicarious liability should be introduced for employers / sponsors / recruitment agents in the event that foreign recruitment agents they are using outside Qatar are found to be charging fees to migrant workers.

74.2 **We propose that the grant of a licence to recruitment agents in Qatar should be subject to an obligation to respect the Migrant Worker Model Employment Contract**, which contains provisions relating to the prohibition of payments of recruitment fees by the migrant worker. Repeated non-compliance with the Migrant Worker Model Employment Contract (or equivalent) terms should result in loss of licence. Alternatively, the State of Qatar could take a more robust stance and prohibit *any* dealing with foreign recruitment agents that charge migrant workers fees.

74.3 We recommend that all contracts with foreign recruitment agents should have an express term providing that the foreign recruitment agents engaged will not charge migrant workers fees.

75. The Ministry of Labour and Social Affairs and Ministry of Interior should have increased enforcement powers to act against any employer / sponsor / recruitment agent found to be accepting the payment of fees from migrant workers, or benefitting directly or indirectly from such payment, in breach of the Qatari Labour Law. In this regard, we welcome the State of Qatar's proposal for enacting legislation which will allow the Ministry of Labour and Social

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Although we query the relevance of this as most migrant workers do not have access to the internet.

Affairs and Ministry of Interior to **blacklist recruitment agents found to be accepting recruitment fees from migrant workers in breach of Qatari Labour Law** (or otherwise acting unethically). Cooperation between the Ministry of Interior and the Ministry of Labour and Social Affairs in Qatar will be required in order to effect this.

ISSUE 2: KAFALA SPONSORSHIP SYSTEM

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

76. The issue of the *kafala* sponsorship system is one which is perceived to go to the heart of the migrant labour issues in Qatar. The effect of the sponsorship system is to regulate the framework of migrant workers' activity whilst in Qatar.⁸⁸
77. Amnesty alleges that the sponsorship system is a "*recipe for exploitation and forced labour*" and the "*means by which unscrupulous employers in Qatar exert control over their foreign workforce*".⁸⁹ Amnesty alleges that the existence of the exit visa system in its current form constitutes a violation of the right to freedom of movement.⁹⁰ Further, it reports that the "*vast majority of the workers that [Amnesty] interviewed had their passports confiscated by their employers*".⁹¹ Amnesty claims that the fact that it is difficult for migrant workers to leave their employers "*increases the risk of forced labour*".⁹²
78. HRW alleges that "*Qatar's Sponsorship Law remains one of the most restrictive in the Gulf region, leaving workers at the mercy of their sponsoring employers. Workers cannot change jobs or leave the country without their sponsor's written permission. While the law does allow transfer in cases of abuse, government authorities rarely grant such transfers in practice*".⁹³ Further, HRW alleges that "*employers' failure to secure work permits for their employees, as well as a practice of confiscating employees' passports upon arrival, restricted workers freedom of movement under international law*".⁹⁴ In conjunction with the limitations the sponsorship system places on the transfer of employees, "[workers] are, in fact, in conditions of forced labour".⁹⁵ Further "*labour ministry officials... showed little concern for curbing this wide-spread [passport confiscation] practice*".⁹⁶
79. The ILO states that although Qatar's Sponsorship Law aims "*to offer protection to workers while taking duly into account the interests of their employers, there are difficulties with*

⁸⁸ We note in this context that our understanding is that a migrant worker's designated "sponsor" can often, although not always, be synonymous with their employer. See also the UN Special Rapporteur's Report at page 7, **Annex F**.

⁸⁹ Page 93, Amnesty Report.

⁹⁰ Page 99, Amnesty Report.

⁹¹ Page 31, Amnesty Report.

⁹² Page 55, Amnesty Report.

⁹³ Page 51, HRW Report.

⁹⁴ Page 71, HRW Report.

⁹⁵ Page 55 HRW Report.

⁹⁶ Page 73, HRW Report.

*regard to the application of such provision in practice, such as the requirement to register workers, the prohibition of the confiscation of passports and the apparent infrequency of transfers of sponsorship."*⁹⁷ The ILO observes that *"some provisions of this legislation (particularly concerning the limitations relating to migrant workers leaving the country or changing employment) appear to be disproportionately restrictive and made it difficult for workers who may be facing abusive situations to leave"*.⁹⁸ Whilst the ILO acknowledges the importance of the protection of the interests of employers, and recognises the need for respect for the mutually agreed terms of the employment contract, it notes that *"legislative provisions should not have the effect of preventing workers from leaving their employment in the case of an abusive situation, or with reasonable notice in cases of contracts of long duration."*⁹⁹

80. Our review confirms that the *kafala* sponsorship system, in its existing form, is no longer the appropriate tool for the effective control of migration in Qatar. There are plainly circumstances in which the *kafala* system could be abused, with potential detrimental effect. We set out below our recommendations which seek to address the perceived shortcomings, whilst having regard to the origins of the sponsorship system.

SUBSTANTIVE REVIEW

Issues

81. A key criticism levelled at the *kafala* system is that migrant workers are subjected to **forced labour as a direct result of the operation of the sponsorship system**.¹⁰⁰ We consider there to be various aspects to this, as follows:

81.1 Whether the existence of the *kafala* sponsorship system itself, and the need for a sponsor (or *kafeel*) in Qatar, is inherently abusive;

81.2 It is alleged that the control exerted by employers / sponsors over migrant workers by virtue of the sponsorship system can give rise to abuse as a result of the following factors:

⁹⁷ Paragraph 54, Report of the Director-General, 320th Session, Geneva, 13-27 March 2014 GB.320/INS/14/8.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

¹⁰⁰ We note that Qatar has ratified two key international conventions relevant to our review of this issue: (i) Abolition of Forced Labour Convention 1957 (no.159); and (ii) Forced Labour Convention 1930 (no.29).

- "Confiscation" of migrant workers' passports, despite an express provision in the Sponsorship Law requiring the sponsor to return passports after the procedure for obtaining a residence permit is completed.¹⁰¹
- The fact that migrant workers may not leave the country unless they have an exit permit issued by the sponsor. It is alleged that employers / sponsors are using this authority to prevent migrant workers from leaving Qatar thus giving rise to circumstances of apparent forced labour.
- The migrant workers' inability to readily transfer sponsor, even in the event of an alleged abuse by the employer / sponsor (such as non-payment of wages).¹⁰²
- Under Qatari law, employers are also required to fund the migrant workers' repatriation costs but employers may refuse to do so by alleging a breach of contract by the migrant worker.¹⁰³
- The threat of reporting a migrant worker as "absconding" also gives rise to potential for abuse.
- Finally, any available means of recourse by way of a claim in the labour court or before the Department of Human Rights can be complicated, incur costs for the migrant worker and can take months to resolve.¹⁰⁴

82. These factors can result in a situation where migrant workers are "trapped" in Qatar, with an abusive employer, and without means of exit or the ability to legally transfer to another employer for months.

83. The result is that migrant workers can be left with no option but to actively opt to "abscond", by leaving their existing employer / sponsor, who is required to report them as "absconders" and, in so doing, renders them illegally resident in Qatar. The migrant worker is then left seeking employment on the black market.¹⁰⁵ We understand that significant delay in payment

¹⁰¹ Article 9 of the Sponsorship Law.

¹⁰² In some cases employers (illegally) seek reimbursement from the migrant worker for recruitment fees paid by the employer to foreign recruitment agents, as detailed in the section on wages in Issue 4 below.

¹⁰³ In practice the qualifying breaches may be broadly drawn in the relevant legislation and, indeed, broadly interpreted by employers and thus difficult for workers to dispute.

¹⁰⁴ We understand a claim can take on average up to 12 months to be reviewed.

¹⁰⁵ We understand fines for employers for retaining an "absconder" worker can be up to 50,000 QAR.

and / or non-payment of wages in particular are major causes for migrant workers actively "absconding".

84. If caught (which would usually occur as a result of a search raid by the Ministry of Interior), "absconding" migrant workers are subject to detention orders pending the review of their case. The UN Special Rapporteur's Report on Migrant Workers¹⁰⁶ notes that "*detention may be ordered for thirty days, "renewable for several similar periods" [pursuant to the Sponsorship Law], which may lead to long term administrative detention, in some cases as much as one year.*"

Conclusions on the Sponsorship System

85. In this section we have considered the following:

- 85.1 The sponsorship system;
- 85.2 The sponsorship system and barriers to exit;
- 85.3 The sponsorship system and barriers to transfer of employment; and
- 85.4 The sponsorship system and the charge of absconding.

I. THE SPONSORSHIP SYSTEM

86. Qatar currently has a need for a large migrant worker population. However, we understand Qatar has no desire to encourage mass long-term immigration. Migrant workers are recruited on the basis of contracts which are, by their very nature, short to medium term (the typical duration of a migrant worker's employment contract is two to three years).
87. In modern times, the *kafala* (meaning "guardian" or "caretaker") system, as codified in the Sponsorship Law, was developed with a view to safeguarding the rights and interests of employers on the one hand and the rights and interests of migrant workers on the other. The system serves to reflect the risk the employer assumes in employing the migrant worker, including potential exposure to criminal liability, non-payment of debts to third parties and repatriation arrangements. At the time the *kafala* system was introduced, there were only a small number of migrant workers in Qatar. Now, the system is being used to regulate the

¹⁰⁶ Page 13, see **Annex F**.

employment of approximately 1.39 million migrant workers in Qatar, the majority of whom are working on large construction projects for relatively short periods of time (i.e. two to three years). We therefore recognise that the *kafala* sponsorship system, as it operates today, would benefit from a wide-ranging process of reform.

88. Article 15 of the Sponsorship Law states that "expatriates" can only work in Qatar when they are sponsored by their employer. It provides that migrant workers may be temporarily transferred to another employer for work for a period of up to 6 months (subject to renewal) subject to authorisation by the competent authority (Ministry of Interior).
89. Article 2 of the Sponsorship Law provides that no "expatriate" may enter or exit Qatar unless they hold a valid passport / travel document and an entry visa, issued by the competent authority (Ministry of Interior), and showing the purpose of entry.
90. Within seven days from entry the sponsor and migrant worker must attend the competent authority (Ministry of Interior / Ministry of Labour and Social Affairs) to complete the procedure to obtain a work permit / residence visa.¹⁰⁷
91. Article 23 of the Qatari Labour Law provides certain conditions which apply to the grant of a work permit for non-Qatari nationals. These include that the migrant worker must:
 - 91.1 be in possession of a residence permit;¹⁰⁸
 - 91.2 be reputable and medically fit; and
 - 91.3 the validity period of the work permit shall be limited to the permitted residence period, which, in any case, cannot exceed five years unless the approval of the Ministry of Labour and Social Affairs is obtained.
92. Article 25 of the Qatari Labour Law grants the power to the Minister to cancel the work permit in certain circumstances, including "where the migrant worker is dismissed on disciplinary grounds or the migrant worker discontinues employment, for a cause related to him, without acceptable excuse for more than three months". Where the employer terminates the contract, and the Minister cancels the work permit, the employer / sponsor is no longer required to repatriate the migrant worker, nor to provide any other maintenance or

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Article 5 of the Sponsorship Law.

accommodation pursuant to the contract. The migrant worker is required to return to the State of Origin at his own cost.

93. We understand that where there is a dispute between an employer and a migrant worker, and the employer alleges a breach of Qatari Labour Law by the migrant worker (specifically the grounds set out at Article 61 of the Labour Law), the employer is no longer bound by the terms of the employment contract and may dismiss the migrant worker without notice and without payment of the end-of-service gratuity. In these circumstances the employer / sponsor is not required to provide an exit permit, nor to cover the cost of and arrangements for repatriation: the employer / sponsor essentially disowns the migrant worker and the migrant worker must bear the costs of repatriation, unless and until a claim is brought and the relevant court finds in favour of the migrant worker. In reality, many migrant workers are not in a financial position to incur these costs. We understand that this process, monitored by the Ministry of Labour and Social Affairs, can take months. Article 51 of Qatari Labour Law sets out the corresponding grounds on which a migrant worker can terminate his employment contract (i.e. where the employer breaches his obligations under the contract).
94. Having reviewed the legislative framework, we recognise that the system is open to potential abuse by employers / sponsors and cumulative elements of the system impact on the free movement of migrant workers. For example, we note that it is illegal under Qatari law for employers / sponsors to retain migrant workers' passports once all immigration formalities have been completed, but our review suggests that this requirement is not respected by a large number of employers / sponsors.
95. In our view, there are two major areas in which the abuse of the *kafala* system could be seen to constitute an infringement of migrant workers' human rights: (i) the exit visa regime; and (ii) the grant of permission to transfer employment. These are addressed below.

II. THE SPONSORSHIP SYSTEM AND BARRIERS TO EXIT

96. Migrant workers seeking to leave Qatar require their passports and an exit permit issued by the sponsor.

¹⁰⁸ Article 44 of the Sponsorship Law prescribes the requirements for issue of a residence permit, namely: the applicant provides the documents supporting his application, the applicant is reputable and passes the medical test.

97. Notwithstanding Qatari legislation which precludes the retention of migrant workers' passports, we understand that in practice the employer / sponsor holds the passport (illegally, if it is retained by them). In addition only the employer / sponsor has the authority to apply for the exit permit.
98. Insofar as the retention of passports by employers / sponsors is concerned, this is a problem which has been raised by a number of non-Government entities, including the ILO.¹⁰⁹
99. Whilst passport retention is illegal under Qatari Sponsorship Law,¹¹⁰ we understand this practice continues to occur in many cases in Qatar. Indeed, we were told by representatives of the private construction sector in Qatar that for security reasons, passports are retained in about 90% of cases.¹¹¹ The embassies we spoke to confirmed this practice as the norm, and the private contractors we spoke to also explained that they retained the passports of migrant workers as a matter of common practice.
100. The term "confiscated" is used extensively in the Amnesty and HRW Reports to refer to the circumstances in which passports are retained. "Confiscated" suggests that the passports are being taken from migrant workers against their will and retained indefinitely, and that they are not provided upon request.¹¹² Our review indicates that passports are not always taken against the migrant workers' will. Anecdotal evidence indicates that migrant workers accept that their employer / sponsor will retain passports, in order to facilitate visa / residence permit renewals. These processes require presentation of the original passport in order to insert the residence permit / visa into the passport.¹¹³ Moreover, the migrant workers generally have no facility to store these papers safely and independently, and therefore many request that their employer holds their passport for safekeeping. Otherwise, we were told the migrant workers may lose the passports and this leaves the employer having to incur the time and cost of obtaining a replacement from the State of Origin embassy for visa renewal. Where visas have expired, employers are required to pay a daily penalty until it is renewed. Indeed, the contractors we met with reported that they had never encountered a situation where a migrant worker had requested the return of their passport. However, they had experienced fines being levied on them for failure to renew visas.

¹⁰⁹ See the ILO Eighth Supplementary Report.

¹¹⁰ Article 9 of the Sponsorship Law requires the sponsor to return the passport or travel documents to the sponsored person once the procedures for issuing a residence permit are complete. The penalty for breach of this provisions is 10,000 QAR (as provided in Article 52).

¹¹¹ Meeting with contractors, 19 February 2014, Doha, Qatar.

101. Whilst the issue of passport retention may arise, to a degree, out of convenience to the employers / sponsors, and we recognise that it may, in some circumstances, make sense for employers to safeguard migrant workers' passports (provided that the migrant workers had quick and easy access to them), it is concerning that the employer's default position is to retain passports, in direct contravention of the Sponsorship Law. This demonstrates that the existing provisions are ineffective.
102. Where migrant workers are refused an exit visa, we understand an appeal procedure is available before the Human Rights Department, within the Ministry of Interior. Where an employer fails to repatriate a migrant worker (i.e. fails to provide the exit visa without good reason and fails to meet the costs of repatriation) the Ministry of Interior issues a flight ticket for that migrant worker and the employer / sponsor is then blacklisted from further sponsorship until the travel costs are reimbursed.
103. We understand that the current approach by which the Ministry of Interior warns employers to promptly return passports where complaints have been received is a pragmatic response to the situation. We recommend that the State of Qatar strengthen its efforts to ensure that no migrant workers have their passports retained and that those employers / sponsors found to retain passports are adequately sanctioned. In this regard, the State of Qatar should develop a more formal sanctions regime, giving the Ministry of Interior the ability to levy civil sanctions in order to enhance deterrence of this practice.

III. THE SPONSORSHIP SYSTEM AND THE CHARGE OF ABSCONDING

104. Article 11 of the Sponsorship Law provides that migrant workers who are granted permission to reside in Qatar for a certain purpose (and to work for a particular employer) should not breach that purpose. Violation of this requirement would include leaving employment with that employer and / or working for an alternative employer. This action is termed "absconding", describing the situation where the migrant worker effectively renounces working for / with the employer / sponsor. In this case, the employer / sponsor reports the migrant worker to the Ministry of Interior and in so doing formally severs all ties to the migrant worker.¹¹⁴

¹¹² We refer to passport "retention" throughout this report, adopting the ILO's terminology.

¹¹³ To this end, certified copies of passports would not provide a suitable alternative.

¹¹⁴ Article 24 of the Sponsorship Law.

105. Once a migrant worker is registered as an "absconder" that worker becomes illegally resident in Qatar.
106. Amnesty reports that *"if a person is detained for "absconding" they face the prospect of heavy fines, before being deported, and can even face criminal charges."*¹¹⁵
107. In the event of a "search raid" by the Ministry of Interior Search and Follow-up Department, registered "absconders" are detained¹¹⁶ and referred to the Residence Affairs Prosecution, a section within Qatar's General Prosecution Service.
108. We understand that the question of whether a migrant worker is deemed to have absconded or not is determined by an investigation carried out by the Residence Affairs Prosecution. The Residence Affairs Prosecution has the authority to order detention, release the migrant worker or refer the case to the Residence Affairs Court. The migrant worker may either be convicted or acquitted following the hearing before the Residence Affairs Court.
109. Where the migrant worker is convicted, there is a right of appeal. We understand the "absconder" migrant worker also has the right to attempt conciliation with the employer / sponsor which, if successful, cancels the criminal charges against him.
110. We note that Article 36 of the Qatari Constitution states that *"personal freedom shall be guaranteed and no person may be arrested, detained, searched, neither may his freedom of residence and mobility be restricted save under the provisions of the law; and no person may be subjected to torture, or any degrading treatment; and torture shall be considered a crime punishable by law"*. In our view the criminalisation of "absconders" (and their detention) arising out of a contractual breach is inconsistent with this Article.
111. Indeed, as we consider at Issue 9 below (Access to Justice) the availability of redress mechanisms (and the effectiveness of any such redress) to migrant workers in the context of being charged with "absconding" is a key concern.
112. Article 11 of the Universal Declaration of Human Rights is explicit in stating that where a person is charged with a penal offence, they must have the right to a fair trial. Article 39 of the Qatari Constitution enshrines this right as it states that an accused person is presumed innocent until his conviction is proved before a court of law. Therefore, the fact that migrant

¹¹⁵ Page 95, Amnesty Report.

workers are automatically criminalised and deemed to be "absconders" without a trial or hearing process appears to contravene migrant workers' right to a fair trial.¹¹⁷

113. **Review and reporting of detention standards.** Qatar has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 11 of this Convention states that each member state shall keep under systematic review the arrangements of custody and treatment of persons subjected to any form of arrest, detention or imprisonment. We recommend that Qatar demonstrates that detention standards are in line with the recommendation of the UN Special Rapporteurs' Report on the Human Rights of Migrants in Qatar, namely that they are given appropriate medical care, adequate food and clothes, a bed and clean sheets, adequate space to move around and exercise; have access to information in a language they understand as to the reason for their detention, its duration and the right and means to challenge the detention; and ensure easy access to a means of contacting their family, consular services, an interpreter and a lawyer, free of charge if necessary.¹¹⁸ In particular, we recommend a review of the anomaly arising out of the criminal detention of migrant workers in the event of a civil breach of contract and, where detention is deemed reasonable and proportionate, a review of the duration of any detention of migrant workers, as well as access to translators and legal representation prior to and during such detention period.

