

Migrant Labour Recruitment to Qatar



*Report for Qatar Foundation
Migrant Worker Welfare Initiative*

Ray Jureidini

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*Director of Research, Center of Design Innovation
at Qatar Foundation, Doha, Qatar*



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EXECUTIVE SUMMARY AND RECOMMENDATIONS

I. INTRODUCTION

This report examines foreign labour recruitment into Qatar. The report is based on a study conducted to ascertain the financial and procedural circumstances that give rise to basic human rights violations during labour recruitment. Based upon the study's findings, the aim of this report is to offer recommendations for reform that will reduce or eliminate labour and human rights violations – and stimulate discussion on the issues raised.

II. RATIONALE

Ensuring an ethical recruitment phase for workers moving from abroad to Qatar is critical and involves an inter-relationship between all the stakeholders in origin and destination countries – the migrant workers themselves, origin and destination governments, intermediary private recruitment and placement agencies and brokers, construction companies, their subcontractors and labour supply firms.

This study was conducted to provide a clearer understanding of the various people, institutions and issues involved in recruitment and hiring practices of migrant workers to Qatar; to provide more detail on what transpires prior to migrant workers' departure from their home countries and upon their arrival in Qatar; and to look specifically at how reform might take place that gives greater respect for workers' rights and employment conditions according to international labour and human rights standards. With increasing criticism of labour rights violations in Qatar by a plethora of international organizations and the media in the lead up to preparations for the FIFA World Cup, it was necessary to ascertain to what extent trafficking, debt bondage and forced labour, that largely result from recruitment processes in sending countries, could be addressed and leveraged by the Qatari authorities and its "clients"¹ for the workforce of its contractors and their sub-contractors – and for the country and region as a whole.

Some of the findings from the early stages of the study have already resulted in reform measures enshrined in Qatar Foundation's Mandatory Standards for Migrant Worker Welfare for Contractors and Subcontractors (QF Mandatory Standards) and more recently the Qatar 2022 Supreme Committee with its "Workers

¹"Clients" of the state are referred to as instrumentalities like the Qatar Foundation, Q-Rail, Ashgal (the Public Works Authority) or Q22 (the Supreme Committee for the 2022 soccer World Cup).

Charter". The QF Mandatory Standards are already being hailed as path breaking and inspiring by international organizations like the United Nations, Amnesty International and Human Rights Watch to name a few. It is most important that they will be comprehensively and consistently implemented in order to achieve their aspirational goals.

III. METHOD

The study was qualitative, comprising interviews and discussion groups with migrant workers, government representatives, recruitment agencies, academics, NGOs and international agencies for approximately ten days in each of the five main labour sending countries – Philippines, Nepal, Bangladesh, Sri Lanka and India. Key discussion topics in each location included recruitment, regulations, financing, contracts, pre-deployment preparation, recruitment agency policies and practices, visas, remittances and wage rates.

IV. RECOMMENDATIONS

The key findings of the discussions led to the following set of recommendations. All five countries visited had very similar issues and problems. All of the workers across the countries have similar needs and the violations of rights are also common across all countries prior to and on arrival in Qatar.

1. Government-to-Government Collaboration

All five labour sending countries visited have legislation with specialist ministries and departments dedicated to encourage labour emigration and to protect the welfare of their nationals abroad. Unfortunately, the regulatory frameworks and highly competitive private sector involvement in recruitment, through misunderstandings and/or corruption, have fostered, rather than prevented, forced labour, debt bondage and trafficking for labour exploitation. There is a strong history of attempts at government-to-government collaborations and negotiations over the provision of labour to Qatar. This makes it incumbent upon the Qatari authorities to continue such dialogues that focus not only on the supply of labour, but also the conditions of ethical recruitment as defined in this report, to eliminate human and labour rights violations that should include the reduction of recruitment intermediaries. As Qatar and its clients are the ultimate employers, they can provide the requisite political oversight to complement the implementation of ethical recruitment. For the country, a National Employment Bureau, perhaps along the lines of Bahrain's Labour Market Regulatory Authority, could be established to coordinate all recruitment policies and procedures; the government must ensure it has the capacity and means to carry out its work effectively.

