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Improving employment standards in construction in Qatar

Final Report

Jill Wells
with Bernadine Fernz



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Foreword

Qatar is embarking on a huge programme of new construction in preparation for hosting the 2022 FIFA World Cup. In common with other countries in the Gulf, Qatar is dependent on migrant workers to provide its construction workforce. The *kafala* sponsorship system, which provides the legal basis for their residency and employment, has been widely criticized for restricting the freedom of migrant workers to change their sponsor. Research by Human Rights organisations has highlighted other problems including poor living and working conditions, low pay, late payment of wages and high and illegal recruitment fees.

The Government of Qatar is sensitive to public opinion and has already shown its commitment to improving labor standards. The Labor Law (2004) and subsequent Resolutions (2005) provide some protection for workers, including maximum working hours and a ban on midday work during the hot summer months, as well as requirements in other areas such as recruitment, accommodation and payment. However, these provisions are widely ignored. The problem of ensuring compliance with labor laws in the construction industry, with its long chains of subcontracting, is widely recognized and is not unique to Qatar.

Construction and engineering consulting companies have a major role to play. Main contractors should have responsibility for health and safety on construction sites. They have strong leverage over subcontractors and power to employ only those who adhere to appropriate standards. International contractors are also sensitive to public opinion and anxious to avoid adverse publicity and accusations of abusing workers. As contractors and consultants jostled for lucrative contracts in Qatar, my colleague Jill Wells saw an opportunity to engage with them to raise issues of workers' protection and rights and enlist their support in finding solutions.

Engineers Against Poverty¹ (EAP) has strong links to the construction industry and expertise on issues related to construction labor. Improving the working and living conditions and protecting the rights of

construction workers from the poorest countries in the world is central to our mission and current work. We are therefore grateful for the opportunity to undertake research in Qatar in order to identify measures that the industry could take, in collaboration with the Government of Qatar, to address the exploitation of its workforce and secure real improvements in construction workers rights.

This report presents the findings of our discussions with construction industry stakeholders in Qatar in 2013. It recommends steps that the industry itself could take to address one of the main problems for workers, the late or non-payment of wages. Our recommendations have since been endorsed by DLA Piper who were commissioned by the Qatar Government to study the issues and reported in April 2014. DLA Piper also recommended that employers who fail to pay wages on time, or abuse other aspects of the system, should forego their right to refuse a worker's request for transfer of sponsorship. We are optimistic that all of their recommendations will be accepted by the Government.

However, the problem of implementation remains. Our discussions with the industry were limited to interviews with client representatives, project management consultants and principal contractors - the companies at the top of the supply chain. We did not interview subcontractors. This was a serious omission as lead contractors in Qatar (as in the rest of the world) have chosen to outsource the bulk of their labor requirements, along with the associated risks, to subcontractors and particularly to labor-only subcontractors, who are now the main employers of construction labor. More research is needed into the constraints that are faced by these companies, many of which are also owned and staffed by migrants from low income countries, with a view to assessing the assistance that may be needed to help them to fulfil their obligations.

Petter Matthews
Executive Director, Engineers Against Poverty

¹ Engineers Against Poverty (EAP) was established over a decade ago by some of the UK's leading professional engineering institutions, with a mission to promote development and contribute to the reduction of global poverty. It is an independent organization with charitable status.

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Acknowledgements

This report relies heavily on in-depth interviews with 10 principal contractors currently working in Qatar and with five representatives of project management consultants who are responsible for managing major projects on behalf of the Qatar Government's main clients. Discussions were also held with other key resource persons and public institutions including the Qatar Chamber of Commerce, the Ministry of Interior (Human Rights Division), the Qatar Foundation and the National Human Rights Committee. We are grateful to all those who were willing to share their experiences and insights with us and for giving up their time to do so. However, all interpretations of the information gathered remain our own.

We would also like to extend grateful thanks to the National Human Rights Committee for facilitating the research in Qatar and to the International Migration Initiative of the Open Society Foundations for funding it. Finally, the work would not have been possible without the research support provided by my colleague Bernadine Fernz.

Pictures

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All other pictures: Courtesy of Sorin Furcoi /Al Jazeera.

Executive Summary

Qatar is embarking on a huge programme of new construction in preparation for hosting the World Cup in 2022. In common with other countries in the Gulf, Qatar is dependent on migrant workers from low income countries in Asia to provide its construction workforce. A study by Human Rights Watch which was released in 2012¹ has highlighted issues relating to the treatment of construction workers in Qatar, the most serious of which are:

- poor living and working conditions
- low wages and failure to pay wages on time or in full
- high fees charged by recruiting agents in the labour sending countries
- false promises to workers about the salary, benefits and nature of the work to be performed
- few and inaccessible avenues of redress

This report summarises the findings from the first phase of a research project which aims to assess the contribution that the construction industry (notably public sector clients and principal contractors) could play in addressing the above issues. It is based on in-depth interviews conducted in Qatar in June 2013, with 10 principal contractors and 5 representatives of Project Management Consultants (PMCs) who are advising some of the Qatar Government's main clients. The focus of the interviews was the Qatar Foundation's *"Mandatory Standards of Migrant Workers' Welfare for contractors and subcontractors"*, released in April 2013². Discussions were also held with a number of key resource persons, the Qatar Chamber of Commerce, the Ministry of the Interior (Human Rights Division) and the National Human Rights Committee. The report complements a major study by Amnesty International which examines the same issues from the viewpoint of construction workers and the small subcontracting companies employing them³.

The Qatar Foundation's Mandatory Standards (the Standards) are mandatory requirements that must in future be fulfilled by contractors and subcontractors when executing construction works for the Qatar Foundation (QF). The Standards are based on Qatari labour law but they go further than the law in a number of important respects, notably in providing much more detail about the expected standards related to workers' welfare, in extending to the countries of origin the prohibition on charging workers recruitment fees and requiring employers to reimburse workers for any fees they have paid in Qatar or abroad. The QF is a major client of the construction industry and intends to ensure the Standards are adhered to on its own projects.

They will do this by (i) placing responsibility for compliance on the main contractors who are to incorporate the standards in all subcontract agreements and (ii) setting up a workers' welfare department to conduct regular welfare audits and monitor and grade contractors, with a view to engaging and retaining only those contractors who comply.

The main findings of the research are set out below:

- The publication of the QF Mandatory Standards has already had a positive effect on the construction industry by focusing attention on issues of construction workers' welfare and rights and highlighting the role that contractors and clients can play in addressing them. The Standards have been well received by principal contractors and PMCs and it seems likely at the time of writing that all major public clients will adopt them.
- The approach adopted by QF of choosing business partners on the basis of their compliance with the Standards should provide a strong incentive to contractors to improve their employment practices so as to continue to win contracts. If all major clients were to adopt the Standards and follow the QF approach to implementation there could be a positive impact on workers' welfare. The main challenge is the sheer volume of construction work that is planned and the fact that the supply chain is already stretched.
- Automatic issue of the 'No Objection Certificate' (NOC) by employers to workers who wish to change their employer could provide an equally powerful incentive to both contractors and subcontractors to improve their standards or lose workers to better employers. The majority of the contractors interviewed felt strongly that the NOC encourages complacency on the part of employers and results in inefficiencies in the labour market which will have an impact on outputs and productivity.
- Contractors agree that they should be required to work only with legitimate recruitment agents, pay all recruitment fees and expenses and require the same of their subcontractors. But policing the actions of the agents and sub-agents in labour sending countries is not within their powers and they may be unable to prevent agents from also charging workers fees without their knowledge. There are also practical difficulties to be overcome in contractors reimbursing workers for fees already paid.

- While contractors feel that the Standards place too much responsibility on them in the area of recruitment, they do not go far enough on the wages issue. 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 Standards to ensure that all workers, including those employed by subcontractors, receive their wages in full and on time. A 'hotline' is needed to alert principal contractors when workers have not been paid.
- Paying wages through bank transfers would provide workers with the evidence needed to prove that they have not been paid. Despite popular belief that construction workers are paid below the minimum wage needed to open a bank account in Qatar, three of the 10 contractors interviewed are already paying wages through bank transfers, which suggests that contractors can use their own businesses as leverage to persuade the banks to cooperate.
- Late payment of wages is also a potential source of disruption and delay to projects and therefore a major risk to clients and their PMCs. The subcontractors who are the main employers of labour are under-financed which means that they cannot pay their workers until they themselves are paid. The normal practice in Qatar is for principal contractors to only pay their subcontractors after they have received payment from the client – known as 'pay when paid'. Given the high priority afforded to delivery on time in the run up to 2022 and the potential risks from the late payment of wages, public sector clients need to seriously investigate measures that have been successful elsewhere to improve the flow of funds down the subcontracting chain. They should also consider inserting explicit clauses in contracts with principal contractors requiring them to pay the wages of workers employed by subcontractors if the latter fail to do so.