IV. THE SPONSORSHIP SYSTEM AND BARRIERS TO TRANSFER

114. Article 12 of the Sponsorship Law sets out the circumstances in which a migrant worker can request a transfer to another employer / sponsor. The Ministry of Interior has the exclusive right to decide on the application for sponsorship transfer, which we understand is premised on the provision of a "No Objection Certificate" (or "NOC") from the employer / sponsor authorising the transfer of the migrant worker.
115. Article 22 of the Sponsorship Law provides that the Ministry of Interior shall transfer the expatriate worker to another employer following the consent of the Ministry of Labour and Social Affairs and the written consent or agreement (the NOC) between the proposed new employer and the current employer.

¹¹⁶ We understand detention can be for up to 4 days, at the Deportation Detention Centre.

¹¹⁷ A migrant workers is deemed to be an "absconder" and becomes an illegal resident in Qatar once the sponsor reports the migrant worker to the Ministry of Interior, at which point the accused will not have had an opportunity to be heard.

¹¹⁸ Recommendation at page 21, UN Special Rapporteur Report on the Human Rights of Migrants, see **Annex F**.

116. The Minister of Interior may grant a transfer on a temporary basis where there are any claims filed between the sponsor and migrant worker.
117. In the event of an "abuse" by an employer / sponsor or "as required by the public interest", the Ministry of Interior may grant a permanent sponsorship transfer, upon recommendation by the Human Rights Department (which sits within the Ministry of Interior).
118. We understand that a particular issue that arises in this context is the employer / sponsor's refusal to provide the NOC where there is a dispute between the employer / sponsor and the migrant worker. The permissible reasons for refusal are not clear, but we understand can include non-payment of a debt.¹¹⁹
119. We understand that the appropriate procedure for making a request for transfer depends on the existence of a dispute between the employer / sponsor and the migrant worker.
120. In the event of a dispute related to sponsorship between the sponsor and migrant worker, the transfer process should be commenced before the Search and Follow-up Department within the Ministry of Interior, and can be referred to the Human Rights Department (also within the Ministry of Interior). When referred to the Human Rights Department, the Complaints and Appeals section of the Department examines the complaint and refers to the terms of the employment contract, the Sponsorship Law, the Labour Law and the statements taken from both parties, along with any evidence and documents in support provided by the parties. The possible outcomes of the process are:
- 120.1 where the employer is deemed to have acted unjustly, the Human Rights Department will recommend permanent transfer of sponsorship. This typically includes cases where the employer:
- dismisses the migrant worker before the end of the contract term or;
 - requires the worker to provide services other than those provided for in the contract;
 - fails to provide a proper job for the migrant worker;

¹¹⁹ We understand this debt may comprise in whole or in part repayment of recruitment fees to the employer.

- fails to pay wages for more than three months;¹²⁰
- mistreats the migrant worker; or
- breaches any other terms of the contract (including failure to provide suitable accommodation).

120.2 where the claim is deemed valid and is still under review by the judiciary, the Human Rights Department may recommend temporary transfer pursuant to Article 12;

120.3 where the claim is deemed defective, the request for transfer will be rejected. This decision is based on various factors, including;

- the sponsor having fulfilled his obligations towards the migrant worker in terms of wages, overtime and end of service benefits;
- the termination of the contract in accordance with the law without any dispute between the parties in this respect; and
- lack of evidence of an injustice committed by the sponsor.

121. Where there is no dispute between the employer / sponsor and the worker, the transfer is effected by the General Directorate of Borders Passports and Expatriates Affairs, following approval of the relevant department within the Ministry of Labour and Social Affairs (i.e. with the NOC duly provided by the sponsor).¹²¹

122. It is clear that the issue of transfer of employer / sponsor is a major problem for migrant workers in Qatar. Whilst provision has been made in the existing national law for a migrant worker to have the ability to transfer to another employer, in reality this arises only in limited circumstances (and is subject to Minister of Interior approval). The ability and ease with which migrant workers are able to do this in practice remains unclear. To this end, the ILO noted that the number of sponsorship transfers approved between 2010 and 2013 (471 transfers) appeared to be quite low compared to the large population of migrant workers in the

¹²⁰

We note as a recommendation that this period is unreasonable and should be reduced.

¹²¹

Response to questions provided to the Ministry of Labour and Social Affairs and Ministry of Interior.

country, and that this could indicate concerns regarding the accessibility of processes for migrant workers to transfer sponsorship.¹²²

123. The statistics that we have seen, supported by anecdotal evidence, suggests that the existing system is inefficient and, in practical terms, provides the employer / sponsor with a disproportionate level of control over the migrant workers' freedom of movement.¹²³ The current system allows the migrant workers' freedom to be compromised for what may be a simple breach of the employment contract. The fact that the ultimate penalty for breach of contract is criminal detention (prior to any trial) lends weight to the allegation that the *kafala* system constitutes forced labour. The transfer process under the sponsorship system arguably runs counter to the provisions of the national Constitution which provides for the guarantee to all persons of their personal freedom.

Overall Conclusions On The Sponsorship System

124. We understand that the Ministry of Interior has already reviewed the current system and proposed reforms aimed at reducing the risk of restricting migrant workers' freedom of movement are already being implemented. The proposed reforms include:
- 124.1 In all cases, at the end of a period of three years, a migrant worker will be entitled to transfer to a new employer in any event. After this period, the NOC is not required. Therefore, the current employer / sponsor will not be able to withhold permission to transfer to the proposed new employer / sponsor, as the NOC will no longer be required;
- 124.2 Migrant workers wishing to exit Qatar will be able to submit an application to the Ministry of Interior for an exit visa. Once the application is submitted, there will be a short, limited period for the employer / sponsor to object. Any objection must be reasonable and can, in any event, be overridden by the Ministry of Interior; and
- 124.3 In order to protect employers' interests, reasonable non-compete clauses will be permitted in employment contracts.

¹²² Paragraph 53, ILO Eighth Supplementary Report.

¹²³ The Ministry of Interior's report on the employment situation in the State of Qatar states that 84% of the complaints received by the Human Rights Department in 2013 were related to sponsorship transfer (see **Annex U**).

125. This reform was submitted to the Council of Ministers on 9 April 2014 and will be effective by the end of May 2014.
126. We welcome this significant step forward and the positive action taken by the Ministry of Interior to address the concerns outlined above.

DLA Piper Overall Key Recommendations:

127. Given the relevance and importance of the issues concerning the sponsor transfer process, exit visas and the charge of absconding to the overall migrant worker situation in Qatar, we have set out below a number of key recommendations specifically addressing each of these headline issues. We have then set out a series of further recommendations.
128. **We recommend that the State of Qatar conducts a wide-ranging and comprehensive review of the *kafala* sponsorship system with a view to implementing reforms which strengthen and protect the rights of free movement of migrant workers in line with Qatar's international obligations.** The review should address whether certain aspects of the system should be abolished or phased out over time. We welcome the initiatives that are already being undertaken by the Ministry of Labour and Social Affairs and Ministry of Interior. The review should focus in particular on the following recommendations:

Key Recommendations: Sponsor Transfer

129. **Revocation of the right of an employer / sponsor who abuses the *kafala* system and / or breaches Qatari Labour law from objecting to the migrant worker transferring employment.** We understand that this is already part of the Ministry of Interior's current package of reform measures and would strongly recommend this is adopted as soon as practicable. As mentioned at paragraph 124 above, this would mean an employer / sponsor that is in breach of its obligations under the *kafala* system should no longer have the right to prevent a migrant workers' transfer to another employer / sponsor.
130. In the event that an employer / sponsor disputes the request for transfer, they should have a prescribed period of time (48 - 72 hours) in which to lodge their objection to the transfer. The burden of proof should rest on the employer / sponsor to demonstrate and adduce evidence to support any objection to the transfer. The grounds for objection should be clearly defined and exhaustive. In the event of a material breach of Sponsorship Law or Labour Law by the

employer / sponsor, the default position should be that the Ministry of Interior should order the transfer.

Key Recommendations: Exit Visas

131. **Review of the requirement for an exit visa.** The exit visa system should be revised in order to minimise the scope for abuse and the infringement of the migrant workers' freedom of movement. The Government should review and reconsider the necessity of an exit visa under the *kafala* sponsorship system. We believe that the rights of employers / sponsors and creditors can be adequately protected by recourse to judicial process; in our view the only justifiable reason for denying a migrant worker permission to leave the country would be in situations which involve significant criminality or threats to national security.
132. **A migrant worker should have the right to apply to the Ministry of Interior for the issuance of an exit visa,** and within a short period prior to the date of desired departure from the country (for example, up to 72 hours). The Ministry should then notify the migrant workers' employer / sponsor of the request for an exit permit and they should be given the opportunity to adduce the appropriate evidence in support of their objection. The default position should be that a permit would be granted in the absence of compelling evidence of significant criminality or threats to national security. Accordingly, we believe that Article 18 of the Sponsorship Law should be substantially reformed.
133. **Migrant workers should be provided with clear information as to their rights and access to representation by the Labour Relations Department (in the Ministry of Labour and Social Affairs) in the event the migrant worker believes a request for an exit visa has been unjustly refused.**

Key Recommendations: Passports

134. We recommend that **employers be required to make secure and lockable storage for personal items available to all migrant workers.** The Qatar Foundation / Supreme Committee Worker Welfare Standards address the issue of passport retention comprehensively from a contractual standpoint (i.e. the standards are incorporated into and

enforced through the contractual chain), and we recommend that the same or similar standards are adopted by all public contracting authorities in the procurement process.¹²⁴

135. Further, **the Labour Inspection Department should make enquiries as to the whereabouts of migrant workers' passports** during the course of inspections. **Any employers / sponsors retaining passports in violation of Qatari law should be subject to penalties, including significant fines and the revocation of sponsorship licences for material breaches and repeat offenders.** This should be enforced vigorously.

Key Recommendations: Charge of Absconding

136. **Clarification of the proper application, framework and appropriate supervision of the sponsorship termination mechanism.**
137. **Migrant workers should be afforded due process of law**, including the right not to be unlawfully detained, at the point the employer / sponsor makes an "absconding" report to the Ministry of Interior.

Further Recommendations

138. When visa renewals are being undertaken and the original passport is required, migrant workers should be provided with a copy of their passport and be given a clear indication of when the original will be returned. For any other process requiring identification documents, a copy document should be taken by the employer / sponsor. This should be clearly prescribed in all guidance / standards for employers in Qatar. We recommend that a provision similar to Supreme Committee Workers Welfare Standard clause 9.6 and 9.7 should be adopted in all model contracts:

"The Contractor shall ensure all Workers have personal possession of their passports and other personal documents. Where the passport and other relevant personal documentation is required for the purpose of renewing the Workers visa and / or work permit a copy of the documents shall be taken."

¹²⁴

See for example at **Annex C** the Supreme Committee Welfare Standards point 12.4 providing that *"The Contractor shall make available to each Worker safe and lockable storage facilities where Workers may store and freely access their personal documents and other personal possessions."* See also the Qatar Foundation Mandatory Standards 12.4.2 at **Annex D**. See also Redco Construction Al Mana - Health, Safety and Welfare Management Practices at **Annex E**.

139. During inspections, the labour inspectors should ask migrant workers specific questions in relation to the whereabouts of their passports.
140. Embassies should be encouraged to record any complaints relating to passport retention and report these on a regular basis to a dedicated point of contact at the Ministry of Interior.
141. Information dissemination and "orientation" (at pre-embarkation and reception stage) should refer to the operation of the *kafala* sponsorship system in Qatar, and the potential exposure to criminal proceedings where migrant workers separate from their employer / sponsor without the requisite permission from that employer / sponsor during the term of their contractual employment.

ISSUE 3: CONTRACT MISREPRESENTATION AND SUBSTITUTION

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

142. An essential feature in the fair treatment of migrant workers is to ensure transparency as to the terms on which they are to be engaged. This includes both the actual terms of their employment and their wages. We deal with the issue of wages in more detail at Issue 4 below.
143. The principal allegations made by Amnesty and HRW in relation to migrant workers' terms of employment include that migrant workers, having taken on debt to fund employment in Qatar, were unaware of the true terms and received salaries less than expected.¹²⁵ HRW alleges that migrant workers who were provided with contracts found that they were substituted for different contracts whilst the migrant workers were in transit or upon arrival in Qatar, both in terms of the nature of the work and as to levels of remuneration,¹²⁶ and that these new contracts are entered into under coercion.¹²⁷ In some cases employment contracts are not provided in a migrant worker's native language, meaning the workers are signing documents they cannot read.¹²⁸ HRW also comment that there is no penalty for the practice of contract substitution,¹²⁹ and that Bilateral Treaties between States of Origin and Qatar addressing labour migration lack transparency and are not enforceable.¹³⁰
144. Our review indicates that many of the problems referred to in the Amnesty and HRW Reports begin with deception by recruitment agents and "middlemen" in States of Origin. In some cases this problem is no doubt magnified by migrant workers' illiteracy.
145. We recommend that to address this issue, the Ministry of Labour and Social Affairs should work with the relevant ministries in the State of Origin to introduce Labour Information Bureaus in the Qatari Embassies in the States of Origin and a migrant workers' information unit at the point of arrival in Qatar in order to ensure the appropriate dissemination of information. We also recommend the implementation of comprehensive Migrant Worker

¹²⁵ Page 33 of the Amnesty Report and page 57 of the HRW Report.

¹²⁶ Page 57, HRW Report.

¹²⁷ Page 59, HRW Report.

¹²⁸ Page 58, HRW Report.

¹²⁹ Page 57, HRW Report.

Model Employment Contracts, and a system of contract attestation and certification prior to embarkation from States of Origin, and verification of these contracts upon arrival in Qatar. We suggest that the Labour Inspection Department should be charged with spot-checking contracts and penalties should be levied against employers failing to provide the same, or substantively similar, employment terms to migrant workers.

SUBSTANTIVE REVIEW

Issues

146. There is clearly a concern that the provision of information to migrant workers on their migration and employment in the State of Qatar is insufficient. There are also allegations of contract misrepresentation and substitution occurring between the migrant workers' departure from State of Origin and arrival in Qatar, and essentially, they arrive having believed that they have been recruited on different terms to those imposed upon arrival.
147. Having reviewed the allegations, we believe there are a number of reasons which could explain why these issues are arising.
148. First, there is active deception in the States of Origin such that the migrant workers only become aware of the true terms of their employment upon arrival in Qatar.
149. Second, there is some form of coercion and / or duress by the recruitment agents, brokers and / or "middlemen" to compel migrant workers to accede to variations of terms and conditions or contract substitution before arrival, or upon arrival, in Qatar.
150. Third, by reason of illiteracy, migrant workers are unaware of the terms being contractually agreed (even if provided in their native language).
151. All of these reasons go to the proposition that terms and conditions are not, in reality, entered into on a voluntary basis, which lends support to the principal allegation of forced labour.

Conclusions on Contract Misrepresentation and Substitution

152. Article 45 of Qatari Labour Law prevents employers from requiring a migrant worker from undertaking work which has not been agreed with the migrant worker. Therefore, the

legislation is effectively in place to prevent the variation of employment contracts without the consent of the employee.¹³¹

153. Pursuant to the Bilateral Treaties, a considerable responsibility rests with the States of Origin to regulate the recruitment and offers of employment made to migrant workers, prior to their entry into the jurisdiction of Qatar. Indeed, the Bilateral Treaties require, for example, that recruitment offers for work in Qatar should *"include the duration of the contract, the conditions of employment, especially the salary, end of service gratuity, probationary period, work conditions and the facilities regarding transport and accommodation, as well as information which may enable the workers to decide on signing the employment contract."*¹³²
154. As addressed above (see further Issue 1) it is apparent that foreign recruitment agents, brokers and "middlemen" play an instrumental role in creating or exacerbating the issues faced by migrant workers seeking employment in Qatar.
155. We have concluded that these issues of misrepresentation and contract variation and / or substitution are facilitated, if not caused, by the recruitment agents in the State of Origin. In our view the level of enquiries made of migrant workers to detect such issues are insufficient, particularly in relation to the terms of employment.
156. Further, it is also not clear to us that adequate steps are being taken to provide potential migrant workers seeking work in Qatar with sufficient, or indeed accurate, information on conditions of employment, costs and standard of living in Qatar, to avoid the mischief complained of. Nor are there sufficient steps being taken to protect those migrant workers from the activities of the private recruitment agencies. In relation to the dissemination of information regarding contract terms, it needs to be made clear who will be undertaking the information dissemination, the point (or points) in time at which the information should be provided and the nature of the information provided.
157. We understand that in some jurisdictions an exit visa is required to leave the State of Origin, which is only granted if the actual contract reflects the relevant Model Contract set out in relevant the Bilateral Treaty.

¹³¹ Please note we have made recommendations in relation to enforcement of terms and conditions and wages in Issue 9 which deals with access to justice.

¹³² See for example Article 4 of the Qatar - Philippines bilateral agreement at **Annex A**.

158. We also understand that there is currently a process by which contracts of employment are verified by the Ministry of Labour and Social Affairs to prevent derogation from the existing Model Contracts (appended to the Bilateral Treaties). However, in our view this does not entirely address the problems around contract misrepresentation and substitution. We suggest instead that a certification, attestation and verification system is adopted whereby contracts are first attested and certified in the States of Origin prior to embarkation, and then verified upon reception in Qatar. Whilst we acknowledge that this would be an obvious administrative burden and would lead to some delays to the entry procedure, we believe this safeguard would contribute to eliminating the opportunities for contracts to be misrepresented, substituted or varied (whether that be by deception, coercion and / or duress) from the point at which they are first agreed, during transit, and upon arrival in Qatar.
159. In respect of the terms and conditions of employment, we note that the Qatar Foundation and Supreme Committee have published their own mandatory standards for their Contractors.¹³³ The Qatar Foundation standards are applicable to both Contractors and their Sub-Contractors. These are clearly a well thought through and measured response to many of the allegations in this context. They provide high level protection for migrant workers and set a useful benchmark for consideration throughout the sector.¹³⁴
160. Moreover, we understand from the Qatar Foundation that compliance by both Contractors and their Sub-Contractors with these mandatory standards will be audited as a term and requirement of contracts with Contractors. These Lead and Sub-Contracts contain an appropriate contractual enforcement mechanism with provisions for both self-audit and independent audits, impacting payments under the relevant contracts. These are a relatively new development and both the Supreme Committee and the Qatar Foundation recognise that there will be a period of continuous evaluation as to how these work in practice.
161. We understand that current Model Contracts negotiated in the Bilateral Treaties with States of Origin are intended to be legally binding in Qatar, but there are some concerns around the enforceability of these contracts. We believe that the terms of these contracts should be revisited and built upon, and that the binding nature of these model contracts should be made known to migrant workers at the outset. Any subsequent attempt to breach or deviate from the contracts would be unlawful and render the contracts void and unenforceable.