Recommendation 1: *The Qatari government should seek to ensure standardized ethical recruitment practices in the labor sending countries by developing Government-to-Government agreements on ethical recruitment that could include electronic internet recruitment. Through GCC collaboration, this could be developed for the region as a whole.*

2. Financing: Standardized financing rules prior to coming to Qatar

Low skilled prospective migrant workers in the countries of origin are paying far more than the maximum recruitment commissions allowed by their governments in addition to other costs. These costs are being paid to private licensed recruitment agencies as well as unlicensed agencies, sub-agents and individual brokers. Some of these charges are being redirected to placement agencies and contracting companies within Qatar. The high costs that workers have to pay (from \$600-\$5,000) are far beyond the maximum allowable by their country of origin governments and are essentially a form of extortion by agents to secure the jobs in Qatar. To pay these costs they commonly sell family assets and enter into debt with usurious interest rates of between 30-60%; a practice that violates Islamic finance ethics. These charges to workers are being made by recruitment agencies regardless of whether the employing company in Qatar pays, or refuses to pay recruitment costs.

There is evidence of “kickback” bribes by recruitment agencies in the sending countries to personnel of employing companies in Qatar in order to secure the labour supply contracts. These kickback payments range from \$200-\$600 per person, or more. Agencies often cover the costs of Qatari company personnel traveling to the sending countries for trade skill testing, including hotel charges, food, “entertainment” and sometimes airfares. These extra “recruitment costs” are built into the “recruitment fees” unwittingly borne by the low-skilled migrant workers, not the skilled and professional personnel who are fewer in number and usually pay negligible fees, or nothing. Government recruitment agencies of the sending countries do not seem to be implicated in the kind of opportunism described above, but overall there is a serious lack of control and transparency in recruitment financing. It becomes extremely challenging to rectify the situation after the worker had paid the agent. The worker is already committed to migrating and he is no longer in a position to negotiate his situation or leave an exploitative employment agreement as he is heavily in debt before leaving home.

The banning of recruitment fees and other charges to workers is one of the most important provisions included in QF Mandatory Standards. ILO Convention 181, Article 7 (1) states, “Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers” (although it makes provision for exceptions) but the QF Mandatory Standards demand this of labor recruitment agencies in the origin countries. This need not be seen as an interference in the affairs of a sovereign country, but an intervention in business practice for ethical recruitment. As this provision is implemented, it will stimulate broad ranging reform of the current corrupt practices, from recruitment agents in the sending countries to agents and employing companies in Qatar. It will go a long way towards eradicating the unjust practices and conditions that make workers vulnerable to debt-bondage, forced labour and trafficking. With a large influx of labour anticipated to arrive in Qatar in the near future, there is further potential for the kind of corruption found in this study. In light of the findings on “kickback” bribery, the motivation of any individual, organization, agent or company that resists the mandatory elimination of workers paying recruitment costs must be questioned.

Recommendation 2: *Recruitment fees should be re-classified as a form of “bribe” extorted by recruitment agents and banned. Workers should not pay any charges or fees for recruitment and arrive in Qatar debt-free. Employing companies should pay for all recruitment costs (fees and charges) as is the norm for more highly skilled workers and professionals. This is now detailed in QF’s Mandatory Standards.*

3. Use of accredited ethical recruitment agencies

There are increasing activities by some origin country government recruitment agencies to set up government-to-government labour supply agreements. The five governments of the sending countries in this study require that anyone who recruits migrant labourers must be licensed. However, sub-agents recruiting in the outer regions of the countries are often crucial to meet the labour supply, yet these agents are not licensed and thus operate illegally. They can be the original source of deception, false promises and financial exploitation. They need to be regulated in some way or bypassed entirely.

Ethical recruitment agencies with accreditation according to an established set of criteria are critical. Agencies who clearly comply with QF standards could become the preferred or compulsory labour suppliers. Government owned and managed recruitment agencies such as those in Bangladesh, Sri Lanka and India may be particularly conducive to ethical recruitment because of direct government control and where there is an interest in the welfare of their nationals.

After many interviews, only two private ethical recruitment agencies were considered completely reliable because they were established precisely to practice ethical recruitment - one in the Philippines and one in Nepal. Thus, there exists a practicing business model of ethical recruitment and there is potential to develop further ethical recruitment agencies that can be mobilized according to QF Standards guidelines.

Recommendation 3: *To ensure proper recruitment practices, ethical recruitment agencies must be employed who take nothing from migrant workers. Sub-agents in local regions, another source of deception and exploitation, should also be regulated, brought under ethical agencies, or not used at all. This requires the establishment of a comprehensive accreditation process. To assist in ensuring ethical recruitment practices, formal collaboration or partnership between the Qatar authorities, its clients and private ethical agencies, as well as with government agencies of the sending countries, either through the relevant ministries of the Qatar government or directly. The Qatari government could establish its own recruitment agency with offices in the main labour sending countries. A combination of state and market recruitment would be a balance of government-to-government and private ethical agencies. Government-to-Government agreements with ethical recruitment principles may be the best way to set benchmarks for the whole industry of labour supply for Qatar.*

4. Labour Suppliers in Qatar to use complementary standards

The study found suggestions that some labour supply companies in Qatar are violating worker rights through unethical manpower procurement practices.