Preliminary Recommendations:

- All **public sector clients** of the construction industry should follow the approach adopted by the QF in setting up a workers' welfare department to undertake regular welfare audits of contractors and subcontractors and aim to work only with contractors who comply with the Standards.
- **Public sector clients** should investigate measures to improve the flow of funds down the subcontracting chain and consider contract clauses requiring principal

contractors to pay the workers employed by subcontractors if they have not been paid.

- **Principal contractors** should be required to set up a 'hotline' for workers to alert all stakeholders to delayed payment of wages by subcontractors.
- Payment of workers' wages through electronic bank transfer should be mandatory as this would provide workers with the evidence needed to prove that they have not been paid and allow them to seek redress.
- The Government of Qatar should consider measures aimed at guaranteeing the issue (by employers) of 'No Objection Certificates' (NOCs) to workers who wish to change their employment: this could provide a powerful incentive to both contractors and subcontractors to improve their standards or risk losing workers to better employers.

Policing the activities of contractors, subcontractors and labour agencies cannot be left entirely to the business sector:

- The Labour Department should be strengthened so that the Government can play a bigger role in enforcing its own laws and regulations and clamping down on companies that flout the law and abuse the workers.
- The Government of Qatar should leverage its position with labour sending countries whose economies are heavily dependent on remittances from migrant workers, and pressure these governments to step up efforts to address corruption and exploitation in the recruitment business.



1. Introduction

Qatar is embarking on a huge programme of new construction in preparation for hosting the World Cup in 2022. In common with other countries in the Gulf, Qatar is dependent on migrant workers to provide its construction workforce. With investment estimated at \$200 billion over the next 10 years⁴ some additional 500,000 construction workers will be needed, most of whom will come from low income countries in Asia.

A recent study by Human Rights Watch⁵ has highlighted issues relating to the treatment of construction workers in Qatar, the most serious of which are:

- Poor living and working conditions
- Low wages and failure to pay wages on time or in full
- High fees charged by recruiting agents in the labour sending countries
- False promises to workers about the salary, benefits and nature of the work to be performed
- Few and inaccessible avenues of redress

This report summarises the findings from the first phase of a research project which aims to assess the contribution that the construction industry (notably public sector clients and principal contractors) could play in addressing the above issues. It is based on in-depth interviews conducted in Qatar in June 2013, with 10 principal contractors and 5 representatives of Project Management Consultants (PMCs) who are advising some of the Qatar Government's main clients. The focus of the interviews was the Qatar Foundation's *"Mandatory Standards of Migrant Workers' Welfare for contractors and subcontractors"*, released in April 2013⁶. Discussions were also held with a number of key resource persons, the Qatar Chamber of Commerce, the Ministry of the Interior (Human Rights Division) and the National Human Rights Committee. We were unable to talk directly to workers or to subcontractors, but the report should be read in conjunction with a major study by Amnesty International which examines the same issues from the viewpoint of construction workers and the small subcontracting companies employing them⁷.

Many of the problems facing migrant workers in Qatar are attributed to the kafala (sponsorship) system which provides the legal basis for their residency and employment. The system has been widely criticised for restricting workers' freedom to change jobs, or even to leave the country, without the permission of their sponsor/employer - a situation which can leave them trapped and open to exploitation by unscrupulous employers. But not all of the issues outlined above can be fairly laid at the door of the

kafala. For example, the problems related to recruitment stem from the fact that migration for work overseas has become a major international industry in which unscrupulous recruitment agents are able to take advantage of unequal access to information between recruiters and potential recruits⁸.

Other problems, such as late payment of wages, are not unique to Qatar but inherent in the structure and operation of the construction industry worldwide. The Qatar Government has taken a number of measures designed to ensure that contractors adhere to international labour standards for workers employed on construction projects. They have passed the Qatar Construction Specifications (2010), Qatar Labour Law 14 (2004) and various Ministerial Decrees. But passing laws is only the first step. Ensuring compliance with labour laws and regulations in the construction industry, with its long chains of subcontracting, is a bigger challenge and one that is not unique to Qatar.

Engineers Against Poverty (EAP) has expertise in this area⁹. Our experience leads us to believe that public sector clients, together with the international construction companies who are the project managers and main contractors in Qatar, have a major role to play in helping the government to improve compliance with the labour laws and drive improved conditions for migrant construction labourers. Clients can choose their main contractors and employ only those who meet the required standards. Main contractors in turn have responsibility for health and safety on construction sites, leverage over subcontractors and power to employ only those who adhere to appropriate standards. International contractors are also sensitive to public opinion and anxious to avoid adverse publicity and accusations of exploitative behaviour.

During an initial visit to Qatar in February 2013, we found that the Qatar Foundation (QF), a major client of the construction industry, was thinking along similar lines. They had already assembled a considerable body of expertise and were taking up the challenge of developing standards and a strategy to work with contractors to improve the welfare of construction workers. In October 2012, QF signed the Migrant Workers Welfare Charter which highlights some fundamental principles for the treatment of workers (see Box 1). This was followed in April 2013 by the publication of a report providing more detail on the expected standards as well as their approach to implementation. The timing of these developments allowed us to take on board the QF proposals in our research and use them as the focus for our discussions with contractors and project managers.

Between February and June 2013, we conducted in-depth interviews with a total of 10 principal contractors currently working on, or bidding for, major projects in Qatar. The objective of these interviews was to gain a deeper understanding of the practical challenges that principal contractors encounter in monitoring and enforcing labour standards across supply chains. We also interviewed representatives of five Project Management Consultants (PMCs) who are responsible for managing projects and programmes on behalf of the Qatar Government's main clients and for advising their clients on appropriate contracts and procedures. All interviews were conducted on the understanding that respondents would remain anonymous. Discussions were also held with five additional key resource persons, as well as a number of public institutions including the Qatar Chamber of Commerce, the Ministry of the

Interior (Human Rights Division) and the National Human Rights Committee - which kindly facilitated our research in Doha. We are grateful to all those who were willing to share their experiences and insights with us and invite them to comment on this draft report. However all interpretations of the information gathered remain our own.

The rest of the report is divided into three sections. Section 2 presents a summary of some of the key features of the Qatar Foundation's Mandatory Standards and its approach to implementation. Section 3 presents further details of the contractors interviewed and most of the findings from the interviews. Section 4 contains further discussion with particular attention paid to the issues of recruitment and prompt payment of wages. Section 5 contains a summary of our conclusions.



2. The Qatar Foundation's approach

The Qatar Foundation for Education, Science and Community Development was founded in 1995 as a non-profit organization which aims to lead the human, social, and economic development of Qatar through education and research. The vision is to make Qatar a nation that can be a vanguard for productive change in the region and a role model for the broader international community. To achieve its aim the Foundation has programs in three core areas: education, science and research, and community development.

The Qatar Foundation (QF) is also a major client of the construction industry. The QF's *"Mandatory Standards of Migrant Workers' Welfare - for contractors and subcontractors"* (the Standards) published in April 2013¹⁰ set out mandatory requirements that must be met by contractors and subcontractors when executing construction works for the QF. The Standards are the result of a collaborative effort by members of a working committee comprising international experts and which included representatives from QF and its subsidiaries, as well as the Qatar 2022 Supreme Committee (Q22).

The Standards are described as a welfare initiative designed to enhance migrant workers' quality of life and curb unfair employment practices. The aim is to "guarantee the rights of workers at all stages of the migration cycle from the moment they are recruited until they are repatriated to their home countries". The QF hopes that the Standards will be adopted by other clients and serve as a model for the ethical treatment of workers nationwide.

The Standards are based on the Qatari labour law¹¹ but they go further than the law in a number of respects:

- First they include much more detail about the expected standards related to workers' welfare, including accommodation, catering, the transport of workers to and from the construction site etc. 16 pages of the 50 page document are devoted to accommodation standards alone.
- Second, they make reference to a number of international standards and conventions that Qatar has signed up to, but which have not necessarily been translated into national law: most notable of these is the requirement that "workers shall receive equal pay for equal work, irrespective of their nationality, gender, ethnic origin, race, religion or legal status."
- Third, the Standards set out a list of "ethical recruitment principles" which include extending to the countries of origin the prohibition on charging workers recruitment

fees: they also require employers to reimburse workers for any fees they have paid in Qatar or abroad and to compensate them for any deterioration in the contract terms after arrival in Qatar.

- Fourth, they appear to place responsibility for compliance with all of the standards upon the main contractors who are to incorporate the standards in all subcontract agreements.

The most important aspects of the QF Standards are the measures proposed to ensure that the standards are actually adhered to. The approach of the QF in this respect is very similar to our own, as outlined in the introduction: that is to use its considerable power as a purchaser of construction services to carefully screen its business partners on the basis of their compliance with the standards and only retain the services of those who do so comply: "Compliance with the Charter and all relevant laws is the precondition for the selection and retention of main contractors"¹². In order to effectively monitor and grade contractors, QF will establish a new Workers Welfare Department (under the Health, Safety, Security and Environment (HSSE) department) to conduct regular welfare audits. Contractors and subcontractors are also required to employ a substantial number of welfare personnel and to conduct their own welfare self-audits.