¹³³

See **Annex C** and **Annex D**.

¹³⁴

See also Redco Construction Al Mana - Health, Safety and Welfare Management Practices at **Annex E**.

162. Legislative protection should also be in place to ensure contracts are freely entered into. Furthermore, non-retaliation provisions should be adopted into law, protecting migrant workers from any detrimental treatment from their employer as a result of asserting their rights under the Migrant Worker Model Employment Contract.
163. In this context, as we have already recommended, Labour Information Bureaus should take an active role alongside States of Origin in publicising and raising awareness among workers of the Migrant Worker Model Employment Contract.

DLA Piper Recommendations

164. **Labour Inspection checks:** We have seen that there is a deficiency in the checking mechanisms in place to monitor the terms on which migrant workers' are coming to Qatar. Proper enquiries need to be made at various points, both prior to embarkation and upon arrival in Qatar, in order to detect and manage these issues. **Labour inspectors should be charged with spot-checking contracts and penalties should be levied against employers that are found to have knowingly or negligently failed to prevent misrepresentation and / or contract substitution.** Where a migrant worker accuses an employer of inducing them to work in Qatar under false or misleading pretences, the onus should be on the employer, along with the recruitment agents in both Qatar and the State of Origin, to establish that this is not the case.
165. **Establish Labour Information Bureaus:** We recommend that the State of Qatar establishes Labour Information Bureaus within the States of Origin to disseminate information to prospective migrant workers more widely, in conjunction with the relevant ministry in the State of Origin, taking into account the language challenges and the levels of literacy. While Bilateral Treaties specify that "adequate information" is to be provided to potential migrant workers, in our view more pro-active steps need to be taken by both the relevant State of Origin and the State of Qatar in order to promote the dissemination of this information (in the appropriate format and language), to monitor the information that is provided and for the States of Origin to enforce the prohibitions against any deception or coercion.
166. **Use of Model Contracts:** We recommend that employment authorisations (including, but not limited to *kafala* sponsorship licences) in the construction sector are made conditional upon the use of a legally binding Migrant Worker Model Employment Contract, and

any employment other than on the basis of this **Migrant Worker Model Employment Contract should be penalised with appropriate sanctions**, such as withdrawal of authorisations. This would reflect what we understand to be current practice, where authorisations are not given in the event that any relevant labour law is breached. We also recommend that the penalties imposed in this respect are transparent and their imposition is publicised to ensure an appropriate deterrent effect.

167. We understand that the current model contracts appended to the Bilateral Treaties are intended to be legal binding. However, **we would recommend that a Migrant Worker Model Employment Contract be introduced to include revised terms, and that the binding nature of these Migrant Worker Model Employment Contracts should be made known to migrant workers**. An example of a proposed Migrant Worker Model Employment Contract can be found at **Annex B**. The Migrant Worker Model Employment Contract should also incorporate a provision requiring the migrant worker to be paid at least the Relevant Minimum Wage. In the event of failure to adopt the same or similar terms as set out in the Migrant Worker Model Employment Contract, the **Labour Inspections Department should be empowered to investigate and levy civil sanctions to ensure adherence to the Migrant Worker Model Employment Contract**. The minimum standards may vary somewhat dependant on the nature of the employment and the particular State of Origin. They should be clear and relevant and easily understood. The contract of employment should be provided both prior to embarkation and subsequently on reception, in Arabic, English and in the national language of the migrant worker.¹³⁵ Given levels of literacy, further **consideration needs to be given as to how the terms can be freely entered into and properly understood prior to embarkation** (without subsequent variation or substitution), such as through Labour Information Bureaus in States of Origin and by offering suitable translation services on reception.
168. We recommend that where employment contracts are being authorised and attested by the Ministry of Labour and Social Affairs or the Ministry of Foreign Affairs (represented by the embassies), they are properly reviewed by a dedicated team, and that **a system of monitoring be introduced to ensure that the Migrant Worker Model Employment Contracts (once made legally binding) are being used. This system of monitoring should include**

¹³⁵ See, for example, clause 19.1 of the Schedule to the proposed Migrant Worker Model Employment Contract at **Annex B**.

contract attestation and certification in the State of Origin prior to embarkation and then contract verification upon arrival in Qatar.

169. We expect the Migrant Worker Model Employment Contract to include, at a minimum, the following terms and conditions:

169.1 The name of the employer;¹³⁶

169.2 The date of the agreement and start of work;¹³⁷

169.3 The rate of pay, including overtime, sick pay and leave;¹³⁸

169.4 The frequency and method of payment;¹³⁹

169.5 Any permitted deductions;¹⁴⁰

169.6 The role and job description;¹⁴¹

169.7 The duration of the contract;¹⁴²

169.8 Information on work conditions, transport and accommodation;¹⁴³

169.9 Hours of work, including regular hours and overtime requirements;¹⁴⁴

169.10 Information on healthcare;¹⁴⁵

169.11 Terms as to notice: the grounds for each party to terminate and the length of notice;¹⁴⁶

169.12 Terms of disciplinary and grievance procedures;¹⁴⁷

169.13 Repatriation provisions / travel costs;¹⁴⁸

¹³⁶ See, for example, the introduction to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹³⁷ See, for example, clause 1 and 2 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹³⁸ See, for example, clause 6, 9, 10 and 11 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹³⁹ See, for example clause 6 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴⁰ See, for example paragraph 5 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴¹ See, for example clause 3 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴² See, for example clause 2 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴³ See, for example clause 7, and paragraph 7 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴⁴ See, for example clause 5 and clause 9 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴⁵ See, for example paragraph 8 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴⁶ See, for example clause 12 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴⁷ See, for example paragraph 13 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.

169.14 End-of-service gratuity;¹⁴⁹

169.15 Information on leave entitlement;¹⁵⁰ and

169.16 An explanatory statement setting out the prohibition on (i) recruitment fees (ii) the prohibition on contract substitution, (iii) the rights to a residence permit in Qatar and (iv) the right to request a transfer to an alternative employer / sponsor in the event of wrong doing, including repeated non-payment of wages.¹⁵¹

170. The proposed Migrant Worker Model Employment Contract reflects Article 45 of the Qatari Labour Law, in that it explicitly articulates the limits on, and exceptions to, any right to request the worker to perform work other than that agreed upon, unless temporary and not fundamentally different to the original agreed work, so that that right is made known in the body of the contract.¹⁵²

171. We believe that the Qatar Foundation and the Supreme Committee Workers Welfare Standards offer a high level of protection for migrant workers and should be used as a benchmark throughout the construction sector in Qatar.

171.1 In particular, the Qatar Foundation mandatory standards recommend **employment contracts should be translated and explained to workers in the language they understand before they sign**. We adopt this recommendation, and would make the enforceability of the employment contract conditional upon the employer's compliance with this requirement.¹⁵³

171.2 We welcome the suggestion that the Qatar Foundation and Supreme Committee should **make Lead Contractors responsible for cascading their mandatory terms through all Sub-Contractors** and be responsible for adherence to these (i.e. through audit procedures or requiring rectification plans). Failure to adhere to the mandatory terms should be dealt with by appropriate penalties.

¹⁴⁸ See, for example paragraph 12 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁴⁹ See, for example paragraph 11 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁵⁰ See, for example clause 10 of the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁵¹ See, for example paragraph 14 and 15 of the Schedule to the proposed Migrant Worker Model Employment Contract, at **Annex B**.
¹⁵² See, for example, clause 3 of the proposed Migrant Worker Model Employment Contract at **Annex B**.
¹⁵³ See, for example, paragraph 16.1 of the Schedule to the proposed Migrant Worker Model Employment Contract at **Annex B**.

- 171.3 Finally, we recommend that these standards would gain greater currency if they were generally endorsed by the State of Qatar (or if the State adopted its own equivalent welfare standards) and these standards were used in the public procurement process more generally. In this regard, **we recommend that tendering processes should identify clearly the evaluation process for measuring past and future migrant workers' welfare** in terms of any award of contract and any welfare compliance plan and these should also be published. We also believe that the proposal for a Pre-Qualification Questionnaire ("PQQ") system requiring **potential bidders for contracts to demonstrate appropriately audited compliance with these terms prior to bidding for public contracts** would be an advantage in driving these standards forwards.
172. We further recommend that the Qatar Foundation and the Supreme Committee and other relevant public contracting authorities should **publish the results of audits** and any rectification plans pursuant to these worker welfare obligations, save in exceptional circumstances justifying continuing confidentiality and likewise any penalties issued for non-compliance, even if only on an anonymised basis. The result would be increased transparency and accountability, and such publication would act as an effective deterrent.

ISSUE 4: WAGES

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

173. One of the most critical issues brought to our attention related to the amount and payment of migrant workers' wages.
174. The issue of wages is highly material in the context of this review. Migrant workers seek employment in Qatar often because of the prospect of lucrative work (relative to that available in their own countries). Migrant workers tend to have dependants in their State of Origin who rely on remittances from the working family member. As we have discussed above, we understand that many migrant workers incur a significant recruitment fee and / or related debts in order to obtain work in Qatar, justified by the expected level of remuneration.
175. Amnesty states that the embassy representatives they spoke to reported that *"non-payment of wages is the most common complaint"*.¹⁵⁴ The impact of non-payment of wages is *"devastating for migrant workers. Large numbers of workers said they had taken on loans in their home country to pay for their migration and had to pay back their creditors at high rates of interest, sometimes up to annual rates of 36%."*¹⁵⁵ The HRW Report stated that 33.9% of workers surveyed were not paid regularly,¹⁵⁶ and *"employers deducted wages to pay costs including visa fees, food and medical insurance."*¹⁵⁷ It also said that *"most workers interviewed by HRW said that their companies had policies of withholding between one and three months' wages at the outset of their employment as a "deposit salary" to prevent them from quitting jobs early"*.¹⁵⁸ Further *"many workers reported that their employers arbitrarily deducted from their salaries, while some said their employers had not paid them for months."*¹⁵⁹ The Engineers Against Poverty Report states that: *"Late payment of wages is a major source of abuse and the issue of greatest concern to workers. More should be required of principal contractors than is currently stipulated in the [Qatar Foundation] standards to ensure that all workers, including those employed by subcontractors, receive their wages in full and on time."*¹⁶⁰

¹⁵⁴ Page 40, Amnesty Report.

¹⁵⁵ *Ibid.*

¹⁵⁶ Page 63, HRW Report.

¹⁵⁷ Page 64, HRW Report.

¹⁵⁸ Page 63, HRW Report.

¹⁵⁹ *Ibid.*

¹⁶⁰ Page 95, Engineers Against Poverty Report at **Annex L**.

176. We have already proposed above the introduction of a Migrant Worker Model Employment Contract to address the issues of contract substitution. In our view this would also address issues relating to migrant workers' wages (see **Annex B**). The Migrant Worker Model Employment Contract specifies the rate, frequency and form of pay, sets out permitted deductions from pay, and contains clear provisions regarding overtime, leave and sick pay, as well as end of service entitlements.¹⁶¹ We recommend that this should be made legally binding in Qatar, and should replace the existing model contract in all Bilateral Treaties with States of Origin, and be used as standard for all Government contracts in the construction industry going forward.
177. We also note that there is an issue relating to the non-payment of repatriation costs and / or end of service gratuities and leave allowance payable by the employer / sponsor. This arises particularly where the migrant worker is alleged to be an "absconder". This issue and our recommendations relating to this are addressed in the section on the *kafala* system above (Issue 2), and in the Access to Justice section below (Issue 9).
178. We recommend ensuring the effective monitoring and enforcement of laws on migrant workers' wages, which can in part be monitored through the Labour Inspection checks mentioned in this report. We recommend adoption of the relevant Migrant Worker Model Employment Contract requiring migrant workers to be paid a minimum wage. We recommend that a Relevant Minimum Wage (see paragraph 190) is adopted by employers and made known to migrant workers. We recommend increased sanctions for failure to pay wages in a timely manner and also for failure to make payments through chains of contracts. Ultimately we suggest that failure to pay the Relevant Minimum Wage should be criminalised.

SUBSTANTIVE REVIEW

Issues

179. The principal issues relating to wages are as follows:

¹⁶¹ For example, see clause 5 and 6, and paragraphs 5, 6, 9, 10 and 11 of the Schedule to the proposed Migrant Worker Model Employment Contract at **Annex B**.

- 179.1 There are deductions from wages by the employer (either in payment of a recruitment-related debt or some other deduction or penalty pursuant to the terms of employment or "deposit salary");
- 179.2 There is significant withholding or non-payment of wages;
- 179.3 Wages are received in cash rather than by bank transfer making payment more difficult to monitor;
- 179.4 Employers are using the threat of declaring migrant workers "absconders" as leverage to reduce wages unilaterally; and
- 179.5 Employers are using their power to object to exit visas (pursuant to Sponsorship Law) as leverage to withhold wages, make unauthorised deductions and reduce end of service gratuity entitlements.

Conclusions on Wages

- 180. Article 66 of the Qatari Labour Law provides that workers who are employed on an annual or monthly basis must be paid at least once every month. All other workers should be paid at least once every two weeks. This Article also prescribes the manner in which the payment should be made.
- 181. Article 70 of the Qatari Labour Law provides that *"any part of a wage to which the worker is entitled may not be attached and payment may not be withheld except with the execution of a judicial decision"*.
- 182. Article 67 requires employers to pay the wages and any other sums the worker is entitled to if the contract is terminated for any reason. This payment is required the day following the date on which the contract terminates, unless the worker has "absconded" without notification,¹⁶² in which case the employer must pay the wages within a period not exceeding seven days.
- 183. We have seen that the majority of claims brought to the attention of the Labour Relations Department relate to late or non-payment of wages, failure to pay repatriation costs and failure to pay end-of-service gratuity and leave allowance. This would indicate that the

¹⁶² The notification required is set out at Art 49 of the Labour Law.

existing monitoring and enforcement mechanisms in place are not sufficient to deter employers from breaching the provisions of Article 66, 67 and 70 of the Qatari Labour Law.

184. One allegation concerns the issue of receiving payments in cash rather than through bank accounts. This issue was also raised in the Engineers Against Poverty Report: *"Paying wages through bank transfer would provide workers with the evidence needed to prove that they have not been paid."*¹⁶³ We endorse their recommendation that payment of workers' wages through electronic transfer should be made mandatory, which would provide workers with the evidence they need to prove non-payment of wages and allow them to seek redress.
185. We welcome the indication from the Ministry of Labour and Social Affairs that it is developing a system which will see the introduction of electronic banking (where migrant workers' wages are paid directly into their bank accounts), however, we understand that many migrant workers do not have the electronic equipment required, or access to the internet to benefit from this at present. In addition, with high levels of illiteracy amongst the migrant worker population, we have doubts that an electronic system would meet all needs. Whilst this may not immediately address the concerns, it would be a positive development and would be a significant factor in resolving late payment issues, particularly if the State of Qatar introduces electronic monitoring of the payment of wages.
186. We understand from our consultation with contractors that mobile ATM machines have been introduced in certain labour accommodation areas, but that in some cases this has caused increased theft and violence between migrant workers and, in addition, many workers lost their banking cards and / or their access pin codes. However, we do consider that the benefits of introducing this measure may well outweigh any drawbacks.
187. We understand that the Ministry of Labour and Social Affairs currently obtains information about the payment of wages in a report that employers are obliged to submit every six months pursuant to Article 19 of the Qatari Labour Law. We do understand, however, that the Ministry of Labour and Social Affairs is considering issuing a regulation which requires the submission, by way of CD, of proof of payment by employers on a monthly basis. We would welcome this regulation, which would prove useful for monitoring efforts to address the concerns relating to wage payments going-forward.

¹⁶³

Page 5, Engineers Against Poverty Report at **Annex L**.

188. The non-payment of wages was clearly a critical concern of the embassies we spoke to and we recognise the serious need for appropriate levels of enforcement, on behalf of their citizens. Further, this issue is highly material to the allegation of forced labour. In conjunction with contract misrepresentation, the right of an employer to object to the issue of a certificate permitting a sponsor transfer (NOC) and the employer's ability to refuse to submit migrant workers' applications for exit visas, clearly the withholding or non-payment of wages represents a real risk for abuse of migrant workers in Qatar.
189. Article 65 of the Qatari Labour Law entitles a worker to wages as specified in the contract, failing which the wages specified in the work regulations list a wage equivalent to the wage specified for a similar type of employment, or as a last resort it gives the judiciary the power to determine an appropriate wage which is "*just and favourable*". Whilst there is no international obligation to specify a minimum wage, we believe that this would present a positive step for protecting migrant workers' rights in Qatar. We are aware that certain States of Origin (for example Nepal, India and the Philippines) publicise agreed rates for each type of migrant worker. This was also confirmed by some of the labour attaché representatives we met with in Qatar.
190. We recommend a legally binding minimum wage for each category of construction worker in Qatar. We suggest that this could be approached in one of two ways: either the States of Origin would be responsible for setting a minimum wage, agreement of which is a condition of exit and must be guaranteed by the employer in Qatar prior to the migrant worker's exit from the State of Origin; or a minimum wage would be set and monitored by the relevant Qatari authorities. We believe the latter approach lends itself to consistency of application.
191. Any such minimum wage would be set by reference to the level / category of the migrant worker's occupation in question (the "**Relevant Minimum Wage**"). The process of agreeing what the Relevant Minimum Wage would be first requires expert consideration of how this would be structured and calculated, in terms of the constituent elements, allowances, and how benefits-in-kind would be valued or excluded. Secondly, consideration would have to be given to the macroeconomic impact of setting a Relevant Minimum Wage, such as the impact on the local labour market and inflation. Finally, procedures would have to be put in place for appropriate inspections and spot-checks to ensure the Relevant Minimum Wage requirements are being adhered to by employers, with appropriate record keeping requirements.

DLA Piper Recommendations

192. It appears clear to us that the legislation is in place to ensure migrant workers' wages are paid and to preclude unauthorised deductions. It is, therefore, an issue of the **proper monitoring and enforcement of such legislation**.
193. **Dissemination of information to migrant workers:** We understand that at least one embassy displays the minimum wages rates applicable to its citizens outside the embassy building in Qatar. We would recommend this approach for all the embassies, and repeat our recommendation **that Qatari Labour Information Bureaus actively promote knowledge of terms and conditions and rates of pay in the State of Origin**, as well as on an on-going basis in Qatar.
194. **Evaluation of Relevant Minimum Wage:** As to the amount to be paid, we propose expert evaluation of the appropriate Relevant Minimum Wage rates for each type of construction worker in Qatar, which an employer would be required to pay. This requirement should be clearly stated in the Bilateral Treaties as well as the Migrant Worker Model Employment Contracts appended to them, and will become legally binding on all employers operating in the construction sector in Qatar. We believe there should be civil and criminal sanctions for non-compliance with this requirement, with the right of an appropriate inspection of records to ensure compliance. An inspector should undertake spot-checks regularly.
195. In terms of the withholding of pay, we believe that this is a matter for **improved judicial review and remedy**, which we deal with in more detail below at Issue 9. However, we welcome the proposal by the State of Qatar to introduce an integrated payroll monitoring system. This would enable instances of non-payment or delayed payment to be identified and addressed in a timely manner.
196. **We also believe that in the event of proven failure to pay wages by any employer / sponsor, that employer / sponsor should automatically be disqualified from objecting to a transfer of employment or exit visa being granted**, or should have an appropriate short period in which he must prove that the wages have been paid. The default position should be that the transfer will be granted, and in the event of repeat offences of failure to pay such employer / sponsor should be disqualified from being a sponsor. We understand that failure

to pay wages for more than three months is currently a ground for permanent transfer of sponsorship. We believe that three months is too long a period and should be shortened.