They also need to be monitored and brought into the QF Mandatory Standards with regard to ethical recruitment practices and financing. This is to ensure that contractors cannot deflect responsibility of recruitment practices to a local labour supplier who pays their wages and provides the accommodation. When a contractor pays a local labour Supply Company, rather than directly employ the worker, there is currently no responsibility to check on how the workers were recruited or possibly trafficked. Employers who refuse to lift the corporate veil to ascertain the circumstances of the recruitment of migrant workers should be made accountable.

Recommendation 4: *Agencies in Qatar who supply (or lease) labour on a temporary basis need to be monitored to ensure compliance with ethical recruitment standards. Although labour supply firms may be convenient alternatives for contractors and subcontractors, they must not be used to avoid the responsibilities of direct hire.*

5. Contracts: Standardized contracts and procedures, substitute contracts

Most migrant workers are at the mercy of their recruitment agents and employers because of their general lack of understanding of their contracts, other than the amount of wages. The study found that most migrant workers do not sign a contract before their departure to Qatar. Those who do are more often given the contract to sign under duress, just before their departure, often at the airport when the impetus to leave has already been established, or on arrival in Qatar. It is also common for companies to ignore these contracts and issue a substitute contract with wages and conditions that are less than originally promised. Workers are either not given a copy of their contract (whether the original or the substitute) or told to destroy the first contract when they arrive in Qatar.

When workers complain of the discrepancies between the promised and actual wages, food allowances, hours of work and overtime allowances, they are routinely told that if they do not accept it, they can return home. The employing contractor knows that they are unable to do so because of the debts they have incurred to reach Qatar. Such practices contravene ILO conventions on forced labour and the anti-trafficking Palermo Protocol of the UN Convention Against Transnational Organized Crime, that Qatar has ratified and introduced into national legislation in 2011. Formal complaints by workers about contract violations do not seem to be receiving proper legal redress, perhaps partly because of the lack of access to lawyers who can represent them. The issue is compounded by a dearth of translators and unclear procedures.

Employing companies in Qatar acting in an intimidating manner towards migrant workers is a fundamental element in the conditions of debt bondage and forced labour revealed in this report. Many cases of abandonment by the sponsoring company and violations resulting in complaints to the Ministry of Labour have not been successful on behalf of the workers. In one case of 15 victims of trafficking from Togo in Africa, the plaintiffs were told there was nothing that could be done because they had signed a contract. Yet these signatures, according to the workers, were signed under duress and intimidation.

The freedom to withdraw one's labor is a fundamental universal principle. Without it, forced labour will thrive. Most contracts do not make clear the terms and conditions for the termination of the contract. Qatar labour law has provisions for this, but there are ambiguities that need to be addressed. There are also ambiguities in the QF Mandatory Standards. The termination provisions are also linked to the exit visa requirement, so that when a dispute arises, if the termination guidelines are not clearly specified, workers may be denied their freedom to leave the country or to find alternative employment within the country with a No Objection Certificate (NOC) from the sponsor. Foreigners are vulnerable under these conditions and may be subjected to practices of extortion in order to obtain an exit visa or NOC.

Recommendation 5: *A standardized contract could be developed in conjunction with all stakeholders that makes terms and conditions of employment clearly understood by the contractor and the worker, including detailed termination conditions and liabilities linked to exit visa and NOC rights. Further, and consistent with government regulations, there could be a more explicit set of procedural rules, from the issuance of the demand letter and official validations through to the recruitment agencies and the workers themselves. The procedures could include that all parties, including the prospective migrant workers, be required to sign contracts in their own native language and with time for consideration prior to departure. The workers could be required to produce the contract for registration by Qatari representatives in the country of origin, or on arrival into Qatar and be registered with the Ministry of Labour. All workers should retain a copy of their original contract at all times. Substitute contracts on arrival should be banned in accordance with QF Standards (unless they are advantageous to the worker). A more independent complaints mechanism should be established for workers to make complaints and have their rights reviewed and with access to legal aid.*

The problems of the current private sponsorship system could be overcome by seriously addressing the loopholes that allow its abuse, or have the government undertake the role and responsibilities of sponsorship for all migrant workers. Regardless of whether such reforms take place or not, sponsor denial of an exit visa or NOC should have automatic independent and speedy judicial review and legal representation with rights of residency and employment until resolved (unless criminal charges are involved).