The use of procurement procedures and contract conditions to place pressure on contractors could be an effective way of securing greater conformity with the law and raising standards over time. A key question at the time of publication was whether the QF Standards would apply only to the Qatar Foundation projects or whether other public sector clients would also adopt them and accept the responsibility for monitoring compliance. At the time of writing it seems likely that the QF Standards will be adopted by other major public clients (including Q22, QRail and Ashghal) either in whole or in part, and are therefore likely to become the general standard for all public sector construction in Qatar. Whether other public sector clients will also be prepared to set up welfare departments to monitor performance and use contractors' compliance with welfare standards as a factor in selecting their business partners (which means including contractor performance among the criteria for prequalification and tender award) remains unclear. A further question is whether the volume of construction that is planned will allow clients a degree of choice in appointing their contractors. These issues will be revisited in the conclusion of the report.

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3. Overview of interview findings

As the QF Standards place considerable responsibility onto the main contractors – most of whom said that they had not been consulted when the standards were being developed – we decided to test their reactions. A total of 10 major contractors with current projects in Qatar were interviewed for the research. Nine of the ten interviews were in June and one in February. The majority of interviews (8 out of 10) were with the Chief Executive, General Manager or (in one case) commercial manager, but in three of these cases Human Resource (HR) managers were brought into the discussion. The other two interviews were with the HR managers alone – one of whom chose to include the company's legal adviser. All interviews were conducted face-to-face except for one that was by correspondence.

Nine of the 10 respondents were major international firms with operations around the Gulf and further afield. Five of the nine were incorporated in Qatar as Limited Liability Companies (with 51% of the shares held by a Qatari partner) and four were operating in Qatar as branches of international firms. Five of the contractors were from different countries in Europe, others came from Turkey, Oman, India and Australia. The tenth contractor is 100% Qatari owned. We were unable to secure the participation of Korean or Chinese contractors in the study which is possibly a serious omission in view of the increasing role these contractors might play in the future.

Interviews were conducted with a checklist of questions on labour issues. Respondents were invited to explain the processes they go through in recruiting workers, difficulties encountered, the aspects of the QF Standards they feel they can realistically comply with and those that would be problematic. They were also invited to suggest other actions that could be taken to improve conditions for migrant workers. A key question guiding our research is which aspects of the QF Standards can realistically be monitored and enforced by clients and contractors and which might require more direct government action.

The main points raised by contractors are set out in this section, with the views of PMCs included where appropriate. The statements included in italics in the rest of this section are quotes from the respondents.

3.1. General findings

All of the contractors interviewed in June 2013 had seen the QF Standards. Most were already aware that QF was working on the issues and had been anticipating the publication of the document.

The QF Standards were generally well received. Contractors clearly recognise that they have a role to play in driving improvement in labour standards. One respondent drew attention to the fact that the approach proposed by the QF is very similar to that adopted by the Tourism Development & Investment Company (TDIT) on Saadiyat Island in Abu Dhabi¹³ which his company was involved in and which he felt *has had a tremendously positive impact*. Another commented that *they are good standards and should have been implemented 100 years ago*. All those interviewed expressed their commitment to high labour standards. Some said that they are already complying with the QF Standards. Key areas of compliance include: having a Human Resources Department which is already responsible for many aspects of workers' welfare, camp bosses who inspect conditions in the labour camps, joint welfare committees with employee representatives elected by the workers, regular auditing of labour standards including audits by the international head offices for two contractors. All claim to have rigorous procedures for selecting subcontractors and recruiting agents. But two contractors who claim to be the best in the market admit that they still have room for improvement and are making serious efforts to 'raise the bar'.

3.1.1. Accommodation

At the same time it was recognised that change cannot happen overnight but will have to be phased-in. This is particularly the case for raising the standards of accommodation; it will take time (estimated at 2 years minimum by both contractors and PMCs) to overcome the many obstacles (procedures, land etc.) in building the quantity and quality of accommodation needed. This is especially problematic when the requirements for housing the workers employed by subcontractors are also considered, as the standards in some of these camps are currently very bad. One contractor, prompted by the HRW report, decided to inspect the camps of the company's joint venture partners and subcontractors and admitted that he was shocked at the poor standards. The PMCs interviewed agreed and all said they are aware of the issue. QRail have already acquired land for building camps for workers on the metro projects but the accommodation will only be for the Joint Venture partners and it seems unlikely that it will also house the workers employed by subcontractors. Ashghal have a number of much smaller projects where the contractors cannot be expected to build new camps. Nonetheless the camps must be built but the question of who should build them remains unresolved. Several

respondents are of the view that it should be the government who provides these camps.

3.1.2. Who will meet the cost?

Higher standards will also have to be paid for. Where QF standards go beyond the law (such as for accommodation and establishing or strengthening a welfare department)¹⁴ contractors argue that they should be reimbursed for the additional costs involved. But these items have not yet been priced and there is widespread scepticism about whether clients will actually be prepared to pay the true cost of improved standards. Qatari clients have a reputation for driving a hard bargain, with price still the dominant factor in the award of contracts and prices are always negotiated downwards. One respondent suggested that: *the government can still find the lowest price very compelling, even if it means appointing a contractor who does not meet the required standards*. Contractors believe that clients use the low prices quoted by Chinese and Korean contractors as a price benchmark to bargain with other contractors to drive prices downward. One commented we care for our workers but we don't want to be priced out of business. Another observed that *each and every bit of welfare comes at a price: the key is for clients to value labour standards and be prepared to pay*.

3.1.3. Control over subcontractors

While some main contractors may already be complying with employment standards (working hours, wages, accommodation) as these are already required by the Labour Law, what is new in the QF Standards is that the main contractors must require compliance by all their subcontractors, incorporating the standards into all subcontract agreements. A key issue relates to the degree of managerial control that main contractors can, in practice, exercise over their subcontractors. Contractors have said that they have complete control over the terms of employment of their own staff and workers. But they have less control over their Joint Venture partners, with no disclosure of the payroll or employment contracts of JV partners' staff. They were adamant that they have virtually no control over the employment practices of subcontractors or the contracts between subcontractors and their workers. In the words of one respondent *the terms of employment of workers employed by subcontractors are beyond our direct control*.

Contractors can of course exercise some control through procurement and the contract. They can choose their partners and subcontractors with care (the same approach as that adopted by the QF in selecting its main contractors) and include the required standards in their subcontract agreement. All the contractors interviewed said they have a rigorous prequalification process for the appointment of subcontractors and some have long term relationships with subcontractors in Qatar who meet their requirements. But several contractors warned that *sometimes their (subcontractors) standards are far below the minimum and raising them across the board will be very difficult*. One respondent noted that *there are some local firms which have resources and are capable but there is still a big difference between their standards and our own*. They can encourage them to improve *but subcontractors are small companies and it is difficult to force them to invest in their workers' welfare when they don't know whether they will get another contract*.

3.1.4. Stretched supply chain

A further significant problem is that almost half of the contractors, as well as a number of Project Managers, noted that the supply chain is stretched and good subcontractors can be hard to find. They try to select the best: *but how can you choose a 'good' subcontractor when there are so few - there may be nowhere else to go?* Even if there is some capacity at present this will change and there will be difficulty in choosing subcontractors in the future: *poor performing subcontractors may be blacklisted for the next project but they will have to be allowed back for the project after that*.

As the volume of work increases major clients may face a similar dilemma, with fewer 'quality' contractors to choose from when appointing their principal contractors. International contractors have different standards in the treatment of the workers, reflecting conditions and practices in their own home construction markets. One contractor reflected that *the best will try to comply with the required standards and meet the clients' expectations but many others will only pay lip service*. Another suggested that *the only real change will be made if the government follows through and demands that their standards are metif government clients continue to appoint contractors whom they know are not meeting their own standards then the whole system will be undermined*. Others pointed out that the situation is not helped by Qatari clients' current practice of 'blacklisting' major contractors, not for failing to comply

3. Overview of interview findings *continued*

with labour laws but for failing to meet tough delivery schedules. Contractors maintain that *clients expect work that should take five years to be completed in two*. PMCs confirmed that they will continue to take a hard line on time and the pressure will only increase with the volume of work in the future. One PMC remarked that *once major projects are underway the progress of the work will take over and concerns about the welfare of the workers will be overlooked*.

Inevitably there are several other key aspects of the standards that contractors consider particularly challenging. Areas where QF proposals may be placing too many demands on main contractors are outlined in the following section, followed by one area (payment of wages) where they don't seem to be going far enough.

3.2. Recruitment

All contractors with government projects are allowed to recruit workers from overseas, regardless of whether they have a Qatari partner. This means that the contractor is both the employer and the sponsor and the sponsor is not necessarily a Qatari national¹⁵. Contractors must register with the Labour Department in order to be eligible to apply for work permits. Usually, contractors submit an application for block visas stipulating the gender, nationality and trade of the workers required. Several of the contractors interviewed said the first option is to re-deploy existing employees to new projects in Qatar, but when they need to recruit new workers from overseas they use recruiting agents. An alternative is to make use of the various labour supply agencies which exist in Doha, but this is an expensive option and the workers supplied by agencies often do not have the skills required. Some contractors do rely on labour supply agencies but those interviewed would only do so in emergency situations. In the words of one of our respondents labour suppliers are best avoided.