197. Insofar as repatriation costs, service leave and end of service gratuities are concerned, this requires a similar mechanism to that suggested for transfer, by which the employer is obliged to pay these. Where they refuse to pay these sums without justification, the Ministry of Interior currently funds the repatriation costs. **We recommend that this funding should be provided within a specified period, and these funds and a penalty amount should be recouped from the employer / sponsor. We also recommend that the State of Qatar considers funding a minimum guaranteed level of end-of-service gratuity which it then in turn recoups from the employer in the event of the employer's non-payment.**
198. We note the allegation that there is a commercial failure to make prompt payments between the State of Qatar and Contractors which invites delay of the payment of wages in the Sub-Contracting chain. In light of this allegation **we recommend that the payment process in respect of projects ultimately funded by the State of Qatar needs revisiting to ensure that there is no undue delay which would impact upon the payment of wages to migrant workers** through Sub-Contracting entities, or be used as an excuse for delay in payment. **We also recommend introducing appropriate sanctions for late payment throughout the chain of contracting**, (i.e. suspension of contracts and financial penalties provided for in the contract of the Lead Contractor in the event of late payment). We also recommend that the payment period in all contracts should be shortened from 90 to 60 days and that Lead Contractors should be under an obligation to pay their Sub-Contractors promptly. This approach should be reflected in all contracts in the supply chain.
199. **Monitoring of payment of wages electronically.** We recommend that the State of Qatar should give consideration to implement a scheme whereby payment of migrant worker wages is monitored electronically by or in conjunction with the Qatar Central Bank. This should facilitate and expedite the detection of non-payment of wages.

ISSUE 5: HEALTH & SAFETY

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

200. Compliance with health and safety regulations and the effective enforcement of those regulations are a fundamental feature of the protection of migrant workers, particularly those working on construction sites.
201. The allegations in relation to the health and safety of migrant workers in the construction industry relate largely to the monitoring and enforcement of the health and safety provisions in place, rather than to the substantive provisions of Qatar's health and safety law. The role of the Ministry of Labour and Social Affairs' Labour Inspections Department in this regard is critical and the issue of inspections is considered in more detail at Issue 7 below.
202. The Amnesty and HRW Reports allege that they hold evidence of employers in the construction industry failing to protect the health and safety of migrant workers.¹⁶⁴ The allegations include: employers denying medical treatment for migrant workers;¹⁶⁵ migrant workers working when unwell (for example, due to employers cutting their pay if they took time off sick or only accepting a doctor's note from the Hamad Medical Centre which requires significant travel);¹⁶⁶ working excessive hours (during the extreme summer temperatures and without adequate water supplies);¹⁶⁷ and employers not taking their health and safety responsibilities seriously and not providing workers with proper safety equipment.¹⁶⁸
203. The HRW Report also criticises the fact that Qatar does not publish national data on workplace injuries or deaths and does not require employers or government authorities to make this information publicly available.¹⁶⁹
204. Amnesty reported to have obtained information recorded by the Nepalese Embassy, stating:

"....of 174 nationals who died in 2012, 102 died of causes recorded as "cardiac", a further three died of falling from height, and 2 deaths were recorded as "misc". Amnesty International is not able to confirm how many of these individuals were employed in the construction industry, but construction is a leading source of

¹⁶⁴ Page 43, Amnesty Report and page 69, HRW Report.

¹⁶⁵ Page 43, Amnesty Report.

¹⁶⁶ *Ibid.*

¹⁶⁷ Page 44 and 45, Amnesty Report.

¹⁶⁸ Page 45 and 46, Amnesty Report and page 67 - 68 HRW Report.

employment for Nepalese migrants in Qatar. An investigation by the UK Guardian newspaper found that at least 44 Nepalese workers died between 4 June and 8 August 2013, more than half dying of heart attacks, heart failure or workplace accidents."¹⁷⁰

205. Following our review, we conclude that the health and safety standards applicable to migrant workers in Qatar are, in principle, comprehensive. At present, migrant workers have access to Qatar's well-developed hospital facilities for emergency services as well as access to specialised health facilities that cater specifically to the needs of single male labourers ("SML").¹⁷¹
206. However, we note that more needs to be done to encourage the effective enforcement of health and safety standards. Transparent monitoring of these standards is crucial. Adherence to standards should be required through the chain of contractors involved in construction projects. Breaches of health and safety standards ought to be appropriately (and effectively) penalised. Currently, the Labour Inspection Department can suspend an employer's operations in the case of "*an imminent danger against the safety of the workers*"¹⁷² and there are small, nominal fines and a short period of imprisonment (up to 1 month) for breaches of certain Articles of Qatari Labour Law (see paragraphs 210.1 and 210.8 below). In our view, if the Labour Inspection Department had greater powers to impose more significant fines and / or civil and criminal penalties for breaches of health and safety regulations, this would have an improved deterrent effect. We strongly recommend that the Government publishes statistics detailing work-related and non-work-related injuries and deaths of migrant workers in order to put an end to the extrapolation of statistics in the press, which often prove to be inaccurate and denied by the State of Origin embassies. This will provide a more transparent picture of the situation in respect of work-related injuries and deaths. We also recommend that the State of Qatar commissions a comprehensive independent study into the number of migrant worker deaths by cardiac arrest in Qatar, in order to provide a definitive view, in the light of the high levels of speculation surrounding this subject.

169

Page 67, HRW.Report.

170

Page 45, Amnesty Report.

171

See Supreme Council of Health - Policy Coordination and Innovation Unit - Planned Single Male Laborer Facilities at **Annex G.**

172

Article 60 of Resolution No. (20).

SUBSTANTIVE REVIEW

Issues

207. There is an alleged failure by employers in the construction industry to take their health and safety responsibilities vis-à-vis migrant workers seriously. Furthermore, there is room for improving the monitoring and enforcement of the relevant health and safety standards.
208. We consider the principal issues can be summarised as follows:
- 208.1 There is no joint and several liability between Lead Contractors and Sub-Contractors for breaches of health and safety regulations by Sub-Contractors who are further down the supply chain. Lead Contractors should not be able to plead ignorance or deny liability for breaches of health and safety regulations carried out by their Sub-Contractors;
 - 208.2 The classification of injuries and deaths of migrant workers does not appear to be specific or detailed;
 - 208.3 There is a lack of published national data on injuries and deaths at the workplace which adds to the opacity of the issue. As a result, statistics of migrant worker deaths are obtained from State of Origin embassies, and are being published without context or explanatory narrative. Some of the statistics published are, it appears, inaccurate; and
 - 208.4 We understand that enquiries into deaths at the workplace are complicated because Qatar's law does not permit autopsies or post-mortems in the event of unexpected sudden death.

Conclusions on Health & Safety

209. A report by the National Human Rights Committee states that of a sample of 1,114 construction workers, around 11% stated that they had been injured at work.¹⁷³ Over half of those workers felt (by their own assessment) that their injuries were caused by a lack of adequate safety measures and procedures in the workplace. We note that the worker

¹⁷³ Study on the Conditions of Unskilled Labor Force in the Construction Sector in Qatar, Qatar National Human Rights Committee, 2011. See **Annex M**.

entitlements prescribed by Qatari Labour Law represent the minimum entitlements of workers.

210. Part 10 of the Qatari Labour Law sets out the minimum entitlement of workers in relation to health and safety. The key provisions and entitlements are as follows:

210.1 Article 99 requires employers to inform their workers of the hazards associated with the work and the safety measures which must be taken for their protection. The employer must do this at the beginning of the employee's contract. The employer must also display detailed instructions in relation to their health and safety rules. The penalty for breach of Article 99 is a fine of between 2,000 QAR and 5,000 QAR;

210.2 Article 100 places a general duty on employers to take all precautionary measures for protecting the workers from any injury or disease or accident during the performance of their work. The employer must bear the cost of these precautionary measures;

210.3 The Ministry of Labour and Social Affairs can issue a decision for the partial or total closure of a place of work that has failed to take these necessary precautionary measures or issue a decision stopping the use of a hazardous machine, until such danger or hazards have been remedied. In such a case, there is an obligation on the employer to pay the wages of workers in full during the period of closure or suspension. We note that during 2012, the Ministry of Labour and Social Affairs issued around 5,245 warning notices under Article 100 relating to health and safety and stated that around 30% of companies had violated, to some degree, the safety standards. However, they described most of the shortcomings as "minor" and "simple"¹⁷⁴;

210.4 Article 101 requires workers to use any protection devices and uniform provided by the employer, and abide by all instructions issued by the employer aimed at protecting the worker from injuries or diseases;

210.5 Article 103 places a duty on employers to take all necessary measures to ensure hygiene and good ventilation in the work place, provide suitable lighting and portable water, hygiene and drainage;

¹⁷⁴

Gulf Times newspaper, 31 January 2013.

- 210.6 Article 104 requires employers to provide one first aid box per 25 workers. If an employer employs more than 100 workers at a single site, they must also appoint a full-time medical nurse. If an employer employs more than 500 workers, the employer must appoint a doctor and a nurse to provide medical services at the site;
- 210.7 Article 105 requires periodical medical check-ups to be carried out on workers exposed to health hazards (for example, employees exposed to hazardous substances). The periodical check-ups must be performed at appropriate intervals which correspond to the level of hazard involved in the work. Employers are required to keep the results of these check-ups in the workers' files. The format and frequency of these medical check-ups is set out in the Resolution of the Minister of Civil Service and Housing Affairs No. (19) of 2005. The frequency of check-ups can vary between six months, annually or every two years depending on the level of workers' exposure to hazards;
- 210.8 The penalty for a breach of Article 103, 104 or 105 of the Qatari Labour Law is imprisonment for a period not exceeding one month and a fine of between 2,000 QAR and 6,000 QAR. We are not aware of any fines or prosecutions under these articles;
- 210.9 Other relevant provisions of Qatari Labour Law include Article 109, which requires an employer to cover medical and other costs arising from injuries or death and entitles migrant workers who sustain a work-related injury to receive the appropriate medical treatment at the employer's cost. The migrant worker shall also receive his full wage during the period of treatment or for a period of six months (whichever is shorter). If the treatment continues for a period exceeding six months, the migrant worker shall receive half of his wage until his recovery, proof of permanent disability or death. However, we are not aware of any existing law that requires the employers to have occupational health and safety insurance; and
- 210.10 Article 115 of the Qatari Labour Law requires employers to provide the Ministry of Labour and Social Affairs with statistics of work-related injuries and occupational diseases every six months. Details of how this data needs to be submitted to the Ministry of Labour and Social Affairs are set out in the Resolution of the Minister of Civil Service and Housing Affairs No. (18) of 2005. Article 108 of the Qatari Labour

Law also requires employers to report any work-related injuries to the Ministry of Labour and Social Affairs and the police immediately at the time of the injury.

Resolution of the Minister of Civil Service & Housing Affairs No. (20) of 2005 ("Resolution No. (20)")

211. Resolution No. (20) contains health and safety standards that employers must comply with. The only enforcement mechanism is contained in Article 20, which enables the Labour Inspections Department to suspend an employers' operations in cases of an "*imminent danger against the safety of workers or their health*" until the health and safety danger has been remedied. We note that there are additional protections for workers in remote areas.¹⁷⁵

Decision of the Minister of Civil Service and Housing No. 10 for the year 2005 on specifying the types of work in respect of which the work may continue without stoppage for the purpose of rest

212. We understand that this Decision sets out the types of employment which do not require regulated rest periods. These include employment in the following sectors: telecoms; electricity and water generation; medical services; pharmacies; airline and port services and the transport sector. Those employed in these sectors are entitled to time for prayers and light meals and drinks as regulated by the employer.

Decision of the Minister of Civil Services and Housing No. 11 for the year 2005 in regard to categories and works that are excluded from the provisions determining the working hours

213. This Decision sets out the maximum limit of normal working hours at 48 hours per week, except for the month of Ramadan when the working hours are 36 hour per week. The maximum overtime work hours is 12 hours per week.

Decision of the Minister of Civil Service Affairs and Housing No. 16 for the year 2005 concerning the organisation of medical care for facilities employees

214. This Decision requires employers to provide employees with medical care including: medical examinations, x-rays, necessary treatments outside of hospital, immunisations, and other treatments of occupational diseases. It also requires employers to promote health awareness,

¹⁷⁵ Decision of the Minister of Civil Service and Housing No. 12 for the year 2005 identifying the areas that are far from the cities.

study the conditions of labour, make improvements and maintain a medical file for each employee.

215. This Decision also prescribes the contents of first aid boxes and requires employers to train one employee on first aid procedures. Employers are also required to appoint a nurse and / or doctor when the number of employees reaches certain thresholds. The Decision further requires employers with over 500 employees to provide an employee medical clinic.
216. These medical clinics are subject to inspections by the Supreme Council of Health. We understand that Law No. 11 of 1982 on the regulation of medical institutions specifies the medical standards which must be applied at medical clinics, and confers power to the Supreme Council of Health to impose penalties.

Minister of Civil Service and Housing Affairs Decree No. 16 of 2007

217. This Decree prohibits working in areas exposed to the sun between 1130hrs and 1500hrs during the hottest months of the year.
218. In 2011, Cabinet Resolution No. (16) was issued. This resolution established the National Occupational Health and Safety Committee (which is a joint initiative developed by the Ministry of Labour and Social Affairs and the Supreme Council of Health). This Committee includes representatives from various ministries, and is responsible for reviewing Qatar's occupational health and safety rules and regulations and developing a national strategy aimed at developing more integrated health and safety laws and regulations. The Supreme Council of Health finalised the "National Commission of Health Guidelines for Diseases" last year, which provide guidance for healthcare professionals and those receiving, or in need of, medical care. As part of this reform, we understand that training is being given to all General Practitioners (GPs) and other specialists in Qatar effective from March 2014. This training aims to develop a consistent approach amongst GPs to the diagnosis, treatment and notification of occupational health issues. It is understood that further national occupational health standards, occupational health policies and regulations have been developed by this Committee. The Guidelines for diseases, occupational health standards and occupational health policies and regulations have been submitted to the Council of Ministers for approval.
219. We note that the Supreme Council of Health is taking significant steps to address the material needs of migrant workers. We understand that the Supreme Council of Health conducts health visits at work sites and at migrant worker accommodation. The purpose of these health

visits is to teach migrant workers about the signs and symptoms of communicable diseases. We welcome the efforts being made to educate migrant workers on health issues.¹⁷⁶

220. Further, the Supreme Council of Health has given the Qatar Red Crescent health facilities to provide workers with therapeutic services (under the Supreme Council of Health's supervision). These medical centres include: the Workers' Medical Centre and the Medical Commission in the Industrial Areas, a Medical Centre for expatriates and specialized clinics in the Fereej Bin Mahmoud, the Zikreet and Abu Hamur specialized centres. Currently, these services are provided to workers who have a medical card, this costs QR 100 (approximately US\$27) and ought to be paid for by employers.
221. In addition to clinics provided at work sites and medical centres, migrant workers have the right to receive treatment in any public hospital with the same medical card (including the Hamad General Hospital, Al Khor Hospital, Al Wakrah Hospital and Cuban Hospital).
222. There have been allegations that migrant workers are not provided with health cards by their employers and have had to buy them for themselves.¹⁷⁷ In this regard, we welcome the news of the introduction of the Social Health Insurance System Law No. 7 (2013) which provides for a Social Health Insurance Scheme that will be applicable to migrant workers by mid-2016. We understand that this is a mandatory system which will ensure the provision of medical services to migrant workers (for example, access to services provided at the medical centres detailed above) and that the services will be covered by medical insurance. Under this law, the employer will be responsible for paying the insurance premiums for the migrant workers' medical insurance. This eliminates the need for the migrant workers to obtain a medical card from their employers, and puts the onus on employers to ensure their workforce is properly insured. We consider this to be an improvement to the existing system and is of benefit to migrant workers.¹⁷⁸
223. We would urge the Labour Inspections Department to check for valid certificates of workers' medical insurance as part of the inspection procedure. We understand that there will also be a provision that employers cannot issue a residence permit unless they have paid for

¹⁷⁶ Supreme Council of Health - Policy Coordination and Innovation Unit - Planned Single Male Laborer Facilities (see **Annex G**).
¹⁷⁷ See pages 41 and 46 of the Amnesty Report.
¹⁷⁸ See also below our recommendation for an electronic ID card which also includes the owner's medical insurance details.

comprehensive health insurance for the migrant worker. This should also help to ensure employers comply with this new law.¹⁷⁹

224. Further projects under construction which are planned for delivery in the first quarter of 2016 include the following:

224.1 the Musaimeer Health Centre and Medical Commission unit;

224.2 a Workers' Hospital in the Industrial Area, Health Centre unit and Medical Commission unit;

224.3 an Independent Health Centre in the Industrial Area and a Medical Commission unit;

224.4 a Workers' Hospital in Umseed, together with a Health Centre unit and a Medical Commission unit; and

224.5 a Workers' Hospital in Ras Laffan, Health Centre unit and Medical Commission unit.

225. The Supreme Council of Health also has policies in place to assess patient satisfaction with healthcare provision and to address issues such as the specific language requirements of patients.

Reports of Migrant Worker Deaths on Construction Sites

226. There have been numerous reports made by Amnesty, HRW and in the press, in particular the Guardian, in relation to the number of deaths of migrant workers in the construction sector. Most of these reports state that the statistics published were obtained from State of Origin embassies in Qatar.

227. Amnesty reported that the Nepalese Embassy stated that of the 174 Nepalese nationals who died in 2012, three died from falls, 102 died of causes recorded as "cardiac" and 23 deaths were recorded as miscellaneous.¹⁸⁰ It is unclear how many of these deaths related to workplace injuries that were as a result of breaches of, or a lack of, health and safety measures.

¹⁷⁹ Source: Gulf Times and Peninsula newspapers quoting officials from the Supreme Council of Health.
¹⁸⁰ Page 45, Amnesty Report.