6. Visas: “Free” Visas and False Visas

Qatari law makes it illegal to sell or trade visas, but this practice is widespread. Companies complain about the difficulty in securing enough visas for a particular job category. For example, if there are not enough electrician visas available for a company, they will use an available driver visa and have him perform the electrician duties. This means that the worker has to accept a fraudulent occupation on his ID card for which he is liable to the authorities. The Ministry of Labour issues block visas for the recruitment of different nationalities, according to occupation. Some companies may have unused visas that they may sell to other private individuals or contractors who have been unable to secure visas for their employment needs; they are also a source for labor supply companies. This “free visa” practice,

common in the construction industry, results in workers having occupations other than those listed in their visa/ residence permit and where sometimes workers must pay the sponsor an annual or monthly fee for the maintenance and renewal of the visa and residency. Thus, workers are caught up in illegal working arrangements from which it is difficult to leave.

Recommendation 6: *Qatari contractors and sub-contractors and their labour suppliers in Qatar should be carefully monitored to ensure that the visas of workers are commensurate with the positions they have filled. This will require collaboration with the Ministry of Labour.*

7. Standardized wages

Presently, market forces are not determining wage rates because there is no (“free”) labor market operating in Qatar. Rather, it is an international labour market with competing nation states that has resulted in a breach of the principle of “equal pay for equal work” that is required under QF Mandatory Standards. Governments of the five sending countries visited have established occupational minimum wage rates, presumably based upon the cost of living in their countries, but these rates are not always followed. Indeed, it is not clear how sending country governments or Qatari employers determine workers’ wage rates. This has resulted in workers of different nationalities in the same company doing the same jobs but receiving different salaries, creating discomfort, resentment and jealousy. Wages should be based on qualifications, experience and skill, rather than nationality. A “basic entitlement package”, which specifies minimum standards would be helpful. Given that most wages are remitted to workers’ families and accommodation, working clothes and food (or food allowances) are provided by employers, it is not clear to what extent the cost of living in Qatar should be factored in. A systematic study on worker expenditures may also be useful.

There was also evidence of employers confusing and manipulating food allowances, some with serious health consequences. Many workers have had their wages reduced from QAR150-300 with the excuse that it was for food or a food allowance, without prior knowledge or agreement. A monthly food allowance of QAR150 means 1.5 QAR per meal, which is not feasible. Employers should provide food, rather than an allowance, for migrant worker employees as per QF Standards. Employers providing food should not deduct food costs from workers’ wages as it breaches Article 69 of Qatari Labour Law.

Recommendation 7: *An assigned minimum wage for all occupations in the construction sector in Qatar, regardless of nationality, would help to prevent the exploitation of workers from particular countries and conform to QF Standards on equal pay for equal work. Cost of food should not be linked to wages and specified clearly in the contract that employers will provide sufficient, decent and culturally appropriate food.*

8. Wage Payments

Migrant worker complaints about delayed or non-payment of wages are widespread. While some employers do deposit wages into a bank account,

most are paid in cash without detailed pay slips as proof of payment. The use of banks will provide evidence of payment and reduce transaction costs for worker remittances. It will also reduce the time currently required to send money through private financial intermediaries such as Western Union. The Probashi Kallyan Bank in Bangladesh and in Nepal, for example, has been established precisely for migrant workers to receive wage payments and to facilitate remittances that family members at home can access directly.

Recommendation 8: *The Qatari authorities should protect workers by ensuring proper and timely payment for their work in accordance with Qatari law. Arrangements should be established that allow workers to have bank accounts in Qatar and require all contractors and subcontractors to pay salaries directly into the bank account (as is the case in Bahrain). Bank accounts may be set-up in sending countries with arrangements with Qatari banks, or Qatari banks with arrangements with banks of sending countries, prior to departure. Depositing wages into a bank account will provide proof of payment, the time and amount of payment that can be crosschecked with the contract.*

9. Transfer of employment, exit visas and passports

Evidence of workers stranded in Qatar without work or income, not having been paid their salaries and sponsor refusal (or not contactable) to grant an exit visa or No Objection Certificate (NOC) is cause for concern. The exit visa system needs serious attention for reform that could include the judicial determination of travel bans. Under current circumstances, clients of the state might seek the authority to issue exit visas and NOCs, if required, in order to prevent possible sponsor exploitation of these requirements that hold considerable control over migrant workers and violate their rights to freedom of movement.