It is in the area of recruitment that contractors have the greatest difficulty in exercising any control even for their own directly employed workers. All respondents use recruiting agents. As one contractor asked: *who can control recruitment practices? We have difficulty controlling recruitment of our own directly employed workers but it is impossible to control the recruitment of subcontractors' workers*. For their own recruitment purposes, contractors say they deal only with reputable recruitment agencies and make clear the standards they expect. They can pass down the main contract terms to their subcontractors and require

that subcontractors also use reputable agents. But some agents still do not comply and it is difficult to find out the extent of non-compliance. But as one contractor complained: *these agents employ sub-agents and sub-sub-agents and it is impossible to know what they are doing especially when they are a long way away*¹⁶.

QF's Ethical Recruitment Principles are shown in Box 1. The QF Standard is categorical that workers should not be charged any fees either in Qatar or in the sending country and contractors are required to reimburse workers for any fees they have been charged. All contractors interviewed said that they pay all costs associated with recruitment but they cannot be sure if workers have also been charged fees by recruiting agents. Furthermore, in the event that workers are charged fees they are seldom issued with receipts. One company asks new recruits to sign a form stating that they have not paid any fees to recruitment agencies but *the reality is that many still pay these fees and then deny it because without it the agencies will not put them forward for a job*. Another contractor who had some experience of reimbursing workers suggested that *workers are often too*

Box 1 – Qatar Foundation's Ethical Recruitment Principles

1. Workers shall not be charged any recruitment, processing or placement fees
2. Workers shall be informed about the terms and conditions of their employment, safety and health risks of their work prior to their deployment to Qatar in the language they understand
3. Workers shall receive a signed copy of their original offer of employment in the language they understand prior to their deployment to Qatar
4. Workers shall be informed about their rights and responsibilities under the law prior to their deployment to Qatar
5. Workers shall not be required to sign a contract different from their original offer of employment in their country of origin
6. Workers shall not be asked by an employer or recruitment agency (local or overseas) to participate in any form of forced or mandatory savings in order to pay off recruitment, processing or placement fees

afraid to admit that they have paid fees due to scaremongering by the recruitment agents. One respondent is now investigating how to audit the recruitment agents they use to ensure workers are not charged fees but *they have not yet found a fool-proof solution.* The issue is further complicated by the fact that in some countries that send workers to the Gulf (including India) the payment of fees is actually authorised and the fees are fixed by the government – although the agreed rates are always exceeded.

The difficulties of working only with trusted recruiting agents are further complicated by the government's apparent practice of restricting the issue of visas for certain nationalities. All those interviewed said they had difficulties in securing the required visas. For example, applications for visa for Indian workers result in the approval of visas for Nepalese, and applications for steelworkers return visas for carpenters. In the event that the visas applied for are refused or substituted, contractors can appeal to the Ministry to vary the existing order. But the process of negotiation can be haphazard and poorly structured, so it has become common practice to bring workers into Qatar under one job category when in fact these workers are performing a different job entirely. Several contractors also indicated that they apply for twice as many visas as required in order to increase their chances of obtaining the numbers, nationalities and skills that are needed – a practice that would appear in the long run to be self-defeating.

One contractor reported that when the proposed QF standards were published he went with the company's legal adviser to the Labour Department and asked how they, as contractors, were expected to control what happens in the labour sending countries. The response from the government was that they understood the problem but contractors just have to deal with it. The department could not provide any ideas as to how the contractors could meet the challenge. Another contractor commented that *QF will have to take this requirement out of their Mandated Standards.*

One other closely related issue that raised concern among contractors is the requirement that "Workers shall receive equal pay for equal work irrespective of their nationality, gender, ethnic origin, race, religion or legal status". Two of the ten contractors pointed out that 'equal pay for equal work' is simply not possible in the context of Qatar with its dependence on overseas labour. Minimum wages are set by some of the labour-sending countries and there are wide national variations in what is considered an acceptable minimum. Actual wages paid of course differ from the

minimum set by labour sending countries and reflect pay levels in the home country or region within a country, as well as other factors such as whether tax has to be paid on earnings abroad. Critically they also reflect conditions of demand and supply in the market at the time of recruitment. Wages therefore show wide variations not only between countries but among workers recruited from the same country. One respondent said that he was *surprised that QF included this in their standards as it is not in the labour law.*

3.3. Payment issues

While the QF Standards may place too much responsibility onto contractors in the area of recruitment, on the payment issue they appear to let the contractor off extremely lightly. There is considerable evidence to indicate that the issues of most concern to workers relate to payment of wages and benefits. While many complain about the level of remuneration, the majority of complaints are about late payment¹⁷:

- The main complaint from workers who come to the National Human Rights Committee (NHRC) seeking help is about late payment of wages: one third of 1,100 labourers surveyed by the NHRC said that they never received their wages on time¹⁸.
- In 2010, 93% of the complaints handled by the Ministry of Labour were about delayed salaries and two thirds of complainants were construction workers. In 2012 the Ministry received 6000 complaints with salaries and denial of benefits the main problems¹⁹. The Ministry of Interior, which handles complaints referred to it by the NHRC or the Ministry of Labour, confirmed that the major problem is salaries²⁰.
- In 2005, 600 construction workers went on strike in Qatar over non-payment of wages for 6 months.

The QF Standards require that the employer pays wages in full, monthly in arrears without delay and any deferral, delay or withholding of wages is strictly prohibited. Monthly proof of payment must be sent by the employer to the 'designated personnel' of the client and if payment is delayed the employer is liable to make 'damage payments' as determined by the client. However QF is strangely silent on how this is to be enforced. It seems unlikely that the client would conduct a detailed examination of records of payment each month from contractors and subcontractors in order to identify where payment is delayed or

3. Overview of interview findings *continued*

incomplete²¹. Main contractors, who should be the first to be informed if workers have not been paid by subcontractors, seem to be left out of the loop.

All respondents maintained that their directly employed workers are always paid on time. But several contractors, as well as PMCs, said that they are aware of issues regarding the late and partial payment of wages to workers at the bottom of the subcontracting chain. It is recognised by both contractors and PMCs that the normal practice in Qatar is for main contractors to only pay their subcontractors when they themselves have received payment from the client – known as ‘pay when paid’. As most subcontractors are under-financed and do not have access to working capital, they cannot pay their workers until they themselves are paid. So the failure of subcontractors to pay wages on time can be traced back, at least in part, to slow payment from higher up the chain.

Respondents’ experience in this respect varied widely. A couple of contractors maintained that some clients do pay on time, but half maintained that late payment is ‘occasionally’ or ‘usually’ a major concern. Explanations offered by contractors include bureaucratic procedures in client organisations, failure to delegate responsibility for certifying payment and clients not paying until all outstanding issues are settled. PMCs confirmed this explanation. One consultant working for Ashghal maintained that the client always pays on time but added that *there is a problem of heavy auditing in government departments which makes people afraid to take risks and causes delays: it is also very bureaucratic with a failure to delegate responsibility*. A consultant in QRail was more direct, admitting that late payment is the norm and *seems to be due to a heavy mix of bureaucracy (many signatures needed) and the concentration of power*. He added that this creates great difficulties for the contractor who has no redress: he can’t suspend the work and tell the workers to go home but *has to hold the line and keep working or be subject to huge fines and penalties if he leaves the project or stops work*.

Contractors were asked what, if anything, they thought could be done to ensure that all workers are paid on time. Most felt that the only way to avoid delayed payment of wages to subcontractors’ workers is for prompt payment from the client. But two respondents thought that paying wages through bank accounts could help as this would help workers prove when they were not paid. Of the seven respondents who answered a question on method of payment, four reported paying workers in cash and this was

because most workers earn less than the minimum salary ordinarily required to open a bank account in Qatar (reported as 4000 or 5000 Qatari Riyals a month). But three other respondents were actually paying salaries to workers earning less than half of this amount by electronic bank transfer and one had been doing so for the past five years. One contractor explained that, while it is true that providing accounts to low paid workers is not a profitable activity for the banks, they can be persuaded to do so as the banks hope to secure other more profitable lines of business from the major contractors. Paying through electronic bank transfer could provide workers with evidence to prove they have not been paid and allow them to seek a transfer of sponsorship (see section 3.4) and it is very important for this reason. But it is not immediately clear whether it would also help to ensure prompt payment. One respondent suggested closer monitoring is also needed as well as *an avenue to alert authorities when workers are not paid on time*.