228. In early February 2014, the Guardian reported that *"more than 400 Nepalese migrant workers have died on Qatar's building sites as the Gulf state prepares to host the World Cup in 2022"*.¹⁸¹ The Guardian stated that these "grim statistics" were to be published in a report by the Pravasi Nepali Co-ordination Committee (PNCC), a Nepalese-based migrant workers' rights organisation. However, PNCC shortly after responded issuing a statement that these statistics were *"completely baseless"*.¹⁸²
229. The day following PNCC's public response, the Guardian published another report stating that figures show *"more than 500 Indian workers have died in Qatar since 2012, revealing for the first time the shocking scale of death toll among those building the infrastructure for the 2022 World Cup"*.¹⁸³
230. However, the same day, the Indian ambassador is reported to have said that *"most of the deaths are due to natural causes, and therefore, it would be inappropriate to use this data in a distorted manner"*.¹⁸⁴ (emphasis added) The Qatar Tribune article goes on to state that, *"data provided by the Indian embassy states that 488 Indian expatriates died in Qatar in the last two years from various causes like road accidents, suicide and natural deaths. The number of Indian workers who died in worksite accidents during the period was 27 [in total] - 13 in 2012 and 14 in 2013."*¹⁸⁵ (emphasis added)
231. Most recently, the Washington Post has reported that *"since the World Cup was awarded to Qatar in 2010...more than 1,200 men have died in preparations"* and that it is *"projected that if things don't improve dramatically by 2022, more than 4,000 could die"*.¹⁸⁶ The article states that these statistics are the conclusions of an ITUC report published in March 2014, and that

¹⁸¹ Report dated 15 February 2014: <http://www.theguardian.com/football/2014/feb/16/qatar-world-cup-400-deaths-nepalese>.
¹⁸² In an article in The Peninsula, "Guardian Story Fabricated, says Nepalese Forum" dated 18 February 2014, the General Secretary of PNCC, Som Prasad Lamichane stated that the PNCC was "surprised to read the Guardian's reference to our organisation. PNCC is not working on any report and we do not have any such data with us. The [Guardian's] claim that PNCC will release a report next week is totally wrong." The article went on to state that, "PNCC will be writing to the daily to register its strong protest. Interestingly, the Guardian report doesn't quote any PNCC official. 'An equal number of fatalities is happening across the Middle East, including in other GCC countries like Saudi Arabia and the UAE. We do not know why the Guardian is focusing only on Qatar,' said PNCC Vice-Chairperson Kul Prasad Karki." The article further states that, "some of [the news portals] interpreted that all 400 deaths claimed by the Guardian were related to the FIFA-related projects. Some portals even said the entire casualties [sic] occurred at the construction sites of the World Cup stadiums, forgetting the fact that FIFA stadiums are just in their design stages. The Nepal embassy...told The Peninsula that [the embassy] does not have any data to prove that the casualties[sic] happened at the FIFA-related project sites. However, the update of deceased Nepalese labourers in Qatar is worrying. A total of 194 Nepalese labourers died in Qatar in 2013. Over 70% of the fatalities were due to cardiac arrest." see **Annex P**.
¹⁸³ <http://www.theguardian.com/world/2014/feb/18/qatar-world-cup-india-migrant-worker-deaths>
¹⁸⁴ Article in the Qatar Tribune, "Reports on Deaths of Indian Workers a Campaign against Qatar, says NHRC" dated 19 February 2014, see **Annex Q**.
¹⁸⁵ *Ibid*.
¹⁸⁶ Report dated 15 April 2014. http://www.washingtonpost.com/news/morning-mix/wp/2014/04/15/staggering-number-of-workers-die-as-qatar-prepares-for-world-cup/?tid=hp_mm.

the statistics were collected from the Nepalese and Indian Embassies in Qatar, which account for the largest migrant worker populations in Qatar.

232. Below we consider in detail the data we have reviewed in relation to the deaths in the three largest migrant worker populations in Qatar (namely Nepalese, Indian and Bangladeshi).

Deaths of Nepalese Migrant Workers

233. We spoke with the representatives from the Embassy of Nepal who confirmed that there are currently more than 400,000 Nepalese migrant workers in Qatar (out of a total migrant population of 1.39 million). In 2012 and 2013, the representatives confirmed that there were 162 and 191 deaths of migrant workers respectively. The representatives from the Embassy were not clear how many of these related to construction projects, but said that most deaths were a result of cardiac arrest.
234. The Supreme Council of Health provided statistics showing the cause of death of Nepalese migrant workers for the years 2012 and 2013. These statistics detail the following causes of death for the Nepalese population in Qatar in 2012 and provide a total figure for 2013:

CAUSE OF DEATH	2012	2013
Sudden death, cause unknown	107	-
Road traffic accidents	23	-
Intentional self-harm by hanging, strangulation and suffocation and intentional self-harm by sharp object	21	-
Unspecified fall and struck by thrown, projected or falling object	11	-
Other causes	24	-
Total	186	197

235. We also received statistics from the Trauma Registry at the Hamad General Hospital. The Hamad General Hospital provides emergency medical services for patients with moderate to severe injuries. These statistics show that in 2013 there were five Nepalese deaths which were the result of work-related injuries (four of the five deaths were labourers in the construction industry). In the same year (2013), there were 13 Nepalese deaths which were the result of non-work-related injuries.

Deaths of Indian Migrant Workers

236. We spoke with the representatives of the Embassy of India who confirmed that Indians accounted for the largest community of migrant workers in Qatar, estimated to be approximately 500,000. Of those 500,000 Indians in Qatar we understand that 60% work in the construction sector.
237. The representative from the Indian Embassy stated that in the years 2012 and 2013 there were 237 and 241 Indian migrant worker deaths respectively. These statistics are confirmed on the Embassy's website, which states that "*...further, considering the large size of our community, the number of deaths is quite normal - 233 in 2010, 239 in 2011, 237 in 2012, 241 in 2013 and 37 in 2014. Most of the deaths are by natural causes.*"¹⁸⁷ (emphasis added)
238. The Indian Embassy representative also stated that there was a total of 13 work site related deaths in 2013, and 14 work site related deaths in 2014. (We note that it is unknown whether these were a result of breaches of health and safety rules).
239. The Indian Embassy representative also expressed concerns to us about death statistics being used by the press in a "distortive" and "inappropriate manner".¹⁸⁸
240. We have reviewed statistics showing cause of death from the Supreme Council of Health which details the following causes of death for the Indian population in Qatar in 2012 and provides a total mortality figure for 2013:

¹⁸⁷ http://www.indianembassyqatar.org/pages/press_release_detail.php?id=63&page=1

¹⁸⁸ The Indian Ambassador to Qatar, HE Sanjiv Arora was quoted in the Qatar Tribune as saying "*most of the deaths are due to natural clauses, and therefore it would be inappropriate to use this data in a distorted manner*", 19 February 2014. See **Annex Q**. See also Indian Embassy website <http://www.indianembassyqatar.org/pages/importantannouncements.php> and http://www.indianembassyqatar.org/pages/press_release_detail.php?id=63&page=1.

CAUSE OF DEATH	2012	2013
Sudden death, cause unknown	105	-
Road traffic accidents	35	-
Intentional self-harm by hanging, strangulation and suffocation and intentional self-harm by sharp object	7	-
Unspecified fall and struck by thrown, projected or falling object	14	-
Other causes	91	-
Total	252	247

241. We also received statistics from the Trauma Registry at the Hamad General Hospital. These statistics show that in 2013 there were 4 Indian deaths which were the result of work-related injuries (3 of these 4 deaths were labourers in the construction industry). In the same year, there was 10 Indian deaths which were not the result of non-work-related injuries.

Deaths of Bangladeshi Migrant Workers

242. The representatives of the Embassy of Bangladesh confirmed that there are approximately 130,000 Bangladeshi migrant workers in Qatar and of these approximately 70% are employed in the construction sector. The reported total death rate in Qatar is 15 or 16 per month (or approximately 180 deaths per year). Again, it was not clear how many deaths were on construction sites.
243. We received cause of death statistics from the Supreme Council of Health which details the following causes of death for the Bangladeshi population in Qatar in 2012 (we did not receive any statistics relating to the year 2013):

CAUSE OF DEATH	2012
Sudden death, cause unknown	34
Road traffic accidents	14
Intentional self-harm by hanging, strangulation and suffocation and intentional self-harm by sharp object	0
Unspecified fall and struck by thrown, projected or falling object	10
Other causes	24
Total	82

244. We also received statistics from the Trauma Registry at the Hamad General Hospital. These statistics show that in 2013 there were four Bangladeshi deaths which were the result of work-related injuries (two of the four deaths were labourers in the construction industry). In the same year, there were five Bangladeshi deaths which were the result of non-work-related injuries.
245. It is clear from the above examples that there is huge disparity in the statistics quoted. On the one hand, there are reports of many hundreds of migrant worker deaths, and assertions that this should be expected to continue; on the other there are varied statistics being produced by the State of Origin embassies, the Supreme Council of Health and the Trauma Registry at the Hamad General Hospital, which indicate the number of work-related deaths are much lower.
246. There is a common concern about the seemingly high number of deaths by cardiac arrest (which we note may also be categorised as death by natural causes or sudden death by the Supreme Council of Health).

Sudden "Cardiac" Deaths

247. In respect of the number of deaths in Qatar, we note the data provided to us by the Supreme Council of Health, which states that sudden "cardiac" death is the main cause of death amongst the top five migrant worker populations in Qatar, the Nepalese having the highest total deaths. In 2012, the number of sudden cardiac deaths were as follows: Nepal (107), India (105), Philippines (37) Bangladesh (34) and Sri Lanka (21).¹⁸⁹
248. Numerous theories have been presented to us as to why this is the case, including the theory that workers are effectively suffering cardiac arrest due to poor living and working conditions. However, we have not seen any evidence that either supports or disproves this. Indeed, representatives from the State of Origin embassies in Qatar, including India and Bangladesh, informed us that the percentage death rate amongst the migrant worker population was not in their view "out of the ordinary" for a population of that size.
249. We also have heard anecdotal evidence of work-related deaths being recorded as "cardiac arrests" when, in fact, that is not the reason for the death. During our interviews in Qatar, it was suggested that some employers may somehow be encouraging this classification with the effect that this prevents the deceased workers' family in the State of Origin making claims on their insurance policies (death by cardiac arrest would fall outside of the scope of the employer's insurance policy). Again, we have seen no evidence either to support or refute this.
250. We understand that when a person dies (including migrant workers), the attending doctor at the hospital (most likely the Hamad General Hospital) will complete a notification of death, which will include a description of the cause of death. This is then checked by the Forensic Pathologist (who sits within the Ministry of Interior), and if the Forensic Pathologist agrees with the notification of death, he will then issue a death certificate, which will reiterate the cause of death. If the Forensic Pathologist cannot determine the cause of death (i.e. if he cannot see the external cause of death) he will write a preliminary report to the District Attorney recommending that an autopsy or post-mortem is performed in order to determine the cause of death. The Forensic Pathologist explained to us that the District Attorney may not order an autopsy or post-mortem to be performed if, on investigation, there are no suspicious circumstances surrounding the death. Currently, autopsies and post-mortems are prohibited in Qatar, except for the purpose of determining whether the death was caused by a

criminal act or whether the deceased suffered from illness prior to death.¹⁹⁰ Therefore, autopsies / post-mortems are not presently carried out in relation to deaths which are sudden or unexpected.

251. When we spoke with the Forensic Pathologist from the Ministry of Interior, he explained that in certain cases the State of Origin embassies (who are responsible for liaising with the deceased's family in the State of Origin and ensuring the return of the deceased to the State of Origin) can complete their paperwork relating to the return of the deceased, before the Forensic Pathology Department issues the death certificate and the body is returned to the State of Origin. We also understand from the Forensic Pathologist and the embassies that in some cases the families of deceased migrant workers do not allow time for an autopsy or post-mortem because of religious or other concerns that the body must be buried as soon as possible after the death.
252. We understand that from August 2013, the Forensic Pathology Department and the District Attorney have agreed to perform autopsies or post-mortems on migrant workers where the cause of death is potentially work-related (for example, a failure in health and safety standards) or disease. As a result, autopsies have increased from 2% in 2012 to currently 9.8%.
253. In the absence of more transparent statistics, it is difficult to take a view on the extent to which these recorded death tolls (and injury reports) involving migrant workers are attributable to the working conditions and / or breaches of health and safety standards (in particular in the construction sector) in Qatar.
254. Going forward, it is crucial that the State of Qatar properly classifies causes of deaths. It is critical to collect and disseminate accurate statistics and data in relation to work-related injuries and deaths. If there are any sudden or unexpected deaths, autopsies or post-mortems should be performed in order to determine the cause of death. If there are any unusual trends in causes of deaths, such as high instances of cardiac arrest, then these ought to be properly studied in order to determine whether preventative measures need to be taken.

¹⁸⁹ See **Annex H** - Supreme Council of Health - Migrant Workers in Qatar - Statistics 2012-2013 and **Annex I** - Supreme Council of Health - Statistics of Fatalities.

¹⁹⁰ Article 2 of Law No 2 of 2012 on Autopsy of Human Bodies.

255. Given that varying statistics are being extrapolated to support claims of significant mistreatment of migrant workers in the construction sector, we would suggest that the State of Qatar provide for a definitive study into the number of deaths from cardiac arrest in order to collate evidence to verify the actual cause, and take any preventative steps which may be appropriate.

DLA Piper Recommendations

256. The State of Qatar has a comprehensive legislative framework relating to health and safety standards in place. It now requires fully-fledged monitoring and enforcement. Qatar also needs to be more transparent and encourage the dissemination of information in relation to work-related and non-work-related injuries and deaths in Qatar.
257. We recommend that immediate steps are taken to **demonstrate the importance placed on health and safety standards by the Ministry of Labour and Social Affairs**. This should include:
- 257.1 **Regular publication by the Labour Inspection Department or other relevant department within the Ministry of Labour and Social Affairs of the names of Contractors and employers that have breached the relevant health and safety standards;** and
- 257.2 **Introduction of further (and more severe) criminal sanctions, and criminal sanctions of greater severity for employers who repeatedly breach the Qatari Labour Law in respect of health and safety.** In particular, we would recommend introducing civil and criminal sanctions for the breach of Resolution No. (20) (on health and safety standards).
258. **We recommend the introduction of electronic ID cards, incorporating migrant workers' health card** (to be paid for by employer / sponsor) for all migrant workers upon arrival into Qatar.
259. We recommend requiring Lead Contractors to **establish health and safety teams**, who would be responsible for site safety measures not only for the Lead Contractor but also for all Sub-Contractors on-site. Lead Contractors should also ensure there are sufficient contract provisions in place to ensure Sub-Contractors comply with health and safety standards. These

should be in line with the Qatar Foundation / Supreme Committee worker welfare standards or equivalent.¹⁹¹

260. **We would recommend enhancing the existing law by requiring employers in the construction sector to appoint managerial staff dedicated to being accountable for health and safety matters** - this would align the law with the standards prescribed by Qatar Foundation and the Supreme Committee. These managerial staff would be the ideal point of contact for the Labour Inspection Department in the event of an inspection.
261. As stated above, the **Contractors should be made responsible for overall site safety** and for ensuring that health and safety standards are met not only by themselves but also by all Sub-Contractors. We would strongly recommend imposing joint and several civil and criminal liability for health and safety breaches on Lead Contractors and their Sub-Contractors.
262. **Failure to enforce health and safety standards on site should result in vicarious liability for the Lead Contractor**, as well as direct liability for Sub-Contractors breaching health and safety standards. There should be **criminal sanctions for repeat offenders** to ensure that the Lead Contractors effectively work together with the Ministry of Labour and Social Affairs to enforce Qatari health and safety law.
263. We would also suggest **adopting a guidance document for employers and migrant workers** which either adopts the Supreme Committee for Delivery and Legacy's Worker Welfare Standards¹⁹² or sets out the State of Qatar's own comparable standards, and provides for migrant worker entitlements under Qatari Labour Law. This guidance could also encourage employers to introduce health and safety working groups, where migrant workers can be represented and health and safety concerns can be raised (this is considered further below at Issue 8 on Freedom of Association). This health and safety working group could then be consulted by the Labour Inspections Department as part of its inspections procedure.
264. The Labour Inspections Department's role will be crucial to monitoring compliance with health and safety regulations.¹⁹³ We welcome the on-going recruitment and training of inspectors. We recommend that inspections should place greater weight on compliance with

¹⁹¹ See for example sections 13 & 14 of the Supreme Committee Workers' Welfare Standards at **Annex C**.

¹⁹² See **Annex C**.

¹⁹³ We deal more generally with the Labour Inspections Department at Issue 7 below.

health and safety standards, and the following checks ought to be included in the inspection criteria (to the extent these are not included already):

- 264.1 workers access to adequate water supplies;
 - 264.2 workers access to adequate medical treatment (including location);
 - 264.3 treatment of workers when unwell and confirmation that wages are not unlawfully reduced for taking sick leave;
 - 264.4 workers are not working excessive hours (an additional check should be included in the summer months to ensure workers are not working between 1130hrs and 1500hrs); and
 - 264.5 workers have been provided with proper safety equipment, at the employers' cost.
265. These issues should also be cross-checked with migrant workers at worker interviews during inspections, and with the health and safety working group on site (as recommended above).
266. **We would strongly recommend the regular collection and reporting / dissemination of national statistics and data in relation to work-related injuries and deaths, and the causes and the extent to which these are attributable to breaches of health and safety rules.** Currently, employers are required to report work-related injuries or deaths to the Ministry of Labour and Social Affairs under Resolution of the Minister of Civil Service & Housing Affairs No. (18) of 2005 every six months. We would recommend publishing details of this data (in a format respecting confidentiality of the injured party) at a similar frequency. In particular, publishing the average work-related injury figures per employer / site (as required at Article 6) would give a good indication of those employers who have good health and safety compliance records versus those who do not.
267. As mentioned above, we would also strongly recommend the State of Qatar commissions an **independent study into migrant worker deaths from cardiac arrest, over the next three years in Qatar.** The study should be conducted in coordination with the relevant ministries. The final report should be shared with the appropriate global health authorities.
268. We would also strongly recommend that **Law No 2 of 2012 on Autopsy of Human Bodies is extended to allow for autopsies or post-mortem examinations in cases of all unexpected or sudden deaths,** to enable the Ministry of Interior's Forensic Department to investigate all

deaths which could result from employer breaches of health and safety and that the causes of deaths can be classified with more accuracy.

269. We welcome the development of the national occupational health standards by the National Occupational Health and Safety Committee, and we understand that this Committee will develop occupational health policies and regulations. **We would strongly recommend that all proposal for future policies and regulations are published for open consultation as early in the process as possible.**

ISSUE 6: ACCOMMODATION

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

270. The provision of suitable accommodation is crucial to the welfare of migrant workers in Qatar. There are concerns that there is a discrepancy between Qatar's prescribed accommodation standards, and the practical reality.
271. Amnesty and HRW report poor accommodation and living standards, particularly for migrant workers working on construction sites in Qatar.¹⁹⁴ The allegations include overcrowding in migrant workers' accommodation (for example, migrant workers sleeping in rooms with more than eight people).¹⁹⁵ Amnesty reports accommodation without air conditioning, or with non-functioning air-conditioning, causing migrant workers to sleep on mattresses on the floor.¹⁹⁶ Allegations also include poor sanitation, such as overflowing sewage and exposed septic tanks,¹⁹⁷ and insufficient cleaning of worker's accommodation.¹⁹⁸ There are also reports of a lack of power and running water (which creates difficulties for the migrant workers to cook food, charge their mobile phones and use toilet facilities).¹⁹⁹ Whilst some migrant workers said they lived in clean rooms with adequate space and good facilities, others lived in cramped, unsanitary and inhumane conditions.²⁰⁰ Amnesty is also concerned that the ban on single male labourers (SMLs) from living in residential areas is discriminatory.²⁰¹
272. Our review confirms that Qatar's legislative framework sets suitable minimum standards for migrant workers' accommodation. However, there is a question as to the extent the standards are actually met and whether adequate enforcement action is taken against those employers who wilfully or negligently breach the standards. We understand that the Labour Inspections Department is developing and enhancing its monitoring of migrant workers' accommodation and the effective enforcement of the prescribed accommodation standards (see further Issue 7 below for our recommendations on improvements to the Labour Inspections Department). Further, we understand there may be procedural or administrative hindrances - such as obtaining planning permissions - which currently preclude the development of additional migrant worker accommodation, but which are currently under review.