All companies in Qatar that were interviewed held the passports of the migrant workers, ostensibly for safekeeping. However, proper secure storage space at the accommodation sites, as per QF Mandatory Standards, can overcome this problem. The authorities should also ensure, as per labour law and QF Mandatory Standards, that workers retain their passports. This becomes particularly important in employer-employee disputes, along with the exit visa and NOC requirements.

Recommendation 9: *The Qatar authorities and its clients should establish a policy that guarantees workers an exit visa or a No Objection Certificate (NOC) for transferring from one employer to another. This is particularly important in instances where their rights have been violated and verified, such as wages less than originally promised, non-payment of wages, excessive working hours and various forms of abuse where judicial redress should be facilitated.*

10. Pre- or post-departure Orientation: Preparation for finance, health & family

All the labour sending country governments mandate pre-departure orientation programs for migrant workers. These are short half-day or one-day programs for a small fee paid by the worker, but are not particularly well organized. They are slated to provide information about rights, responsibilities and the precise conditions in

Qatar. They are often conducted by recruitment agencies on their premises and not always taken very seriously. Those visited were overcrowded in agency offices and training centers, overly regimented, and little room for interaction and questions. Booklets and pamphlets were also rudimentary and it was unclear how many read or understood the rights and obligations presented to them.

Qatari authorities and their clients could mandate that every worker must attend a better, standardized pre-departure orientation that explains the contractual rights and responsibilities of workers and include various health risks involved, such as the harsh summer conditions in Qatar. Standardization could be achieved through the development of a video shown to all workers and a brief pre-post “test” given to be sure they understood the key points. These seminars could also include financial counseling, either by recruitment agencies or by Ministries of sending countries for the worker and/or his/her family.

In addition, pre-departure medical-examination certificates could be conducted by government approved medical examiners, and should include a mental health status report. The recent publicity concerning large numbers of deaths of young workers from Nepal also begs the need for a future proper scientific epidemiological study to understand the physical and mental health issues in order to facilitate better medical screening of workers prior to departure. Families, or at least spouses, could be included in the pre-departure orientation, so they are aware of the circumstances, particularly with financial arrangements.

Recommendation 10: *The Qatari government and its clients should standardize better pre-departure orientation seminars and/or post-arrival orientation seminars. Migrant workers need to be better-prepared regarding rights and responsibilities as well as finance, health and family issues.*

Conclusion

The Qatari state and its clients, such as the Qatar Foundation, are generous donors of charities and the needy around the world. The state also invests heavily in politics and property, tourism and technology, art and education. The allocation of funds towards the radical reform from the current system to the ethical recruitment of migrant labour would not be onerous. A serious and systematic campaign needs to make clear to all countries of origin (all governments, recruitment agencies, brokers and their associations) and those in Qatar (employing companies and organizations, labour suppliers, placement agencies and embassies) that labour to Qatar must arrive debt-free and without having paid recruitment fees, costs and charges before departure or after arrival from their salaries. Contracts should be standardized with detailed termination provisions, signed prior to departure and checked on arrival; visa discrepancies need to be avoided; elimination of wages differences according to nationality and bank accounts established for payment; judicial provisions for exit visas and NOCs when disputes arise; and improved arrangements for pre-departure orientation programs. At the same time, in support of this campaign, there is an urgency to establish the infrastructural requirements for the sustainable implementation, monitoring and policing of QF Mandatory Standards for Migrant

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Worker Welfare, countrywide and internationally. Perhaps the most urgent requirement is the establishment of an accreditation and training system for ethical recruitment agencies, whether public or private, who will become the exclusive suppliers of labour to Qatar.

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ACRONYMS

AI	Amnesty International
ALFEA	Association of Licensed Foreign Employment Agencies, Sri Lanka
BAIRA	Bangladesh Association of International Recruitment Agencies
BMET	Bangladesh Ministry of Employment and Training
BOESL	Bangladesh Overseas Employment and Services Limited
CDS	Center for Development Studies, Kerala
DOFE	Department of Foreign Employment, Nepal
ESCWA	Economic and Social Commission for Western Asia (UN)
GCC	Gulf Cooperation Council
HR	Human Resources
HRW	Human Rights Watch
ILO	International Labour Organization
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
MOIA	Ministry of Overseas Indian Affairs
MPI	Migration Policy Institute
NAFEA	National Association of Foreign Employment Agencies, Nepal
OWWA	Overseas Workers' Welfare Administration, Philippines
PGE	Protector General of Emigrants, India
POEA	Philippines Overseas Employment Authority
POLO	Philippines Overseas Labor Offices
QF	Qatar Foundation
Q22	Supreme Committee for 2022 World Cup
SLBFE	Sri Lankan Bureau of Foreign Employment
SLFEA	Sri Lanka Foreign Employment Agency
TESDA	Technical Education and Skills Development Administration, Philippines
WB	World Bank