An alternative solution to the challenge of ensuring workers employed by subcontractors are paid on time, even when payment from the client is delayed, would be for the main contractor to pay their wages if the subcontractor fails to do so. One contractor said that his company had once paid workers employed by a subcontractor. Another said they would do so but only if it was affecting the progress of the work. It is worth noting that this is only possible once the issue of delayed payment is made known to the main contractor and this could take as long as six months. Attention was drawn by a contractor to the Indian Contract Labour (Regulation and Abolition) Act of 1970 which requires the ‘principal employer’ to pay workers’ wages if a (sub) contractor fails to do so. It was suggested that this could be included as a requirement in contracts in Qatar. The view was expressed that the clients could do something about the problem of delayed wages if they wanted to. But it was also suggested that they may not be willing to *enforce the payment of wages on time because they know that they themselves are not paying on time*. This is an issue that will be discussed further in section 4.

3.4. Suggestions from contractors on additional measures needed

Contractors interviewed were united in believing that corrective work is needed to address the very real problems of exploitation of migrant workers. There are corrupt channels of recruitment and corrupt subcontractors and labour suppliers who abuse the workers. Contractors have

a major role to play in addressing these issues through the subcontract agreement and regular inspections. But the general view is that corrective work on the scale that is needed can't all be done by the main contractors. It will require a joint effort and must be led by the government and involve all stakeholders, including all major clients, project managers and supervising engineers, relevant ministries and other official bodies: *Everyone should be on the same page and working together.*

Respondents were unanimous that the government should be much more involved in policing and enforcing its own laws and regulations. Typical comments were:

Improvements in Qatar will only be achieved if the government leads the way;

There should be strict regulation with strong penalties for failure to comply.

Government needs to regulate subcontractors and labour suppliers and refuse to register companies that abuse the workers and flout the rules.

Government departments have to work together and agree an inspection process and companies violating the law should be blacklisted: the Labour Department can and does block companies from recruiting workers.

On recruitment, respondents noted that *foreign embassies must also be involved and collaborative action is needed to police and crack down on corrupt channels of recruitment in labour sending countries.* Countries vary widely in their efforts in this respect. *Some such as the Philippines have good controls and it is hard to cheat workers there, but India is not so good*²². Contractors also argue that the government should look again at its practice of restricting the issue of visas from certain countries as this further complicates the search for ethical recruiting agents and the drive for more ethical recruitment.

On the issue of workers' freedom to change their employer, contractors were asked about their practice of granting No Objection Certificates (NOC) to workers who wish to move to another employer²³. The majority of respondents said that they do give workers NOCs if they want to leave the company to work elsewhere. But most added that this is only if they are no longer needed and one contractor admitted to not being *100% clean*.

Several respondents suggested that the NOC is intended to protect the small local companies (SMEs) that often abuse the workers (e.g. by withholding wages) and who use the

NOC to prevent them from leaving. The view of the Qatar Chamber of Commerce seems to confirm this. We were informed that abolishing the NOC would give too much power to the workers *who would desert their employers at a whim for better wages and conditions*. The Chamber's main concern is to support Qatar's small companies and removing the NOC would be to their detriment²⁴.

The majority of contractors interviewed felt strongly that the NOC should be abolished, but several added that this is their personal view and not necessarily that of their company. One respondent noted that the NOC makes companies very complacent about managing and looking after their workers. Others mentioned the waste of talent as workers who are denied NOCs by their employers are obliged to leave the country and stay away for two years before returning; or when they are not allowed to work pending an appeal because they don't have permission from their sponsor to move to another job. In the context of increasing workloads in future, several respondents stressed the importance of *avoiding the big losses to the country from workers not being able to move to where they are needed*. One commented that *if the NOC was abolished there might be six months of chaos but it would free up the labour market and benefit the industry in the longer term*. Most agreed that the better employers would benefit if workers were free to move, so abolishing it would create a powerful incentive for improved employment practices.

However, an alternative view was expressed by three contractors who, while generally agreeing that the NOC needs to be modified, also pointed to the considerable cost incurred in recruiting and training workers who might then be 'poached' by other companies. One respondent suggested that if the NOC is removed *there has to be some mechanism in place to recoup at least some of the cost incurred if a worker leaves the company before a certain period of time has elapsed*. Another felt that *an arrangement that is fair to both sides – the worker and the employer- has to be found*. It was suggested that Qatar might learn from experience in other countries of the Gulf – such as Dubai where leaving an employer is now much easier and the period spent overseas between contracts is reduced from two years to six months. Dubai has also introduced a 'Wage Protection System' which requires payment of wages through electronic bank transfer which should provide workers with proof if their wages have not been paid which would enable them to appeal to the relevant authorities for a transfer of sponsorship²⁵.

4. Discussion

In this section we discuss the key findings from the interviews with contractors and PMCs in the context of our knowledge of the construction industry and put forward some suggestions of our own.

Our discussions with main contractors operating in Qatar have helped us to understand the context in which they operate and to draw some preliminary conclusions about the areas where there are likely to be difficulties implementing the QF Mandatory Standards. A key issue relates to the degree of managerial control that main contractors can exercise over recruitment agents and subcontractors. It is quite clear that main contractors are in charge of the construction site and have direct responsibility for what happens on the site. This includes all aspects of health, safety and welfare conditions on site²⁶. But control over what happens off the site and which is dependent on the action of others, namely recruitment agents and subcontractors, is more problematic.

4.1. Recruitment: The limits of contractor control

There is one important area where the contractors interviewed believe that the QF Standards go too far in placing responsibility upon them. Contractors are unanimous that they cannot be held solely responsible for ensuring that recruitment agents employ 'ethical recruitment practices'. In particular they cannot guarantee that agents do not charge workers fees or lie to them about the terms and conditions of work that they will encounter in Qatar.

Contractors must undertake due diligence and commit to working only with legitimate and licensed recruitment agents and make clear in contracts the standards they expect. Main contractors can and should pass these requirements down to their subcontractors. But it is unclear how far they can be expected to police the behaviour of recruitment agents in the source countries and there are practical difficulties in reimbursing workers for fees paid. This conclusion is supported by an independent evaluation by Price Waterhouse Coopers (PWC) of compliance with the standards set by the TDIT on Saadiyat Island²⁷. PWC found that reimbursement of recruitment fees paid by workers was the only major incidence of non-compliance. While over 70% of the workers interviewed said they had paid fees, contractors couldn't reimburse them because payment was always in cash and they weren't given receipts. PWC concluded that contractors could not be held responsible

because the issues often occur in the workers' home country.

Other studies have reached a similar conclusion. A recent investigation of migration of low income workers from India to Qatar found three informal practices which are widespread, inter-related and potent sources of abuse. They are recruitment agents working with sub-agents; fishing for candidates in rural areas; and unequal information between recruiters and job candidates²⁸. The author concluded that the Indian Government must do more to regulate and control the sub-agents as well as tighten control over the licensed agents who openly ignore the maximum recruitment fee set by the government. While a heavy responsibility must lie on governments of labour sending countries, it would seem that the Qatar Government could also do more. Qatar has huge leverage over labour sending countries whose economies are heavily dependent on remittances from overseas migrant workers and should be able to put pressure on these governments to sharpen up their act and put more effort into addressing corruption in the recruitment business.

Our discussions with contractors suggested that the Qatar Government should also do more to clamp down on abuses by employers and sponsors operating in Qatar. It is encouraging to note that the Search and Follow up Department of the Ministry of the Interior did in fact blacklist 3705 companies and individuals in 2012, banning them from recruiting workers for violating law number 4/2009 that regulates entry, exit, residence and sponsorship of expatriates in the country²⁹. Contractors are right in maintaining that they cannot be the only source of regulation. The practice of leaving the private sector to regulate, which is common throughout the Gulf, has been criticised for resulting in workers having highly variable migration experiences³⁰. Construction employers in Qatar range from multi-national corporations to small 'local' companies which may have a Qatari sponsor but are likely to be managed by other migrants, often themselves from low income countries. Government has a role in regulating this 'underworld' of small companies and enforcing at least minimum standards.

4.2. Wages: Could contractors and clients do more?

The extent to which contractors can be held responsible for the employment standards of their subcontractors is a more complex issue. As when engaging recruitment agents,

contractors can incorporate the required employment standards into their subcontract agreements. But they say that they have no direct control over employment contracts between subcontractors and workers and this means that they will face difficulties in monitoring and enforcing the required standards relating to hours of work, salaries and benefits, payment schedules etc. There seems to be an implicit recognition of this problem in the QF Standards which place responsibility for monitoring on the subcontractors themselves through self-audits and upon the client who must audit both main and subcontractors. The intention of excluding the main contractors from a major role in monitoring subcontractors seems to be confirmed by QF requiring quarterly manpower reports and proof of payment of wages to be sent to the client and not to the main contractor. The question remains as to whether blame for poor performance of subcontractors will be held against the main contractors and whether they will be 'blacklisted' as a result.