¹⁹⁴ Page 47 to 52, Amnesty Report and pages 65 to 66, HRW Report.

¹⁹⁵ Page 47, Amnesty Report.

¹⁹⁶ Page 48 and 50, Amnesty Report.

¹⁹⁷ Page 49, Amnesty Report.

¹⁹⁸ Page 49, Amnesty Report.

¹⁹⁹ Page 50, Amnesty Report.

273. We suggest that the Ministry of Labour and Social Affairs should work alongside the other ministries, in particular the Ministry of Municipality and Urban Planning ("**MMUP**"), to designate sufficient land for workers' accommodation. The ban on SMLs accommodation in residential areas needs to be properly investigated to determine whether action should be taken to avoid the implementation of the prohibition being regarded as discriminatory. Contractors should be strongly encouraged to adopt the welfare standards benchmarked by the Supreme Committee or any similar Government standards. On this point, we welcome the MMUP's new "Worker Accommodation - Planning Regulation" mandatory standards guide, which provides for minimum planning standards for the layout, design and provision of amenities for worker accommodation in Qatar ("**Planning Regulation**"). This document is annexed at **Annex R**.
274. We recommend improved and comprehensive inspection of migrant workers' accommodation in the light of the prescribed standards and the Planning Regulation. We suggest creating a complaints procedure for migrant workers, both within individual businesses, through a worker welfare officer representing the employer, and also through the Labour Relations Department within the Ministry of Labour and Social Affairs. Non-retaliation provisions should be adopted into law, protecting migrant workers from any detrimental treatment resulting from them making a complaint. We also recommend that secure storage facilities are made available to all migrant workers.

SUBSTANTIVE REVIEW

Issues

275. We believe that the principal issues are as follows:
- 275.1 Prescribed accommodation standards are not being met by some Contractors;
 - 275.2 There is ineffective monitoring of accommodation standards by the Labour Inspection Department. Inspections appear to be lacking in thoroughness and deficient in any follow-up measures or remedial action;
 - 275.3 There is ineffective enforcement in relation to breaches of standards against Contractors / employers;

200 Page 65, HRW Report.
201 Page 52, Amnesty Report.

- 275.4 There is no effective complaints mechanism for migrant workers to report breaches of accommodation standards (for example, there may be a language barrier and / or fear of retaliation by the employer if they engage with inspectors);
- 275.5 There are concerns as to the lack of designated areas for Contractors to build suitable temporary and / or permanent migrant worker accommodation; and
- 275.6 Migrant workers are not provided with any safe and lockable storage for personal items (i.e. identification documents such as passports) (see also Issue 2 in relation to the retention of passports).

Conclusions on Accommodation

276. We note Article 25 of the Constitution states that every person has a right to a standard of living adequate for the health and wellbeing of himself and his family including food, clothing, housing and medical care.
277. The Ministerial Decision (No.17) of 2005²⁰² specifies the standards and conditions of suitable housing for all workers. The Decision provides as follows:
- 277.1 There should be a maximum of four people sleeping per room (although eight people is permitted if temporary accommodation²⁰³ is being used), provided that each person should have four square metres of their own space in their bedroom,²⁰⁴
- 277.2 Each person must be supplied with a bed, mattress and bed covers and bunk beds are prohibited,²⁰⁵
- 277.3 There should be adequate steps taken in relation to the "prevention of insects",²⁰⁶
- 277.4 Air conditioning must be "sufficient and convenient";²⁰⁷

²⁰² Resolution of the Minister of Civil Service and Housing Affairs No. (17) of 2005 - conditions and descriptions of the expedient workers residences.

²⁰³ Defined as up to four years.

²⁰⁴ Article 2.

²⁰⁵ Article 3.

²⁰⁶ Article 2.

²⁰⁷ Article 3.

- 277.5 There are standards specified for communal kitchens, including the provision of water filters for the preparation of food, appropriate ventilation, refrigerators, gas cookers and appropriate rubbish containers;²⁰⁸
- 277.6 There is a minimum of one lavatory per eight people (which must be adequately ventilated and supplied with cleaning products);²⁰⁹ and
- 277.7 Employers are responsible for maintaining the accommodation.²¹⁰
278. We note that the MMUP has recently published new mandatory accommodation standards which we address in the recommendation section below.

Ban on workers' accommodation in residential areas

279. In 2010, the Government passed Law No. 15 of 2010 regarding the banning of accommodation for SML (which includes both Qatari and non-Qatari SMLs) from residential areas. We understand that this law effectively prohibits migrant workers' accommodation in residential districts in Qatar's urban areas.
280. A subsequent decree in 2011 sets out the areas in which workers' accommodation is prohibited, which includes: Al Khor and Al Dhakira; Al Dayeen; Al Rayyan; Doha; Umm Salal; and Al Wakrah and Al Shimaal.
281. The allegation is that this ban is discriminatory in nature, in particular when reviewed in light of the right against discrimination contained in Article 35 of the Constitution, which states that all persons are equal before the law and there shall be no discrimination whatsoever on grounds of sex, race, language or religion (reflecting Article 2 of the UN Declaration of Human Rights).²¹¹
282. We note that the Contractors we consulted raised concerns that the current planning and zoning regulations were opaque in relation to obtaining land and planning consent in order to build workers' accommodation.

²⁰⁸ Article 4.

²⁰⁹ Article 5.

²¹⁰ Article 6.

²¹¹ We note, however, that Article 35 does not appear to extend to discrimination based on nationality or "other status", which are covered by Article 2 of the Declaration.

Bilateral Treaties - accommodation terms of model contracts

283. Each of the Model Contracts appended to the Bilateral Treaties places an obligation on the employer to provide accommodation for the migrant worker, including the accommodation being provided in accordance with "health conditions" and more specifically supplying the migrant worker with drinking water.²¹²
284. However, we note that the Model Contracts do not stipulate a specific standard that must be met, i.e. the relevant prescribed Qatari standards, namely the Decision of the Minister of Civil Service Affairs and Housing No. 17 of 2005. We recommend that this be made explicit in the Migrant Worker Model Employment Contracts (see clause 7.1 of the proposed Migrant Worker Model Employment Contract at **Annex B**).

DLA Piper Recommendations

285. **Facilitate the communication and implementation of Qatar's prescribed standards of accommodation through guidance.** In order to assist Contractors / employers and developers to meet the requisite accommodation standards, we recommend that clear and detailed guidelines on those standards are made easily available. These should set out a clear standards framework, akin to that developed by the Supreme Committee. We welcome the MMUP's "Worker Accommodation - Planning Regulation" guidelines which provide for the minimum standards of worker accommodation in Qatar.²¹³ In particular these contain provisions relating to sleeping quarters, cooking facilities, bathrooms, pest control and maintenance.²¹⁴ We recommend that this document is widely publicised and distributed with immediate effect.
286. **Monitoring and enforcement of accommodation standards should be heightened,** and specifically the Workers Accommodation standards described at paragraph 285 above should be endorsed and specifically adopted in all Government contracts. Contractors should be required to confirm compliance / acceptance with the standards as a prerequisite in any tender process. Further, the grant of planning permission should be conditional upon an undertaking to adhere to and comply with the Planning Regulation. Implementation of the standards should be closely monitored through comprehensive and compulsory accommodation site

²¹² See for example Clause 5 of the Indian Model Contract at **Annex A**.

²¹³ The Planning Regulation is annexed at **Annex R**.

²¹⁴ See the Planning Regulation at **Annex R**, in particular provisions 25 and 26 on bed coverings, 40, 48, 49 and 50 on kitchen facilities and water, 32 - 37 inclusive on bathroom facilities, 44 on air-conditioning, 46 on pest control, and 66 on maintenance.

inspections as part of the labour inspections carried out by the Labour Inspections Department.²¹⁵ Labour inspectors should, in particular, be well versed in these standards and should be required to engage directly with migrant workers about their accommodation during interviews and imposing and enforcing sufficient penalties for breaches in order to encourage adherence to the standards.

287. **Increasing the capacity of standardised labour accommodation available.** We understand that there are plans to introduce housing for over 220,000 incoming migrant workers over the next two years, with housing for over 70,000 already having been developed in Qatar this year. We understand that various accommodation initiatives are being jointly funded by both the State of Qatar and the private sector through Build, Operate and Transfer ("BOT") projects and that a Committee within the MMUP has been established to expedite these initiatives. We understand that eight State-owned sites have been identified by the MMUP for BOT projects which are currently being prepared for tender.
288. **We would recommend creating an additional step in the complaints procedure for migrant workers.** In the first instance, we would suggest that complaints relating to accommodation standards should be directed to a designated worker welfare officer within the business (who is a representative of the employer (see further below)) to give the employer the opportunity to act on the complaint, where possible within a prescribed period of time.²¹⁶ In the event that the complaint is not acted on, migrant workers should have a secondary independent complaints reporting mechanism available to them, where complaints can be made directly to the Labour Inspection Department. This would be appropriate for complaints which constitute possible breaches of the prescribed accommodation standards. We recommend that these complaints are treated confidentially, and that non-retaliation provisions be adopted into law, protecting migrant workers from any detrimental treatment as a result of them raising a complaint. We would recommend the regular review and publication of the total number of inspections undertaken, and broken down into the number of inspections triggered by complaints and those initiated by the Labour Inspection Department, in order to determine the efficacy of the complaints procedure, and the reaction and level of enforcement deployed in response to complaints.

²¹⁵ We note that the Labour Inspections Department already has the power to inspect accommodation sites but the thoroughness of this aspect of the inspections is not clear.

²¹⁶ The complaints process should be made confidential and complainants should be protected from the threat of retaliation.

289. As recommended above, **Contractors / employers should be required to make available to each migrant worker safe and lockable storage facilities**, where migrant workers may store and freely access their personal documents (i.e. identification documents such as passports). We note this recommendation is aligned with the United Nations' recent Global Compact guidance on the retention of identity documents.²¹⁷ To this end, we welcome the provision in the Planning Regulation addressing this concern and specifically requiring the provision of one storage unit per bed.²¹⁸
290. **We would also recommend, in addition to the new Planning Regulation, that the existing accommodation standards** (as contained in Resolution No. 17) be amended to include the following:
- 290.1 Requiring Contractors / employers to **ensure all workers receive an induction** (in their language of choice) **to the accommodation upon arrival**. An induction would be an opportunity to set out the "ground rules" of living in the accommodation. The induction should also cover health and safety standards at the accommodation, and the complaint reporting procedures and allocated worker welfare officer; and
- 290.2 Requiring Contractors / employers to appoint a **worker welfare officer for each accommodation site**. This welfare officer should be responsible for receiving and acting on workers' complaints. In addition there should be a health and safety representative (see Issue 5 above for further details on our recommendations for health and safety representatives) appointed in relation to any concerns about the health and safety standards on site.
291. As we have referred to above (at Issue 1) we recommend that as part of the "orientation" process, **guidance is provided to prospective migrant workers at the outset about the living conditions and accommodation standards to be expected when they move to Qatar**.
292. In the longer term, we recommend that the MMUP (and Ministry of Labour and Social Affairs) engage with private Contractors and planning authorities in relation to **designating enough land for migrant workers' accommodation**, including addressing land shortages.

²¹⁷ *Addressing the Retention of Identity Documents* UN Global Compact and Verité (2014).
<http://www.unglobalcompact.org/resources/781>

²¹⁸ See point 29 of the General requirements on page 13, **Annex R**.

We note on this point that positive steps are being taken by the relevant Ministries to address the issue of planning permission for migrant workers' accommodation and a system is being implemented to remedy existing deficiencies with the system. Part of the remedial process will include a review of existing standards of accommodation prior to the grant of site planning permissions.

293. The nature and effect of the legislation prohibiting SMLs accommodation in residential areas needs to be properly investigated, in order to identify whether action should be taken to avoid any discriminatory effect in its implementation.

ISSUE 7: LABOUR INSPECTIONS

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

294. The **Labour Inspection Department** (or "**Inspectorate**"), which sits within the Ministry of Labour and Social Affairs, is an important component of the State of Qatar's arsenal to ensure the effective application and enforcement of the legal framework regulating the working conditions of migrant workers in Qatar. A pro-active and robust Inspectorate should also deter any potential abuse of migrant workers' rights.
295. The Labour Inspection Department has a dual-function, in that it is responsible for (i) health, safety and occupational health inspections (which are intended to monitor compliance with health and safety rules) and accommodation inspections (to monitor compliance with accommodation standards), and (ii) labour inspections, which include on-site checks and reviews of workers' files for compliance. These functional remits are dealt with by two separate sub-departments. The Labour Inspection Department is, in addition, tasked with detecting any potential abuses of migrant workers' rights more generally, and ordering appropriate remedial action.
296. The allegations suggest that the existing Inspectorate function is failing to properly recognise and address serious issues of infringement of standards and, potentially, breaches of human rights. We understand that this arises because of two key shortcomings: (i) there is simply not sufficient resource within the Labour Inspection Department, and (ii) as a matter of practicality, insufficient time is allocated to the carrying out of inspections.
297. Furthermore, inspectors do not engage or interact with the migrant workers (in many cases because of language barriers) which means that valuable information relating to migrant workers' accommodation standards and living standards, as well as treatment by employers / sponsors, is not being adequately obtained from the migrant workers. As such, an incomplete picture of the situation of migrant workers is being presented to the State of Qatar.
298. In order for the Inspectorate mechanism to operate efficiently, it is clear that there must be a sufficient number of inspectors carrying out regular, thorough inspections in Qatar. With 1.39 million migrant workers and thousands of construction sites, we do not believe that the 200 inspectors currently employed by the Labour Inspection Department are sufficient to carry out this role effectively. It is also crucial that the inspectors engage with both employers and migrant workers (and their representatives, where possible) in order to obtain

an objective and reliable view of the relevant working conditions, rather than confining the scope of the inspection only to the employer.

299. In our view, the labour inspectors play a pivotal role in the effective implementation of many of the recommendations contained in this report. In particular, labour inspectors should have a minimum level of training, with appropriate foreign language ability being strongly encouraged. We note that steps are already being taken to improve the efficacy of the Labour Inspections Department, including plans to strengthen the existing workforce with the recruitment of an additional 100 labour inspectors, and positive steps to improve training (with some training programmes planned in relation to health and safety and labour inspection to be provided in conjunction with the ILO).
300. We would strongly encourage the Labour Inspections Department to continue to make these positive developments to improve its resources, capabilities and the quality of enforcement services it provides. A robust and thorough Inspectorate mechanism is imperative to effective improvement of the existing working conditions. With a sufficiently powerful Inspectorate, the enforcement of enhanced health and safety and accommodation standards for migrant workers will be developed. Further, where necessary the Inspectorate will be better placed to deter any abuse of migrant workers that may be found to exist.
301. We recommend therefore, that the development and training of the Labour Inspections Department is prioritised.

SUBSTANTIVE REVIEW

Issues

302. The Amnesty Report states that there is inadequate resource for thorough labour inspections.²¹⁹ The allegations includes:
- 302.1 Qatar's labour inspections unit does not employ enough labour inspectors to monitor compliance with Qatari Labour Law and company regulations.²²⁰

²¹⁹ Pages 110 to 112, Amnesty Report.

²²⁰ Page 110, Amnesty Report and page 79, HRW Report.

- 302.2 Qatar is currently in breach of its obligations under Art 10 of the ILO Labour Inspection Convention No. 81 which requires the number of labour inspectors to be sufficient to secure the effective discharge of the duties of the inspectorate.²²¹
- 302.3 There is not enough time being allocated to each inspection, with multiple inspections being carried out by the same inspector in one day and this has led to a "tick box" approval process, rather than a thorough investigation.²²²
- 302.4 There are language barrier issues. Inspectors speak Arabic and sometimes English, but not the languages commonly spoken by migrant workers and, therefore, inspections do not include interviews with migrant workers.²²³
- 302.5 The Ministry of Labour and Social Affairs grades companies for compliance with labour standards. But these grades, and the criteria by which they are formulated, remain private and only available to owners of companies.²²⁴
303. The ILO also considered the labour inspection function in Qatar and underlined, "*the important role of labour inspections in enforcing the labour rights of [migrant] workers, as the proactive detection of such violations is an important first step towards the identification of forced labour practices*".²²⁵
304. We consider the principal issues are as follows:
- 304.1 As mentioned in relation to Issues 5 and 6 above, our view is that the monitoring and enforcement of breaches of health and safety and accommodation standards needs considerable strengthening. One straight-forward way of strengthening such enforcement is through establishing an efficient inspectorate to conduct rigorous and thorough inspections in order to detect any breaches of Qatari standards and abuses;
- 304.2 Our review indicates that the legislative instruments are in place and provide the framework for inspections. It is therefore an issue of the frequency, format and thoroughness of these inspections;

²²¹ Page 112, Amnesty Report.

²²² Page 111, Amnesty Report.

²²³ Page 111, Amnesty Report and page 79, HRW Report.

²²⁴ Page 112, Amnesty Report.

²²⁵ Paragraph 56, ILO Eighth Supplementary Report.

- 304.3 More labour inspectors need to be recruited to ensure there is sufficient resource to conduct thorough inspections. There are language barriers when inspectors need to communicate with employees. This can result in employees not being consulted during inspections; and
- 304.4 The lack of publicly available published guidance relating to the procedures for work site inspections has led to concerns over the quality and efficacy of the inspections.

Conclusions on Labour Inspections

305. The law relating to work site inspections are set out in Part 15 of the Qatari Labour Law and in the Ministerial Decree No.13 (of 2005) on the Regulation of the Labour Inspection Tasks and Procedures.²²⁶
306. Article 135 of the Qatari Labour Law requires a "Work Inspection Organ" to be established for the purposes of supervising the application of the law concerning the protection of workers (the "**Labour Inspections Service**"). The inspection organ shall "*be formed of a sufficient number of administrative officials*" who are called "*Work Inspectors*".
307. The Ministerial Decree No.13 sets out the regulations applicable to the Inspectorate and states:
- "The Labour inspection is the inspection carried out by the labour inspectors and their leaders at the Labour Inspection Body of the Labor Department, to make sure of the compliance with the provisions of the [Labor Law No.14 of 2004] and its executive decisions, aiming to apply the legislations related to the employees protection and guidance of the employees and employers to the best ways to be followed for improving the work circumstances."*²²⁷
308. The Ministerial Decree No.13 explains that the Labour Inspection Department is the main enforcer of Qatari Labour Law. It provides for the duties of Labour Inspectors, their powers, regulation of day and night inspections and the rules and procedures applicable to the Inspectorate.

²²⁶

See **Annex K.**

²²⁷

Article 1 - (General Regularisation of Labor Inspection Body) Ministerial Decree No.13 of 2005 Regulating the Labor Inspection Tasks and Procedures.