CHAPTER 1

INTRODUCTION AND CONTEXT

Since the 1980s the Gulf States has been one of the most intense migration regions in the world. With the 2010 figures for Bahrain, Qatar and the United Arab Emirates and 2013 data for Kuwait, Oman and Saudi Arabia, the GLMM database estimates some 23 million non-nationals (48.1%) in total.² Of the GCC states and indeed the world, Qatar has the largest proportion of foreigners in its population with nationals representing no more than 12 per cent and even less (6.2% in 2012) of its workforce of approximately 1.8 million;³ Qatari males constitute only 4.7% of the total male workforce and only 1 percent in the private sector.⁴

Qatar has embarked on ambitious plans to hold the World Cup in 2022, along with other major leadership roles in the economic, financial, political, cultural, sporting and communications arenas. Qatar is also on the road to massive nationwide development via their National Vision 2030. These activities have brought Qatar into greater public consciousness – and scrutiny – from the Arab region and internationally. Because of these activities, those who have sought to increase their knowledge and understanding of Qatar’s operations include world leaders as well as political, economic, legal and religious scholars and public intellectuals. International institutions such as the United Nations Human Rights Council and the International Labor Organization have played a particularly active role. They also include trade union and civil society humanitarian activists who are looking more critically at the social and employment relations of expatriate labor, who are the backbone behind the massive infrastructural construction programs designed to serve international visitors and participants.

It has been estimated that as of 2011, around 450,000 blue-collar workers were employed in the construction industry in Qatar, with around 64,000 employed in Qatar Foundation’s various capital projects.⁵ Although the Qatar government does not

² <http://gulfmigration.eu/total-population-and-percentage-of-nationals-and-non-nationals-in-gcc-countries-national-statistics-2010-2013/>

³ A rise of 10 per cent in 2013: see “Qatar may face higher costs of hiring foreign workers: IMF”, *Business Recorder*, March 10, 2014. <http://www.brecorder.com/money-a-banking/198/1161313/> retrieved 10 March 2014.

⁴ United Nations Economic and Social Commission for Western Asia (ESCWA) (2013) *New Trends in Migration in ESCWA Member Countries*, United Nations, New York, ESCWA, Beirut, April, 2013. <http://gulfmigration.eu/employed-population-15-years-and-above-by-nationality-qatar-non-qatari-and-sex-2007-2010-2011-2012-2/>

⁵ Karmak, Abraham (2012) “The Migrant Worker Effect”, TedX Presentation, Unpublished. These numbers are likely to

issue a breakdown of the population by nationality, the following rounded numbers were provided by the embassies of the labour sending countries in Doha that were visited for this study.⁶ The figures in the table are from 2011. Figures for Bangladesh, Nepal, the Philippines and Sri Lanka were provided by Embassy representatives interviewed. For India, the numbers were taken from their government website. The figures of course do not account for those workers who are irregular.

Table 1. Select Foreign Nationals working in Qatar (2011)

Job Category	Bangladesh	India	Nepal	Philippines	Sri Lanka
Professional	9,200	N/A	N/A	17,000	N/A
Skilled, Semi-Skilled & Unskilled	92,000	N/A	N/A	52,000	N/A
Household Workers	N/A	N/A	N/A	36,000	N/A
Businessmen	11,500	N/A	N/A	N/A	N/A
Non-Working/ Family Members	2,300	N/A	N/A	10,000	N/A
Total	115,000	500,000	350,000	175,000	150,000

The critical gaze upon Qatar's labor laws and practices, particularly related to the construction industry, suggests a number of risks to the country's global standing and reputation. On the positive side is the wealth and generosity of the rulers and government of Qatar, including high-profile global investments. On the "dark side" there seems to be a lack of understanding of internationally-accepted human and labor rights when it comes to the low-skilled and semi-skilled workforce originating from countries such as India, Pakistan, Bangladesh, Nepal, Philippines, Sri Lanka, and Indonesia.

The increasing knowledge and publicity of low wages, difficult living and working conditions and the circumstances of the lives of many of these workers has already prompted serious criticism of the Qatari state, along with threats to take action against its hosting of the 2022 World Cup. Regardless of the veracity of these threats, or the ability for them to be realized, they have questioned Qatar's credibility and moral standing in the eyes of the world, particularly by people from developed countries, where international labor standards are accepted and universally applicable.

have increased substantially as this report is published and may double over the next few years as building projects gather pace for the FIFA World Cup in 2022.