It also remains to be seen what aspects of subcontractors' performance will actually be audited by QF and other clients that adopt the QF Standards and approach. The easiest will be to inspect the accommodation and, given the emphasis placed on accommodation in the QF Standards, we suspect that most attention will focus on the labour camps. We doubt that clients will in practice examine all manpower reports and payment records received from subcontractors to ensure that the workers have been paid. In fact reporting on a quarterly basis is too infrequent to catch instances of delayed payment in time to avoid serious repercussions for the workers and potentially for the main contractor and the client.

We have argued that the issue of workers not receiving their wages on time and in full is the main cause of workers' complaints. It is also a serious risk to the progress of the work as workers who have not been paid are unlikely to work effectively and may 'go slow' or even stop work in



4. Discussion continued

protest. Knowing when workers employed by subcontractors have not been paid is therefore of critical importance to the main contractor and ultimately to the client. We believe that more can be done by clients than what is suggested by the QF Standards to address the challenge.

The majority of contractors suggested that the 'solution' to the problem is for the clients to always pay the main contractor on time³¹. One adviser to a major client admitted that payments are sometimes late but suggested that *there is no reason why cash flow problems would delay the payment of wages because main contractors can set the payment schedule and are paid 10% up front*. Another PMC suggested that contractors also front-load the contract. But these arguments ignore the fact that, even if clients always paid on time, it doesn't mean that the main contractors will pass the money down. Some contractors deliberately delay payment to their subcontractors in order to improve their own cash flow while subcontractors often delay payment to the workers in order to hold on to them and keep them subservient. So the challenge is not only about getting the money down the chain to the subcontractors, but getting it into the hands, or bank accounts, of the workers.

This is a really difficult issue but there are ways of ensuring payment to workers if the client wants to take them up. We would suggest a number of steps. First, clients should consider including clauses in their contracts with main contractors requiring the main contractor to pay the wages of his subcontractors' workers if the latter fails to do so. One of our respondents drew attention to the fact that legislation to this effect is in place in India, but in the absence of legislation in Qatar there is no apparent reason why it cannot be included in contracts. Second, in order to be effective contractors need to know when workers have not been paid, so they should be required to set up a hotline for workers to raise the alarm if they have not received their wages³². Third, we would go further and suggest that the hotline should also be connected directly to the PMC and the client.

There is a rationale for requiring main contractors to be prepared to pay the wages of subcontractors' workers if the subcontractors fail to do so. Late payment from the client creates enormous cash flow problems for all contractors but, while the major contractors interviewed all said they usually have sufficient liquidity to survive, this is not the case for subcontractors many of whom are small companies and already in debt to the bank. An even stronger argument is that the workers employed by subcontractors are indirectly employed by the main contractors. Contractors can choose to do all of the work themselves and employ workers directly or they can subcontract parts of the work – they are all the main contractors' workers and progress of the work will be affected if they are not paid. In the words of one contractor: *if a subcontractor is not paying his workers (or placing them in substandard accommodation, or working them too hard) then this will have an impact on their performance and ultimately have an impact on our performance and reputation*.

There is also a rationale for clients to be informed immediately if workers are not being paid. The Government of Qatar places a high priority on workers receiving their due rewards, as seen in Article 5 of the Labour Law (No. 14 of 2004): *"The sums due to the worker or his heirs under this law shall have priority over all movables and immovable properties of the employer and shall have a privilege over all other debts including the debts due to the state"*. One adviser to Ashghal agreed that the client has a moral obligation to know if workers have not received their wages but seemed not to recognise that there is also potentially a huge risk to the client of disruption to the progress of the work from strikes and slow-downs. Some of the PMCs interviewed also appeared to be surprisingly complacent about the prevalence of 'pay when paid', which is a practice which has been outlawed in the UK and several other countries³³. Given the high priority afforded to delivery on time in the run up to 2022 we would expect clients and their advisers to be more aware of the potential risks from the late payment of wages.



5. Conclusions and Recommendations

It is widely acknowledged – not least by Qataris – that there are problems with the treatment of migrant construction workers in Qatar. Whether the situation in Qatar is worse than in other countries equally dependent on migrant workers may be an issue for debate. But in a sense it is irrelevant as it is upon Qatar that the eyes of the world will be focused in the coming years. It is therefore critically important that the country takes steps to protect its construction workers from abuse, to improve their living and working conditions and their whole ‘migration experience’.

The Government has taken the first steps with its enactment of a number of new laws and regulations. The Qatar Foundation has taken up the challenge of implementation with publication of its Mandatory Standards and announcement of its intention to choose its business partners on the basis of their compliance with the standards. This has already had a very positive effect in focusing attention on issues of workers’ welfare and rights and highlighting the role that clients and contractors can play in addressing them. The Standards have been well received by contractors and PMCs and it seems likely at the time of writing that all major public clients will adopt them.

The approach adopted by QF of choosing business partners on the basis of their compliance with the Standards should provide a strong incentive to contractors to improve their employment practices so as to continue to win contracts. If all major clients were to follow the QF approach (monitoring compliance on their projects and working only with contractors who comply) this could have a major positive impact on workers’ welfare. The main threat to the approach is the sheer volume of construction work that is planned and the fact that the supply chain is already stretched. In future clients may no longer be able to choose the ‘best’ contractors and contractors in turn may not have the option of choosing only the better sub-contractors. In this context clients may have to introduce more sanctions and start to take a tougher line on poorly performing firms. Respondents were unanimous that the government will also have to play a bigger role in policing and enforcing its own laws and regulations and clamping down on companies that flout the law and abuse the workers.

Ensuring that workers receive a ‘No Objection Certificate’ (NOC) if they wish to move to another employer could provide an equally powerful incentive to both contractors



and subcontractors to improve their standards. The majority of the contractors interviewed felt strongly that the NOC should be reviewed, but several added that this was their personal view and not necessarily that of their company. In the context of increased workloads in future, several respondents stressed the importance of avoiding the big losses to the country from workers not being able to move freely to where they are most needed, or not being allowed to work when they have an appeal pending. However, a minority of the interviewees, while generally agreeing that the NOC needs to be modified, also pointed to the considerable cost incurred in recruiting and training workers who might then be 'poached' by other companies. They felt that some mechanism should be found to recover at least part of the cost if a worker leaves the company before a certain period of time has elapsed.

Recruitment

All of the contractors interviewed use recruitment agents to find workers. They all maintain that they work only with legitimate agents, that they make clear to the agents the standards they expect and that they require the same of their subcontractors. While these requirements as set out in the Standards are welcomed, contractors argue that policing the actions of the agents and sub-agents in labour sending countries is not within their powers. The difficulty is increased by the Qatar Government apparently restricting the number of visas issued for workers from India where contractors have developed relationships with reliable and ethical agents.

All of the contractors we spoke with also maintain that they pay all expenses involved in recruiting workers including agents' fees. They recognise that agents sometimes also charge the workers, but it is very hard to know when this has happened as the workers are often reluctant to admit it. When workers do claim to have paid fees to agents it is difficult to reimburse them as they do not have receipts. Similar findings have been reported from the experiment in Saadiyat Island in Abu Dhabi.

A solution to the problem of workers being misled and/or charged fees by unscrupulous recruitment agents will require concerted efforts on the part of governments of labour sending countries who need to do more to regulate their recruitment agents. The government of Qatar might also use its leverage over labour sending countries whose economies are heavily dependent on remittances from migrant workers, to put pressure on these governments to

put more effort into addressing corruption in the recruitment business.

Wages

While the Standards may place too much responsibility on contractors in the area of recruitment, on the wages issue the Standards do not appear to go far enough. There is considerable evidence to indicate that the issues of most concern to workers relate to payment. Workers may complain about the level of remuneration, but the majority of violations are about late or partial payment of wages. Migrant workers often have to borrow large sums from money lenders at high rates of interest to pay recruitment fees. It is therefore critically important that workers receive their wages on time and in full so that debts can be repaid promptly. While there are limits to the control that contractors can exert over subcontractors, we have argued that more should be required of them (than is currently stipulated in the QF Standards) to ensure that all workers, including those employed by subcontractors, receive their wages on time.

All respondents maintained that their directly employed workers are always paid on time. But principal contractors generally only employ a small proportion of the labour on a project (maybe as little as 10 per cent) and several said they are aware of issues relating to late and partial payment to workers at the bottom of the subcontracting chain. It is recognised by both contractors and PMCs that the normal practice in Qatar is for principal contractors to only pay their subcontractors after they themselves have received payment from the client – known as 'pay when paid'. As most subcontractors are under-financed and do not have access to working capital, they cannot pay their workers until they themselves are paid.

The most common view of interviewed contractors was that the only way to avoid delayed payment of wages to subcontractors' workers is for prompt payment from the client. However two respondents thought that paying wages through bank accounts could help as workers would then be able to prove if they were not paid. Despite popular belief that construction workers are paid below the minimum wage needed to open a bank account in Qatar, three of the 10 contractors interviewed are already paying wages through bank transfers. Although this is not a profitable line of business for the banks, contractors can use their own business as leverage to persuade the banks to cooperate.