309. In particular it provides for leaders of the Inspectorate (from the Labor Inspection Body) to issue instructions to the inspectors²²⁸ and for the inspectors to provide information and guidelines related to "*good execution of the labor law*" to employers and employees.²²⁹
310. If inspections are triggered by a complaint, the Labour Inspection Department will keep the complainant's identity confidential from the employer and will not inform them that the inspection was triggered by a complaint.
311. The powers of the inspectors include:
- 311.1 the power to conduct announced and unannounced inspections;
 - 311.2 the right to examine records, papers, books, files and any document related to the workers to make sure they are compatible with Labour Law.
 - 311.3 the right to obtain samples of material for testing and to examine machinery to make sure it is compliant with health and safety standards;
 - 311.4 the power to interview the employer and the worker, alone or in the presence of a witness, about any topic related to the application of the provisions of the Labour Law and the implementing decrees, in order to determine the extent of compliance with conditions mandated in these statutes; and
 - 311.5 the power to inspect workers' accommodation²³⁰.
312. In terms of enforcement powers, the Labour Inspections Department can:
- 312.1 consult with an employer on how to remedy a breach;
 - 312.2 issue notices to remedy breaches, requiring remedial action within prescribed time periods (usually between two weeks to a month); and
 - 312.3 issue reports on any breaches to the Ministry of Labour and Social Affairs, and refer breaches to the Ministry of Labour and Social Affairs to order remedial action.²³¹

²²⁸ Article 6, Ministerial Decree No.13 (2005).

²²⁹ Article 8, *ibid*.

²³⁰ Article II, *ibid* (reflecting Article 138 of the Labour Law).

²³¹ Article 12, *ibid*.

313. Article 141 of the Qatari Labour Law requires the Ministry of Labour and Social Affairs to prepare and publish an annual report on labour inspections. This report must contain the following information in particular:
- 313.1 the number of inspectors;
 - 313.2 information on the provisions regulating the inspection;
 - 313.3 statistics relating to the employers which are subject to inspections;
 - 313.4 the number of migrant workers affected;
 - 313.5 the number of inspection visits carried out by the inspectors;
 - 313.6 the number of breaches detected;
 - 313.7 the penalties imposed; and
 - 313.8 details of any work injuries sustained.
314. We are also aware that Article 16 of Minister of Civil Service and Housing Affairs Decree No. 13 (of 2005) requires each company to receive inspection visits each year.
315. Insofar as the Inspectorate workforce is concerned, we understand that recruitment is already on-going and that at present there are 200 labour inspectors employed by the Ministry of Labour and Social Affairs and distributed throughout Qatar as follows:
- 315.1 Doha City Main Department: 160 inspectors;
 - 315.2 Al Khor City Office: 10 inspectors;
 - 315.3 Al Wakrah City Office: five inspectors;
 - 315.4 Industrial Region Office: 17 inspectors;
 - 315.5 Shihanieh Region Office: four inspectors;
 - 315.6 International Airport Office: four inspectors.
316. We understand that the State of Qatar intends to recruit an additional 100 inspectors to increase the Labour Inspections Department's resources over the course of this year.

317. We are informed that the Ministry of Labour and Social Affairs' internal (guideline) target for inspectors is to carry out at least two site inspections per day.
318. We have been told that a total of 46,624 site inspections were carried out in the period 1 January - 31 December 2012.
319. We understand from our discussions with the Ministry of Labour and Social Affairs that whilst the law provides for both announced and unannounced inspections, generally inspections are more effective when undertaken unannounced. However, there are certain circumstances in which they can be carried out on an announced basis, and employers are given notice.
320. Inspections are conducted on a regular and on-going basis. In addition, inspections can be triggered by a complaint. This complaint is classified by the Ministry of Labour and Social Affairs and, depending on the type of complaint, can prompt inspection. As mentioned above, these complaints can be made anonymously to protect the identity of the migrant worker, and therefore the migrant worker is able to make a complaint without fear of retaliation from the employer.
321. In terms of enforcement powers, the Labour Inspection Department does not have the power to impose financial penalties on employers and / or sponsors, although it does have the power to blacklist a company. It also does not have the power to suspend the activities of the employer, but can recommend financial penalties, closure or suspension of a business to the Ministry of Labour and Social Affairs, which can choose to follow this recommendation in consultation with the Supreme Judiciary Council. The Labour Inspection Department can also recommend revocation of any relevant licences of the employer.
322. Finally, we note that the Supreme Council of Health also has an inspection function, but that this is limited to monitoring licenced medical clinics.

DLA Piper Recommendations

323. Strengthen the Inspectorate:

- 323.1 We recommend **recruiting more labour inspectors to ensure there is sufficient resource to conduct thorough inspections as required by the Ministry of Labour and Social Affairs.** As mentioned above, we understand that additional recruitment

is already underway and we welcome the news that there are plans to recruit an additional 100 inspectors in 2014, bringing the total number of inspectors to 300. In light of the high number of migrant workers in Qatar and the high number of on-going construction projects, the Labour Inspections Department should continue to recruit inspectors until there is enough resource to carry out sufficiently thorough inspections.

323.2 **We recommend bolstering the powers of inspectors.** In particular, we would recommend giving inspectors the power to impose sanctions for the failure to adhere to improvement notices, such as financial penalties and the power to suspend the activities of the employer (for example, for failure to adhere to an improvement notice or requiring lower graded contractors to improve their grading).

323.3 We understand the interviews with workers during inspections is already a requirement under Qatari labour law. Details of the format and the number of interviews per inspection ought to be included in the guidance recommended below. Interpreters in the most commonly used languages should be used by the inspectors to ensure interviews with workers are carried out as effectively as possible.

323.4 **We would also strongly recommend reducing the minimum number of inspections per day in internal guidance to enable more thorough inspections, reporting and follow up by the Labour Inspections Department.** This ought to be feasible once a sufficient number of inspectors have been recruited.

323.5 We recommend that steps are taken to ensure inspectors receive comprehensive training in order to perform their role. This training should be compulsory for all inspectors and should include occupational health and safety, labour inspection and training on human rights standards.

324. **Increase transparency:**

324.1 **We recommend publishing guidance which sets out the Labour Inspection Department's functions, procedures, and the prescribed checks on compliance with legislation during inspections.** This should include the following: checks on the payment of wages; checks to monitor the issue of passport retention; a review of workers' contracts; checks to ensure employers' compliance with health and safety regulations; checks on migrant workers' accommodation as against the relevant

standards; and checks on employee working hours (i.e. that excessive hours are not being worked and ensuring restricted working hours in summer are complied with and rest periods of workers). The guidance should also detail the format of employer and migrant worker interviews and any complaints procedures. This guidance should also set out the grading system which has recently been adopted by the Ministry of Labour and Social Affairs, and any new sanctions which are implemented.²³² This should ensure greater transparency (both for employers and migrant workers) for example, in relation to the number of complaints lodged and any enforcement action taken.

325. In the medium to longer term, we note that the general development of the inspectorate system would be beneficial. A significant element in ensuring compliance with health and safety and migrant worker accommodation regulations is the effectiveness of the Labour Inspection Department, and its remit in terms of assessing compliance with the relevant legislation. Inspections should place greater weight on compliance with health and safety and accommodation standards (as well as the general welfare of the migrant workers), and we recommend that the following checks ought to be included in the routine inspection criteria:

- 325.1 access to adequate water supplies;
- 325.2 access to adequate medical treatment;²³³
- 325.3 protocol for sick leave (ensuring that migrant workers are not working when unwell and that their wages are not unlawfully reduced for taking any legitimate sick leave);
- 325.4 working hours (an additional check should be included in the summer months to ensure employees are not working between the hours of 1130hrs and 1500hrs);
- 325.5 access to proper safety equipment, at the employers costs;
- 325.6 access to safe and lockable storage facilities, where migrant workers may store and freely access their personal documents (i.e. passports);
- 325.7 checks that employers have valid medical insurance cover for employees once the Social Health Insurance System Law No 7 (2013) comes into force;

²³² As we have recommended in the preceding sections of this report.

- 325.8 provision of a suitable induction to migrant workers' accommodation sites; and
- 325.9 liaison with the welfare offices for each accommodation site and health and safety representatives.
- 326. These issues should also be cross-checked with migrant workers at interviews during routine inspections, and with the health and safety working group (see Issue 5 above for further details of this working group).

²³³

i.e. that every migrant worker has a residence permit and corresponding medical card and / or the employer has health insurance for all migrant workers as per the Social Health Insurance Law No.7 (2013).

ISSUE 8: FREEDOM OF ASSOCIATION / COLLECTIVE BARGAINING

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

327. The phenomenal increase of labour inflows to Qatar has placed a renewed focus on the rights of freedom of association and collective bargaining. This unique context raises broader issues as to representation, as well as the more traditional issues of collective bargaining power between employer and employee on matters such as wages and fair working conditions.
328. The principal allegations relating to the ban on freedom of association of migrant workers are that:
- 328.1 the Qatari Labour Law does not allow freedom of association or the formation of trade unions.²³⁴ Amnesty alleges that *"The impact of the Labour Law is severely undermined by the inadequate enforcement and the fact that under the Labour law, migrant workers are not allowed to form or join trade unions."* HRW reports that *"Qatari law prohibits migrant workers from forming trade unions, in violation of these workers' rights to freedom of association and collective bargaining."* We note also that the UN Special Rapporteurs' Report on the Human Rights Of Migrants in Qatar states: *"[The law] bans migrants from forming organisations and from collective bargaining";*
 - 328.2 the ban on freedom of association precludes migrant workers from acting collectively to prevent alleged abuses.²³⁵ Amnesty states that *"This ban prevents migrant workers from responding in an organised manner to exploitative practices and other abuses by their employers, since they are prohibited from doing so";*
 - 328.3 there are no clear provisions protecting workers from discrimination on the grounds of union activities.²³⁶ Amnesty proposes that *"[Qatar should] adopt clear and precise provisions protecting workers from all forms of anti-union discrimination as well as efficient procedures to ensure their implementation"*.

²³⁴ Page 105, Amnesty Report.

²³⁵ Pages 108 and 109, Amnesty Report.

²³⁶ Page 109, Amnesty Report.

"In its current form, the law places severe limitations on the right to freedom of association for all workers, both migrant workers and Qatari nationals. For example, among other significant deficiencies, only workers in enterprises with more than 100 workers employed are able to form or join a union, and there are no clear provisions protecting workers from anti-union discrimination." HRW comments that "The proposal for an elected body to advocate for workers' rights falls far short of international labour law requirements for free association, which includes the right of workers to freely organise without interference from or discrimination imposed by the government, as well as the right to strike."

- 328.4 the limited collective bargaining law that does exist only applies to Qatari nationals. On this point, HRW states that: *"While the Labour Law allows Qatari workers to unionise, it prohibits migrant workers from joining unions...in making this distinction, the law discriminates against migrant workers in violation of international law."* In the ILO's judgment relating to a complaint against the State of Qatar presented by the ITUC,²³⁷ (**"the ILO Judgment"**) the ILO criticised the Labour Law, stating:

*"With regard to the restriction on the right to organise based on nationality....such restriction prevents migrant workers from playing an active role in the defence of their interests especially in sectors where they are the main source of labour."*²³⁸

329. We conclude from our review that the absence of the right to freedom of association and collective bargaining for migrant workers in Qatar represents a lacuna in the existing framework. We recommend that this lacuna is addressed by conducting a review of the existing system in order to put in place measures which protect the freedom of association of migrant workers. This review should be carried out with the appropriate experts, including the ILO.
330. We recommend that Contractors are encouraged to adopt the benchmark welfare standards, used by the Supreme Committee, which includes the setting up of Worker Welfare Forums. While these for a may fall short of fully fledged trade unions, they may well be able to protect migrant workers' interests and would, in our view, constitute a significant development.

SUBSTANTIVE REVIEW

Issues

331. The issues that arise in relation to the right of freedom of association and collective bargaining for migrant workers in Qatar can be summarised as follows:

331.1 there is an absence of legislation providing for freedom of association and collective bargaining for non-Qatari citizens; and

331.2 there is an absence of appropriate legislation prohibiting the detrimental treatment of collective representatives.

Conclusions on Freedom of Association and Collective Bargaining

Freedom of association and collective bargaining: The distinction

332. It is clear that the Qatari law falls short of providing any such right to freedom of association and collective bargaining to migrant workers.

333. The United Nations Declaration of Human Rights distinguishes between freedom of association, under Article 20, and the right to collective bargaining, under Article 23:

"Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests".

²³⁷

²³⁸

The ILO Case No. 2988 - Complaint Against the Government of Qatar (see **Annex O**).
Paragraph 842 of the ILO Judgment.

334. While Qatar has not ratified the United Nations Covenant on Economic, Social and Cultural Rights 1966, this Covenant sets out further provisions addressing the right to freedom of association, namely:

"Article 8

(1)- The States Parties to the present Covenant undertake to ensure:

(a) the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) the right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) the right to strike provided that it is exercised in conformity with the laws of the particular country.

(2) - This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

(3)- Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention".

335. A further UN Covenant, which Qatar has not ratified, is the International Covenant on Civil and Political Rights 1966. This states that *"everyone shall have the right to freedom of*

association with others, including the right to form and join trade unions for the protection of his interests." As with the aforementioned UN covenant, the same permitted restrictions apply, namely, that this right may only be restricted if *"prescribed by law, and if necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."*

336. The Arab Charter on Human Rights, which Qatar ratified in 1994, notes the distinction between the right to associate, and the right to form trade unions and the right to strike. The Charter distinguishes between the two rights, and rehearses the fact that lawful limitations can be placed on them.

"Article 28

All citizens have the right to freedom of peaceful assembly and association. No restrictions shall be placed on the exercise of this right unless so required by the exigencies of national security, public safety or the need to protect the rights and freedoms of others.

Article 29

The State guarantees the right to form trade unions and the right to strike within the limits laid down by law."

International Labour Organization

337. The ILO Judgment suggests that by becoming a Member of the ILO Qatar thereby accepts the fundamental principles embodied in the ILO Constitution and in the Declaration of Philadelphia, which includes the principles of freedom of association. The Constitution places a series of obligations on Members in respect of Conventions and Recommendations, including the obligation to bring Conventions and Recommendations to the attention of the competent authorities and the provision of undertakings to report progress to the ILO. However, these obligations do not constitute an obligation to ratify any Convention or Recommendation. The Declaration does not impose any obligations on Members; rather it is a recognition of the aims of the ILO as an organisation. The relevant section of the ILO Constitution states:

"(III) The Conference recognises the solemn obligation of the International Labour Organization to further among the nations of the world programs which will achieve:

...

(e) the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures; ..."

338. Qatar has also not ratified any of the following ILO Conventions:

338.1 Freedom of Association and Protection of the Right to Organise Convention, 1948;

338.2 Right to Organise and Collective Bargaining Convention, 1949; or

338.3 Collective Bargaining Convention.

The right to association

339. Article 45 of the Qatar Constitution provides for the right of citizens to freedom of association, subject to conditions of national law, stating as follows:

"The right of citizens to establish association is guaranteed in accordance with the conditions and circumstances set forth in the law."

340. Article 116 of the Qatari Labour Law further provides for the formation of labour committees, however we note that it is subject to a number of limitations:

340.1 such labour committees are only allowed at establishments with one hundred or more Qatari workers;

340.2 only one labour committee can be formed per establishment; and

340.3 membership is restricted to Qatari nationals.

341. The ILO Judgment criticised these limitations, citing that the establishments in which migrant workers are typically employed rarely have in excess of one hundred Qatari employees, which in practical terms, curtails the applicability of these rights.

342. The ILO Judgment also observes that, pursuant to Article 116 of the Labour Law, each committee can only join with other committees in the industry to form a general union. The

ILO Judgment suggests that imposing unity within the trade union sector via State legislation is contrary to the principles of freedom of association, holding instead that:

"the right of workers to establish organisations of their own choosing implies the effective possibility to create - if the workers so choose - more than one workers' organisation per establishment."

343. It is clear to us that there is no real right to freedom of association for migrant workers in Qatar. We have seen how the Arab Charter permits restrictions on the exercise of this right, if so required, due to national security, public safety or the need to protect the rights and freedoms of others. This provision is similar to the International Covenant on Economic, Social and Cultural Rights which states that any restrictions placed on rights such as freedom of association must be *"prescribed by law and necessary in the interests of national security or public safety, or the protection of public health or morals, or the protection of the rights and freedoms of others."*²³⁹
344. In relation to public safety and national security issues, we acknowledge the very genuine concerns expressed to us around organised labour, where Qatari nationals make up a very small fraction of the workforce. As has been previously referred to, limitations legitimately founded on such grounds are expressly provided for in the Arab Charter and the (un-ratified) International Covenant on Economic, Social and Cultural Rights. We would invite Qatar to develop these public safety and national security concerns more fully.
345. Qatar ratified the International Convention on the Elimination of All Forms of Racial Discrimination 1966 in 1976. Under Article 1(1) of this Convention, racial discrimination is defined as:

"any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

²³⁹

See Article 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights dated 1966 - Qatar has not ratified this Covenant, however it is indicative of what relevant UN law considers a legitimate restriction on the right to freedom of association.

346. Article 5 further substantiates the rights under this Convention. Article 5(e) is particularly relevant to the restrictions in the Qatari Constitution and under Qatari Labour Law concerning those rights granted only to Qatari citizens:

"In compliance with the fundamental obligations laid down in Article 2 of this Convention, State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

...

(e) Economic, social and cultural rights, in particular:

(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

(ii) The right to form and join trade unions;... "

347. However, we note that Article 1(2) of the International Convention on the Elimination of All Forms of Racial Discrimination 1966 states that the Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to the Convention between citizens and non-citizens. The Constitution clearly refers to the rights of citizens, and it is our understanding that the reference in the Labour Law to "Qatari" is to Qatari citizens. As such it would appear that Qatar's restrictions on the rights to associate on the ground of citizenship are not in breach of this Convention.

348. Under the Arab Charter on Human Rights, Article 2 requires all signatory States not to discriminate in the application of the rights on the basis of national or social origin, amongst other protected characteristics.

"Each State Party to the present Charter undertakes to ensure to all individuals within its territory and subject to its Jurisdiction the right to enjoy all the rights and freedoms recognized herein, without any distinction on grounds of race, colour, sex, language, religion, political opinion, national or social origin, property, birth or other status and without any discrimination between men and women."

349. Article 29 of the Charter permits States to impose limitations on the right to form trade unions:

"The State guarantees the right to form trade unions and the right to strike within the limits laid down by law."

350. The Amnesty Report contains a number of recommendations which aim to reduce the discriminatory nature of the Qatari Labour Law rights in relation to the right of freedom of association for migrant workers. These include:

350.1 repealing Article 116.4, which prohibits migrant workers from forming or joining trade unions;

350.2 amending Article 116.1 so that workers in enterprises with less than 100 workers of any nationality employed are able to form or join a union; and

350.3 amending Article 116.3 to allow for the possibility of more than one confederation, and 116.1 to allow the possibility of more than one union at the enterprise level.