⁶ Normally, embassy figures for national in foreign countries are not reliable because their nationals do not always register upon entry, nor register upon exit, but in the more highly regulated circumstances of Qatar and other Gulf States, they may be more accurate than usual.

There are alternatives that can meet both the objectives of the Qatari state, the interests of its citizens as well as not only international ethical standards of treatment of foreign labour, but perhaps also behavior that is more consistent with the religious principles of Islam. It has been argued, however, that, “Justice, equality, safety, security and human dignity are indispensable values in Islam. However, there is not a detailed Islamic legal code or system for the protection of refugees, internationally displaced people and migrant workers according to contemporary understanding.”⁷

In 2005, the International Confederation of Free Trade Unions (ICFTU) published a critique of the violations of international labour standards in Qatar. This critique pointed to several areas of concern: restrictions on the right to organize and the right to freedom from discrimination as well as child labour and forced labour. The ICFTU argued:

Qatar has ratified only three of the eight, core ILO labour Conventions. In view of serious violations of all the core labour standards in Qatar (restrictions on the trade union rights of workers, discrimination, child labour and forced labour), far-reaching measures are required in order to comply with the commitments Qatar accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996–2001, and in the ILO Declaration on Fundamental Principles and Rights at Work.⁸

Qatar has not ratified the ILO Convention on Freedom of Association, the Convention on the Right to Organize and Collective Bargaining, or the Convention on Equal Remuneration. Further, the ICTFU argued, Qatar’s prohibition on trade unions for migrant workers means that employers set wages unilaterally and therefore unfairly.⁹ This may not be entirely accurate. First, governments of the countries of origin provide guidelines for the minimum wage levels of workers by occupational category. It is unclear how these wage rates have been calculated and whether or not they are adhered to. Employing companies interviewed in Qatar for this study said they use the embassy rates because all labour demand documents must be validated by the embassies and can be refused. However, instances do exist of wage rates below their recommendations being approved by embassies. So there is at least sending country collaboration on wage rates.

⁷ Al Mukhaini, Ahmed (2011) “Islam’s evolving role in the protection of foreign workers”, in *The National*, 6/12/2011 <http://www.thenational.ae/thenationalconversation/comment/islams-evolving-role-in-the-protection-of-foreign-workers>, retrieved 3 November 2013. There have been very few attempts to locate appropriate behaviour regarding migrant labour in accordance with Islamic jurisprudence, other than the principles enacted with the *kafala* system of labour sponsorship that has received severe criticism from international rights agencies and Western scholars. Al Mukhaini explains that “Receiving countries see in the *kafala* system an essential means for gathering statistics, regulating entry and residency, managing the labour market in view of high rates of unemployment among youth, and capping cultural influence.” He also makes a brief, but not well developed, attempt to apply two concepts from Islamic finance to migrant workers (usufruct or *ijarah* and *mudharabha*, a form of profit sharing) as models worth exploring.

⁸ International Confederation of Free Trade Unions (ICFTU) (2005) “Internationally Recognized Core Labour Standards In Qatar”, Report for the WTO General Council Review of the Trade Policies of Qatar (Geneva, 21 and 23 February 2005), pp. 1. Note that the ICFTU changed its name to the International Trade Union Confederation (ITUC) in November 2006 after merging with the World Confederation of Labour.

⁹ See appendix 2 for list of ILO Conventions that have and have not been ratified by Qatar.

Second, government officials in the countries of origin visited in this study pointed out that bilateral labour agreements (or Memoranda of Understanding) with Qatar do address wage rates (mostly for migrant domestic workers), but we were not provided with details. As there is no labour market in Qatar due to the *kafala* system of sponsorship, perhaps it is more appropriate to look at international labour markets for the determination of wage rates of different occupations or skills.

While Qatari Labour Law (2004, article 116) allows for the formation of unions and workers' committees at the establishment, trade or industry levels, these are for Qatari citizens only. Migrant workers are forbidden from taking collective strike action in Qatar. Indeed, migrant workers who take strike action have often been deported.¹⁰ Although joint employer-employee consultative committees at the enterprise level can be established to advise on working conditions, training and safety, these are not seen as independent because they require government approval and monitoring and have no decision-making power. There is no provision for collective or enterprise wage bargaining through such committees.