5. Conclusions and Recommendations *continued*

Paying workers' wages through bank transfers would greatly assist them to present evidence when they have not been paid and it is very important for this reason. But pre-emptive action is also needed. Late payment of wages is a potential source of disruption and delay to projects and therefore a major risk to principal contractors, PMCs and their clients. Public sector clients should consider investigating other measures that could be taken to both ensure prompt payment and improve the flow of funds

down the subcontracting chain. Other countries have taken steps to achieve these objectives and the relevance of these measures to Qatar should be investigated further. One possibility is for principal contractors to be required to pay the wages of workers employed by subcontractors if the latter fail to do so. Clients could facilitate this through explicit clauses in contracts with principal contractors which also require a hotline be established for workers to report when their wages are delayed.

Recommendations:

- All **public sector clients** of the construction industry should follow the approach adopted by the QF in setting up a workers' welfare department to undertake regular welfare audits of contractors and subcontractors and aim to work only with contractors who comply with the Standards.
- **Public sector clients** should investigate measures to improve the flow of funds down the subcontracting chain and consider contract clauses requiring principal contractors to pay the workers employed by subcontractors if they have not been paid.
- **Principal contractors** should be required to set up a 'hotline' for workers to alert all stakeholders to delayed payment of wages by subcontractors.
- Payment of workers' wages through electronic bank transfer should be mandatory as this would provide workers with the evidence needed to prove that they have not been paid and allow them to seek redress.
- The Government of Qatar should consider measures aimed at guaranteeing the issue (by employers) of 'No Objection Certificates' (NOCs) to workers who wish to change their employment: this could provide a powerful incentive to both contractors and subcontractors to improve their standards or risk losing workers to better employers.

Policing the activities of contractors, subcontractors and labour agencies cannot be left entirely to the business sector:

- The Labour Department should be strengthened so that the Government can play a bigger role in enforcing its own laws and regulations and clamping down on companies that flout the law and abuse the workers.
- The Government of Qatar should leverage its position with labour sending countries whose economies are heavily dependent on remittances from migrant workers, and pressure these governments to step up efforts to address corruption and exploitation in the recruitment business.

Annex One: Report of a Round Table meeting held at the W Hotel in Doha on 14th January 2014

Introduction

Following publication of this report Engineers Against Poverty (EAP) convened a Round Table meeting of construction industry stakeholders in Doha on 14th January 2014. The purpose of the meeting was to discuss the findings and recommendations of EAP research and propose further actions that could be taken by the construction industry (clients, consultants and contractors) to improve employment standards in construction in Qatar.

The focus of the meeting was three inter-linked issues: **cash flow, wages and recruitment**. Late or non-payment of wages is the main concern of workers in Qatar and a major issue in the construction industry worldwide. It generally stems from delays in the flow of cash down the chain to the subcontractors who are the main employers of labour. While the problem is not unique to Qatar or to the Gulf Cooperation Countries (GCC) it is exacerbated by the fact that construction workers in the GCC are migrants from low income countries and many of them have had to borrow large sums from moneylenders at high rates of interest to pay recruitment fees. The situation is further complicated in the Gulf as, under the *kafala* workers cannot change their employer or leave the country even if they have not been paid for the work they have done. This can lead to serious humanitarian crises where workers are left without money or food while they try to seek redress. Many are forced to work illegally. If nothing is done the increasing pace of construction will result in migrant labour being driven further underground in Qatar, as has happened in Dubai.

Non-payment and late payment of wages is not only of concern to migrant workers, it is also a potential source of disruption and delay to projects and therefore a major risk to government clients and their project managers and advisers. All major public clients in Qatar are fully committed to finding solutions to this serious problem and are working to bring about positive change. It is hoped that the combined expertise of the meeting participants and the suggestions they put forward (summarised below) will add some value to the on-going process of reform.

Summary of the discussion

Cash Flow

The nonpayment of wages to construction workers is an issue that is directly linked to the structure of the construction industry and the speed with which money flows from top to bottom down the subcontracting chain.

Small companies working as subcontractors and labour-only subcontractors in Qatar have liquidity problems (a lack of working capital) and they cannot pay their workers until they have received payment for the work they have done from the contractor in the tier above them. Two problems need to be addressed: (1) Slow payment from the client to the principal contractor and (2) contractors only paying their subcontractors when they themselves have been paid (widely known as *pay when paid*). Both are common practice in Qatar.

Participants discussed the reasons for slow payment by clients and suggested that clients need to look into ways to speed up the process. International best practice suggests the separation of non-disputed from disputed items in contractors' invoices and fast payment of the former while the latter are subjected to a process of rapid adjudication. Under the current regime, slow payment by the client means that the industry has to carry the financial risk. The client would benefit from lower tender prices if there was a more equal apportionment of risk and if payment could be guaranteed within x number of days. The issue of 10% retention was also raised as this is very high by international standards and final payment can be so long delayed (five years or more) that many contractors don't bother to claim what is owed to them. To ease the flow of cash, retention could be replaced by performance bonds. At present Qatar has both.

Participants were generally of the view that *pay when paid* is unethical. It is against the law in some countries and is also against Sharia law. Clients should make clear that the practice is not acceptable and that they will not engage with contractors who practice it. The criteria for contractor selection should include payment practices and be widely publicised so that contractors are fully aware of what is expected of them and how they will be assessed. International best practice suggests that clients should resist the temptation to go for the lowest priced tender, while taking a more pro-active approach to quality and supply chain assurance. There has to be monitoring and greater transparency of the flow of cash down the subcontracting chain.

Protecting wages

There are various other steps that could be taken to protect the payment of wages to construction workers. One possibility recommended by EAP and discussed by participants is to place responsibility on the principal contractors for the payment of wages to the workers

Annex One: Report of a Round Table meeting held at the W Hotel in Doha on 14th January 2014 *continued*

employed by subcontractors if the latter fail to do so. Legislation exists to this effect in India, but it could alternatively be a contractual requirement. Concerns were raised that Qatari law does not allow contractors to pay workers who are under the sponsorship of others, although participants doubted whether there would be prosecutions if such instances were properly documented and the reasons explained.

A further problem is that principal contractors may not be aware that workers employed by subcontractors have not received their wages and this situation could continue for many months with serious impact on the progress of the work. A 'hotline' is therefore needed to raise the alert and this should be directed to both the principal contractor and the client. Qatar Foundation are already working on the logistics of setting up a hotline. Some workers may still be reluctant to complain for fear of retribution so information and support will also be needed.

There has also to be proof of non-payment of wages before remedial action can be taken. The EAP research found that a number of principal contractors are paying wages by electronic bank transfer and suggested that this be made mandatory. It is widely believed in Doha that low wage workers are not able to open a bank account but presentations at the meeting from two major local banks demonstrated that this is not necessarily the case. Both banks offer the service to workers earning less than QAR 2000 per month and many contractors, including subcontractors, are already taking advantage of it. Some middle and small sized companies may still be resistant to electronic wage payment so it may need to be a contractual requirement that is monitored and enforced.

In the event that slow payment from the client persists and principal contractors are unable to fund the whole of the supply chain, a suggestion put forward at the meeting is that a part of the advance payment to the principal contractor be placed in a bond to guarantee the payment of wages along the subcontracting chain. This would not only create a contingency reserve to ensure that sufficient funds are available in the project to meet the obligation of employers to pay the workers, it would also signal to the rest of the world that Qatar takes the issue of non-payment of wages very seriously. The details of how this would work in practice would have to be very carefully thought through.

Recruitment

Exacerbating the problem of non-payment of wages is that many workers are already in debt because of the payment

of fees to recruitment agents. Qatar Foundation mandatory standards require that employers engage only with responsible recruiting agents, pay all recruitment costs and reimburse workers if they have also paid agents' fees. Participants referred to the problem of sub-agents in labour-sending countries who are impossible to control, as well as to the difficulty of reimbursing workers in the absence of receipts.

The meeting heard that there are some companies that practice ethical recruitment and one such company is currently working with the Qatar Foundation to investigate the productivity gains from workers being free of debt. Auditing of recruitment agents is important and there are companies that offer an auditing service or train contractors' own staff to do it. The Qatar Foundation representative at the meeting reported that QF is working to get to the point where they can publish a list of recommended recruitment companies.

Recommendations emerging from the meeting:

Public sector clients should consider:

- Investigating measures that have been successful elsewhere to ensure faster payment of contractors invoices and improve the flow of funds down the subcontracting chain
- Making clear that *pay when paid* is not acceptable practice in Qatar and include contractors' payment practices (alongside health, safety and welfare) as a criterion in contractor selection
- Inserting contract clauses requiring principal contractors to pay subcontractors' workers if they have not been paid
- Replacing retention with performance bonds to ease liquidity in the industry, and
- Investigating the practicality of setting aside a percentage of the contractor's advance payment in a bond to guarantee the payment of workers' wages

Principal contractors should consider:

- Paying workers' wages through electronic bank transfer and ensuring that their subcontractors do the same
- Setting up a hotline to be alerted to instances of wage delay or non-payment
- Improving their capacity to audit recruitment agents and subcontractors recruitment practices

Annex two: Be careful what you wish for

Blog published on EAP website on 21st May 2014

Qatar hosts the FIFA World Cup in 2022 and the attention of campaigners and the international media has been on the conditions of workers employed to build the infrastructure. EAP's Senior Research and Policy Adviser Jill Wells considers what might happen if the controversial 'kafala' system was removed.