351. Article 127 of the Labour Law grants workers the right to conduct collective negotiation and conclude joint agreements on all matters related to their work. It further states that:

"The Minister shall issue a Decision on the regulation of the rules and procedures of collective negotiation and the method of representation of the parties therein and the rules regulating the joint agreements as to conclude: contents, scope, the means of acceding them, the duration and interpretation thereof and the disputes which may arise from its implementation."

352. The ILO Judgment states that the State of Qatar's ability to regulate the rules and procedures of collective bargaining, the method of representation of the parties, and the content, scope, duration and means of reaching a collective agreement undermines the existence of the collective bargaining process. It requested a copy of the Decision referenced in Article 127 and an indication of the manner in which it is applied in practice.

353. The Amnesty Report also considers the extent to which migrant workers have the ability to bargain collectively and recommends that provisions are adopted to grant all workers the right to bargain collectively in a manner consistent with ILO supervisory mechanisms.

354. Article 122 of the Labour Law prohibits an employer from compelling a worker to join – or not to join – any labour organisation or not to comply with any of its decisions. Article 145 punishes, by imprisonment and a fine, any violation of this provision.
355. The ILO Judgment observes that beyond the protection under Article 122 of the Labour Law, and the associated penalty under Article 145 as mentioned above, *"[t]here appears to be no other provisions referring to the rapid and effective protection against acts of anti-union discrimination and interference in trade union activities, which are necessary to ensure freedom of association in practice."*
356. In light of the above observation, the ILO Judgment calls for the adoption of a series of provisions to protect workers against employers dismissing them, or otherwise subjecting them to prejudicial treatment by reason of union membership or participation in union activities outside working hours, or with the consent of the employer, within working hours. The ILO Judgment also suggests that if any worker considers that they have been discriminated against due to trade union activities they should have access to means of impartial, inexpensive redress. We believe that such observations are well-founded and we consequently recommend a review of the provisions concerning migrant worker protection from discriminatory or prejudicial treatment as a result of union membership or participation.

Right to Strike

357. In the context of collective bargaining, the ILO has also made a number of criticisms regarding the exercise of collective bargaining in Qatar, in particular the right to strike.
358. The Arab Charter on Human Rights provides for the right to strike in Article 29:

"The State guarantees the right to form trade unions and the right to strike within the limits laid down by law."

359. The Qatari Labour Law provides for a right to strike in Article 120, permitting workers to strike in the event that they cannot amicably solve their problems with their employer. Such right is subject to the following limitations:

359.1 strikes require the approval of three quarters of the general committee of profession and industry workers;

359.2 at least two weeks' notice of the strike must be given to the employer;

- 359.3 the Ministry of Interior must approve the time and place of the strike;
 - 359.4 striking parties must respect the funds of the state or the individual properties or their safety and security;
 - 359.5 workers in specified industries including petrol, gas, and connected industries, electricity, water, ports, airports, means of transportation, and hospitals are not permitted to strike; and
 - 359.6 a strike must only take place if there is no other way to solve the dispute between the employer and the worker.
360. In addition, the Qatari Labour Law provides for a three stage process to avoid disputes - attempt to settle, mediation and conciliation.

Article 129

"If any dispute arises between the employer and some or all of his workers, the two parties to the dispute shall try to settle it between themselves and if there is a joint committee in the establishment, the dispute shall be referred to it for settlement. If the two parties fail to settle the dispute the following steps shall be taken:

- 1. The workers shall submit their complaint or claim in writing to the employer with a copy thereof to the department.*
- 2. The employer shall reply in writing to the complaint or claim of the workers within a week from his receiving the same and shall send a copy of the reply to the department.*
- 3. If the reply of the employer does not lead to the settlement of the dispute, the department shall try to settle the dispute through its mediation."*

Article 130

"If the mediation of the department does not lead to the settlement of the dispute within 15 days from the date of the employer's reply, the department shall submit the dispute to a conciliation committee for its decision thereon.

The conciliation committee shall be formed of:

- 1. A chairperson to be appointed by a decision of the Minister.*
- 2. A member to be nominated by the employer.*
- 3. A representative member of the workers to be nominated in accordance with the provisions of the second paragraph of the section.*

The committee may be assisted by consultation with any of the specialists before deciding on the dispute and shall issue its decision on the dispute within a week from the date of its submission thereto.

The decision of the committee shall be binding on the two parties to the dispute if the parties had agreed in writing to referring the dispute to the committee before its meeting to decide on the dispute and if there is no such an agreement in this respect the dispute shall be referred to an arbitration committee within 15 days and the arbitration shall be mandatory for the two parties."

361. The ILO Judgment makes a number of comments and recommendations in this context, in particular the following:
- 361.1 the requirement for a decision by over half of the workforce involved to declare a strike is excessive and could excessively hinder the possibility of carrying out a strike, particularly in large enterprises;
 - 361.2 the right of the Ministry of Civil Service Affairs and Housing to determine the time and the place of the strike could excessively hinder the exercise of the right to strike and should be substantially amended or removed;
 - 361.3 the prohibition of strike action in "vital public utilities" is overly restrictive as there would remain a number of categories of employees who were not essential to the service. In addition, it would be possible for a minimum service to be set up, allowing the remaining workers to strike; and
 - 361.4 in as far as compulsory arbitration in Article 130 prevents strike action, it is contrary to the right of trade unions to organise freely their activities and could only be justified in the public service or in essential services in the strict sense of the term.

362. The Amnesty Report recommends amendments to Article 120 of the Qatari Labour Law to ensure that workers are able to exercise the right to strike in a manner and practice consistent with the observations of the ILO supervisory mechanisms.
363. We note that the Supreme Committee Worker's Welfare Standards makes provisions for Workers Welfare Forums and we welcome these proposals.²⁴⁰ In the context of developing a representative structure, we would propose to adopt the Supreme Committees' recommendations. In summary these provide for:
- 363.1 the appointment of a dedicated Workers' Welfare Officer (WWO) to have responsibility for coordinating all employee relations and managing and seeking to resolve all grievances before reporting on a monthly basis any unresolved matters;
 - 363.2 a monthly Workers' Welfare Forum (WWF) meeting to be held with worker representatives, senior management of the Contractor and a health and safety representative to discuss outstanding unresolved matters; and
 - 363.3 any outstanding unresolved matters to be discussed at a Program Welfare Forum (PWF) where parties exchange ideas on improvements and discuss any other existing or potential employee relations issues.

DLA Piper Recommendations

364. **We believe that as an immediate interim measure the Supreme Committee Workers Welfare Standards (or equivalent) should be adopted for all public contracts.**
365. **We recommend that the Ministry of Labour and Social Affairs should regularly compile and publish data regarding mediation, conciliation and arbitration regarding collective disputes.**
366. **We also recommend that the State of Qatar responds promptly to any outstanding ILO requests** for the provision of documentation or other information in compliance with Qatar's reporting obligations.
367. The Ministry of Labour and Social Affairs should engage and consult with relevant stakeholders and publish proposals allowing migrant workers the right to freedom of

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See Annex C and D.

association and collective bargaining. Where there are perceived grounds for limiting these rights, such as public safety and security, these justifications should be properly developed for consultation.

ISSUE 9: ACCESS TO JUSTICE

SUMMARY OF ALLEGATIONS, CONCLUSIONS AND RECOMMENDATIONS

368. In our review we have found appropriate legislation in place providing a framework for migrant workers to seek judicial remedy and assistance in the event of a mischief in Qatar.
369. However, there remains the issue of ensuring reasonable and practical *access* to justice for migrant workers, in real terms, including informing them of their rights (prior to their arrival in Qatar, upon their arrival and throughout their stay), and enabling them to enforce such rights.
370. It is alleged that despite the existence of the formal routes for complaint, there are several major obstacles confronting migrant workers trying to achieve justice in labour cases. The allegations include that there is a lack of information and knowledge amongst migrant workers of the mechanisms for redress available. Amnesty alleges that the Ministry of Labour and Social Affairs' complaints process is difficult to access, and employers do not engage with the complaints process.²⁴¹ Further, Amnesty state that there are problems with employers repeatedly failing to attend meetings organised by the Labour Relations Department in its attempts to settle employment disputes.²⁴² In addition, the Labour Relations Department is only open for business on weekdays (Sunday to Thursday), meaning that on Fridays, which is most workers' only day of rest, migrant workers cannot submit complaints. HRW also refer to 'court fees' or 'expert fees' presenting an obstacle for workers seeking redress.²⁴³
371. We recognise that there are opportunities to improve migrant workers' access to justice. There are a number of processes, both administrative and judicial, all of which afford opportunities for improvement in terms of accessibility and transparency. In addition, the practical aspect of enforcement of judgments and remedies should not be overlooked.
372. We recommend, in particular, that steps are taken to reduce the opacity of the existing claims process, and streamline the timing of the process, in order to facilitate resolution, and where necessitated, the enforcement of judicial decisions.

²⁴¹ Page 114, Amnesty Report.

²⁴² Page 116, Amnesty Report.

²⁴³ Page 85, HRW Report.

SUBSTANTIVE REVIEW

Issues

373. It is alleged that despite the existence of the formal routes for complaint, there are several major obstacles confronting migrant workers seeking justice in labour cases. The principal issues are as follows:
- 373.1 The lack of information on rights and remedies available to migrant workers;
 - 373.2 There is a literacy and language barrier for migrant workers seeking redress;
 - 373.3 There are problems with the representation of migrant workers in any claim proceedings;²⁴⁴
 - 373.4 There are accessibility challenges for workers bringing claims, such as the issue of fees as a financial barrier to bringing claims;
 - 373.5 There are a multiplicity of governmental departments (and processes) and a lack of information available to migrant workers, as well as practical and logistical difficulties in terms of migrant workers knowing which department to attend;
 - 373.6 There are uncertainties relating to the timescales for achieving a remedy and the possible outcomes; and
 - 373.7 The question of the effective enforcement of remedies.

Conclusions on Access to Justice

374. It is clear from our review that the multiplicity of State Departments and institutions which play an important role in the administration of the redress mechanisms available to migrant workers gives rise to confusion. Linked to this, we note that there are multiple entities with potentially overlapping roles, and as such there is a risk of governance gaps and / or duplication.
375. As discussed in detail above, from our review, we believe that there is an anomaly where an employer / sponsor has the ability to report a migrant worker as "absconding" so as to lead to

a migrant workers' detention and / or deportation, even where this arises from, or can be said to be connected to, a complaint being made by the migrant worker against the employer / sponsor. This anomaly gives rise to the potential for abuse and precludes the migrant worker from effective access to justice, notwithstanding the fact that the law provides for the ability of the migrant worker in such circumstances to sue his employer / sponsor and for the Human Rights Department to automatically transfer sponsorship if the allegation of "absconding" is later found to be false.

376. We understand that the Ministry of Labour and Social Affairs has produced an Expatriate Worker Guide on the complaints process which is available to migrant workers through the State of Origin embassies in Qatar. However, our enquiries suggested that not all embassies were aware of the Expatriate Worker Guide or did not have easily accessible native language versions of it available.
377. In terms of the practicalities of making a claim, we understand that a contractual claim can be initiated through the Labour Relations Department at the Ministry of Labour and Social Affairs.
378. The claim must be made in person. The complaint has to be made in Arabic, but we understand that there are translation services available at both the Labour Relations Department and the courts. Further, we understand that State of Origin embassies may offer interpreters, although they have limited resource to do so. We also understand that power of attorneys have been used by Embassy officials in order to facilitate claims being brought by migrant workers.
379. We were informed that the top four causes for complaint were:
- 379.1 Repatriation costs (a total of 9,959 complaints in 2013);
- 379.2 Late payment of wages (a total of 8,906 complaints in 2013);
- 379.3 Grievances relating to the end of service benefits (a total of 8,203 complaints in 2013); and

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We note that under the current system the National Human Rights Committee and the relevant embassy can appoint a legal representative for the migrant worker.

379.4 Leave allowance (a total of 7,831 complaints in 2013).²⁴⁵

380. Our understanding is that on receipt of a complaint the Labour Relations Department, will always attempt mediation between the migrant worker and the employer / sponsor in the first instance. Further, we understand from the State of Origin embassies we spoke with that, where possible, the Embassy representatives will also seek to offer a conciliation / mediation service to migrant workers at the Embassy.
381. We note that Amnesty criticise the fact of employers failing to attend attempted settlement / mediation discussions. We have been told by the Ministry of Labour and Social Affairs that in 2013 7,979 complaints out of 10,840 complaints were settled through mediation. In our experience, it is impossible to compel a party to settle or mediate - it can only be encouraged.²⁴⁶ In the circumstances it seems that this criticism therefore is misconceived.
382. If mediation is unsuccessful, the migrant worker's case is then referred to the Labour Court. We understand that whilst there are no prescribed fees for bringing a claim before the Labour Court, in practice an independent expert report is required to support a claim. This expert report, we understand, typically costs around 600 QAR. This cost, in practice, provides a financial barrier to many migrant workers who are not in a position to fund the report and are therefore precluded from bringing a claim before the Labour Court.
383. We understand that the Ministry of Justice is proposing to abolish all costs / judicial fees relating to labour claims at the outset. We welcome the Ministry of Justice's proposal to eliminate these costs / fees. However, it is unclear to us whether these costs / fees will remain payable by the unsuccessful party at the conclusion of the legal process. To the extent that the migrant worker remains potentially exposed to these, even if this is at the conclusion of the proceedings rather than at the outset, this still has an inherent deterrent effect on migrant workers bringing claims, in particular in relation to claims relating to unpaid wages.
384. We were informed during our consultation that migrant worker representation was unlikely to be required given the evidential simplicity of cases. However, we do have continuing concerns as to whether this accurately reflects the real needs of migrant workers.

²⁴⁵ See data at **Annex N** - Department of Work Relations Report.

²⁴⁶ In our view the relevant issue in the context of effective mediation / conciliation is how long the mediation / conciliation is left open to yield a result, before resorting to the judicial process.

385. In terms of the allegations relating to the delay in proceedings once a claim is brought, Article 10 of the Qatari Labour Law states that all law suits filed by migrant workers claiming entitlements under the provisions of the Labour Law or their service contract shall be dealt with urgently, and shall be exempted from judicial fees. In reality, we understand that judgements relating to wage disputes can take up to a year to be heard, and that the position as to judicial fees is not widely known.
386. During our consultation we were advised that the burden of proof in the claims procedures operates in favour of claimants, however, we are not able to verify this statement.
387. We also made enquiries as to the availability of interim relief to those migrant workers in particularly difficult circumstances. We understand that whilst interim relief is in principle available, there is a general reluctance to order any form of interim payments while judgment is awaited.
388. We do not have any data on appeals from judgements or enforcement of judgments. However, we understand that there were a total of 3,769 cases brought to court in 2012 relating to amounts in dispute under 100,000 QAR, of which 3,748 are now determined, and 955 cases brought in 2012 relating to amounts in dispute over 100,000 QAR, of which 837 are now determined.²⁴⁷

DLA Piper Recommendations

389. **Both the Ministry of Labour and Social Affairs and State of Origin embassies should coordinate the effective dissemination of information between themselves and to migrant workers, as we have mentioned throughout this report.** In this regard, the promotion of migrant workers' guidelines is critical - these need to be properly promoted and understood. This would include the Ministry of Labour and Social Affairs, and the Ministry of Foreign Affairs, hosting briefing sessions with labour attachés.
390. Whilst recognising that there is a translation service available, we believe that there is room for **an improved interpretation service**, from the relevant Ministry, the court and the State of Origin embassies. The translation services should be publicised and the use of the services monitored to identify any future resourcing needs.

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See Data of Labour Cases for year 2012 issued by the Supreme Judiciary Council at **Annex S**.

391. **The Ministry of Labour and Social Affairs' general accessibility to migrant workers should be reviewed.** In particular, physical access and access via the internet (assuming that this is deemed to be an appropriate resource for some of the migrant workers) should be reassessed. We understand that there is call for the Ministry's online facilities to be improved and made available in a wider range of languages. We would suggest consultation with State of Origin embassies to facilitate this process.
392. **We welcome the use of mediation as a method of resolving disputes out of court and recommend that the existing process of mediation / conciliation should be reviewed and developed.** For example, we note that according to Article 6 of the Civil and Commercial Procedures Law 13 of 1990 the Ministry of Labour and Social Affairs must complete mediations in less than one week. We also recommend that consideration as to whether financial penalties for non-attendance would be merited.
393. We also welcome the embassy-facilitated conciliation services and propose that the Ministry of Foreign Affairs encourage the further **development of the embassy-facilitated conciliation services**, building on what we understand to be an already successful practice.
394. **We strongly recommend that all fees (or expert charges) for claimants should be abolished.** Any such fees or costs at the outset of the process provide a disproportionate disincentive for individual migrant workers to bring a claim, and this is certainly the case where the claims relates to non-payment of wages and repatriation costs. However, we recognise that some provision needs to be made to deter and penalise vexatious litigants.
395. **We recommend that the eligibility for interim relief, and the conditions for any grant of interim relief should be revisited.** This should include consideration of those exceptional circumstances in which the appropriate payments for workers pending trial would be justified, subject to judicial discretion.
396. As described elsewhere in this report, **we believe a specialist fast track procedure should be set up for the major categories of complaints**, namely those relating to: repatriation costs, late payment of salaries, end of service benefits and leave allowance. We recommend that breaches of the new legally binding Migrant Worker Model Employment Contracts be included in this procedure.
397. The Ministry of Justice should monitor the timescales between the point at which a claim is lodged, the timing of any hearing, the handing down of any judgment and the timeframe for

the enforcement of awards. This way, the State of Qatar can identify if any improvements can be made.

398. We believe that there should be **free legal representation for migrant workers to bring complaints** to the Labour Relations Department and free representation in relation all detention proceedings.
399. We welcome the fact that powers of attorney have been used with good effect by embassy officials and would encourage this practice to continue to assist those migrant workers who, for whatever reason, cannot attend the Court hearings relating to their dispute.
400. We also believe there should be an appropriate study of the effectiveness of the appeals process, with particular focus on Labour Law related claims (e.g. contracts and wages) or those relating to sponsorship (e.g. detention proceedings).

CONCLUSIONS AND VISUALISATIONS

Conclusions

401. After conducting a comprehensive review of Qatar's adherence to international conventions and standards in respect of migrant workers in the construction sector, the Qatari legislation relating to the issues raised in the reports by Human Rights Watch, Amnesty International, press articles and by other organisations, we have identified some gaps in the extant legislation and its enforcement. We have made recommendations for amendments to existing legislation, or the promulgation of new legislation, and the strengthening of enforcement procedures in order to increase the protection of the rights and welfare of migrant workers in Qatar.
402. We note that the Qatari legislation, enforcement and public administration practices should be evaluated in the context of the very short time in which Qatar has been an independent State, and also in the light of the seismic changes which have taken place in Qatar over the past decade.
403. We believe that these recommendations will go a long way to addressing the issues that have been raised in respect of the treatment of migrant workers in Qatar, and should form part of a much wider process of legislative and administrative reform as set out in the Qatar National Vision 2030.

DLA PIPER UK LLP

Visualisations

	Actions steps to be taken by Lead Ministry in conjunction with supporting ministries
1.	Ministry of Foreign Affairs
2.	Ministry of Interior
3.	Ministry of Justice
4.	Ministry of Labour and Social Affairs
5.	Ministry of Municipality of Urban Planning
6.	Supreme Council of Health

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