Human rights organisations have done a good job in exposing widespread abuse of migrant construction workers in Qatar, but they have paid less attention to proposing measures to tackle the issue beyond calling for the abolition of the *kafala* sponsorship system. If the *kafala* is abolished nobody is asking what will be put in its place.

This is a complex issue. The desire of Qatar and other countries heavily reliant on migrant labour to exercise some control over the migration and residence of foreign workers is not only understandable, it may also offer better protection to the workers than the alternative of a free and open labour market. Would the workers be better off under a system of uncontrolled migration? The exploitation by recruitment agents of migrants desperate for work in Qatar will not go away but with no sponsor there is less likelihood of work. Greater freedom for workers to switch between employers would almost certainly lead to similar demands from employers for the right to fire workers no longer needed. If the *kafala* is properly implemented the worker is guaranteed work and he will be better off so long as he is paid.

To understand why workers are not always paid we need to recognise the pressure for a flexible supply of labour in the construction industry and the system that has developed to accommodate it. In the past contractors in many countries (including the Gulf) employed a large workforce directly and bore the risk themselves of at times having more workers on their payroll than were actually needed, while employing subcontractors only to provide specialist skills. Today contractors around the world outsource the bulk of their labour requirements, thus passing the task of balancing labour needs, and the risks involved, to subcontractors and particularly to labour-only subcontractors.

In most countries it is the workers who will ultimately bear the risk of a flexible labour system, with only short term contracts and inevitable periods of unemployment. But under the *kafala* the contract is for two years, so the risk rests firmly on the subcontractor who has to pay his workers

whether or not he has work for them to do. The added risk to subcontractors of slow payment by the client and lead contractors for the work that they have done is well recognised and has been detailed in a recent EAP report. Model contracts and other recommendations to improve workers' welfare are now putting even more responsibility onto the subcontractors who are the main employers of construction labour. Of course those who deliberately abuse the system should be punished, but assistance is also needed to help emerging contractors to meet their obligations.

One obvious solution would be to ban outsourcing and oblige all contractors (particularly lead contractors which are generally large international firms with financial backing) to take back the workforce in-house. Although worker abuse would not cease it would be easier to identify and prosecute. However, efficiency would decline and tender prices rise. Qatar public sector clients could afford to pay but even wealthy clients like to drive a hard bargain, so it is unlikely to happen.

The alternative is to preserve the best parts of the *kafala* system and bring in other measures to address its abuse and the underlying reasons. EAP's recent report recommended steps that could be taken by the industry itself to tackle the issue of late or non-payment of workers' wages. The recently released report commissioned by the Qatar Government from DLA Piper has endorsed all of EAP's recommendations and suggested ways in which the *kafala* could be modified to further protect the workers. Particularly important is the proposal that employers who fail to pay wages on time, or are in breach of other obligations to the workers, should forego their right to refuse a No Objection Certificate (NOC) for the worker to change sponsor.

EAP supports all of the recommendations of the DLA Piper report. We call upon the Government of Qatar to accept them and also to consider commissioning research into the constraints facing contractors at the bottom end of the subcontracting chain.

References

Breeding, Mary (2013) **India-Persian Gulf Migration: Corruption and capacity in regulating recruitment agencies**, in Mehran Kamrava and Zahra Babar (Eds.) *Migrant Labour in the Persian Gulf*, Hurst and Company, London

Gardner, Andrew (2013) **Why do they keep coming? Labour migrants in the Gulf States**, in Mehran Kamrava and Zahra Babar (Eds.) *Migrant Labour in the Persian Gulf*, Hurst and Company, London

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ILO (1995) **Social and Labour Issues Concerning Migrant Workers in the Construction Industry**, International Labour Office, Sectoral Activities Programme, Geneva

Endnotes

- 1 www.hrw.org/node/107909
- 2 www.qf.org.qa/app/media/2379
- 3 The Dark Side of Migration: Spotlight on Qatar's construction sector ahead of the world cup, Amnesty International, November 2013
- 4 See 2013 report by Deloitte available at www.deloitte.com/view/en_XE/x/services/financial-advisory/ff9de0ddb950f310VgnVCM3000003456f70aRCRD.htm#
- 5 www.hrw.org/node/107909
- 6 www.qf.org.qa/app/media/2379
- 7 The Dark Side of Migration: Spotlight on Qatar's construction sector ahead of the world cup, Amnesty International, 2013
- 8 These problems were highlighted nearly twenty years ago in a study by the author for the International Labour Office (ILO 1995)
- 9 www.engineersagainstopoverty.org
- 10 www.qf.org.qa/app/media/2379
- 11 The main features of the Labour Law are summarised in Annex 1. Further features of the QF Standards will be introduced in section 3.
- 12 It is not clear whether this means that main contractors will also be judged on, and held responsible for, the actions of their subcontractors and this is an issue that will be discussed further in section 3.
- 13 The TDIT which is responsible for the development of Saadiyat Island, developed the Employment Practices Policy (EPP) in 2009 which sets out the standards related to workers' welfare that TDIC requires of its contractors on the island. www.saadiyat.ae/en/Uploads/pdf/EPP.pdf
- 14 One contractor calculated that 46 additional personnel would be required to set up and run a welfare department.
- 15 Subcontractors recruit their own workers and further investigation is needed into the recruitment practices of small firms and contractors working for private clients to establish whether the employer and sponsor are always the same
- 16 A recent study of migration of low income workers from India to Qatar (Breeding 2013) confirmed that licensed recruiting agents work with thousands of illegal sub-agents which the Indian government does not regulate or control
- 17 The majority of workers have paid fees to recruiting agents and many are in debt to money lenders in their home country. Late payment of wages increases the interest owing on these debts and this is a major cause of concern to the workers.
- 18 A survey of a random sample of 1,189 low-income migrant workers in Qatar in 2012 found that 21% of respondents claimed to have received their salary on time only 'sometimes, rarely or never'. But this was a mixed group of workers and we would estimate that the figure would be higher if it included only construction workers. For further information see Gardner et.al. 2013.
- 19 Reported in Arabian Business, 23 June 2010 and 15 January 2013 www.arabianbusiness.com
- 20 Interview by the author with the Manager of the HR department in the Ministry, 10/06/13
- 21 The Labour Law (Article 19) also requires employers to provide details of all workers employed and wages paid to the labour department every 6 months. But it is equally unlikely that the labour department would go through thousands of returns to check whether wages have been paid on time and in full.
- 22 Gardner et.al. (2013) point out that the Philippines is one of the most active states in terms of its regulation and management of transnational migration flows and also the nation with the lowest migration costs.
- 23 Under current law the workers require a 'No Objection Certificate' if they wish to change their employer. This is a real problem for workers who get trapped in an abusive employment relationship but it is not something that is addressed by the QF Standards.
- 24 Interview by the authors with the general manager of the Chamber, 06/06/13
- 25 The NHRC, in an interview with the authors on 09/06/13, confirmed that transfer is generally granted by the Ministry of the Interior if workers can prove that they have not been paid.
- 26 These include the issues highlighted in the Qatar Construction Specification (QCS 2010) and in section 17 of the Qatar Foundation's Mandatory Standards.
- 27 www.tdic.ae/en/media/get/20120923_TDIC-EPP-Compliance-Monitoring-Sep2012.pdf
- 28 Breeding (2013)
- 29 www.moi.gov.qa/sit/Englih/news/print.html
- 30 The point is made in Gardner et.al. (2013)
- 31 More can be done by in this respect. For example there is fair payment legislation in the UK that requires a quick referral to adjudication if payments from the client are held up because of a disputed item. There seems no reason why those items that are not in dispute should not be paid on time and the disputed items left to be sorted out later. Even if there is no legislation it should be possible to put this into the contract.
- 32 The QF Standards do include a grievance procedure but this for workers to lodge complaints against recruitment agents (in Qatar or overseas): no such opportunity is suggested for workers to alert main contractors or clients about delayed wages.
- 33 The UK Government has passed legislation designed to improve the flow of funds from the client down the subcontracting chain and similar legislation exists in several other countries. Other recent initiatives to improve the flow of funds to lower tier contractors from UK public clients is the setting up of project bank accounts www.gov.uk/government/publications/project-bank-accounts as well as a scheme to boost supply chain finance www.gov.uk/government/news/prime-minister-announces-supply-chain-finance-scheme



ENGINEERS **AGAINST** POVERTY

Engineers Against Poverty

2nd Floor Weston House, 246 High Holborn
London, WC1V 7EX.

Email: info@engineersagainstopoverty.org

Tel: +44 (0)20 3206 0487

Website: www.engineersagainstopoverty.org

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