On the other hand, Qatar has ratified the Convention on Forced Labour and the Palermo Protocol against human trafficking and has passed local anti-trafficking legislation. It has also ratified the ILO Forced Labour Convention (29) and the Abolition of Forced Labour Convention (105).¹¹ While Qatar Foundation for Combating Human Trafficking (QFCHT) focuses primarily on migrant domestic workers and prostitution, in practice, violations of international rights conventions are far more widespread in Qatar and not adequately acknowledged internally. There is growing awareness in this area, but there is yet to be a single prosecution under the Anti-Human Trafficking law in Qatar. Part of the problem is that there are stereotypical images of trafficking victims that cannot acknowledge the normative practices of ostensibly regular contractual employment practices.¹² Indeed, one recruitment agent in Nepal insisted that trafficking must be kept separate from migration,

We know that trafficking is a little thing. [They are] undocumented people. We have requested that the migrant sector not to be included in the trafficking. They are totally different scenarios. The migrant person is hired with a visa... and all the legal procedures. If you call this trafficking it means you are asking me not to send workers...

In this report, evidence will be provided primarily from the construction industry showing that, because migrant workers have to pay for the costs of their

¹⁰ Migrant rights (2010) "Nepali Workers Deported from Qatar for Daring to Strike", September 23, 2010. <http://www.migrant-rights.org/2010/09/23/nepali-workers-deported-from-qatar-for-daring-to-strike/> - accessed 31 July 2013.

¹¹ On 11-12 June 2014, recognizing that the forms of forced labor and trafficking have changed, particularly with migrant labor, the International Labor Conference passed the Protocol to the Forced Labor Convention of 1930 (29). During the vote, the governments of Qatar, Bahrain, United Arab Emirates, Kuwait and Oman abstained. The Protocol added provisions for victim protection from abuse and fraud during recruitment and placement (including non-prosecution where unlawful activity was a result of their victimization) compensation, awareness-raising and strengthening labor inspection.

¹² See Jureidini, R. (2010) "Trafficking and Contract Migrant Workers in the Middle East", *International Migration*, Vol. 48 (4) August 2010, pp. 142-163.

recruitment, exploitation begins during the recruitment phase in the sending countries and on arrival to their places of work in Qatar. Qatari Labour Law prohibits the charging or deduction of wages of employees for “recruitment” fees and costs:

The person who is licensed to recruit workers from abroad for others shall be prohibited from doing the following:

1. To receive from the worker any sums representing recruitment fees or expenses or any other costs.¹³

While this is an important legal provision, the problem lies in the fact that it relates only to manpower (placement) agencies in Qatar who are not allowed to charge migrant workers after they arrive.¹⁴ To circumvent this, recruitment agencies in the sending countries can levy charges onto migrant workers before their departure to pay to Qatari placement agencies. This is a practice that has been acknowledged from interviews with sending country embassies in Qatar and the World Bank.¹⁵

However, Qatari Labour Law does allow employers to deduct money from workers’ wages. For example, there are provisions that permit deductions for “disciplinary” purposes. Violations of workplace rules, such as being late, may be punished by wage deductions “for a period not exceeding 5 days in respect of one violation” (Article 59: 2) and should not exceed 5 days’ deduction per month (Article 60). Disciplinary deductions must be recorded and subject to government inspection. To what extent such inspections are carried out in practice remains unclear.

Debt Bondage, Forced Labour and Human Trafficking

The task of recruitment is left to Qatari contractors, their sub-contractors and labour supply agencies that solicit from recruitment agencies in the sending countries (as well as sub-agents and other individuals).¹⁶ The latter are those individuals and organizations that charge prospective migrant workers for the recruitment fees, costs and other expenses, as well as seeking to match prospective workers with the job descriptions provided. Migrant labour recruitment, however, has been viewed by Qatari authorities as a foreign labour market process of supply and demand and thus largely outside their purview and responsibility. The evidence in this report suggests that this assumption needs to be changed. Proper legislation is needed to monitor the work of recruitment agencies in Qatar and in the origin countries.

¹³ Labour Law, 2004: Article 33. On a terminological note, manpower agencies in Qatar are not really recruitment agents, but rather placement agents. They are mainly in the business of placing workers into jobs required by contractors and sub-contractors in Qatar. Increasingly, they are labour supply companies that recruit workers and sub-contract them on short-term bases to construction companies. Recruitment agencies are those who recruit in the sending countries and deploy them to Qatar to be placed in jobs.

¹⁴ It is also unclear how and if this legislative requirement is enforced.

¹⁵ Endo Esaku & Afram, Gabi (2011), *The Qatar-Nepal Remittance Corridor: Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process*, World Bank, Washington.

¹⁶ The authorities do provide work visas that may be controlled on the basis of nationality and occupation, but there is no transparency regarding the government’s policy.

Low-skilled and semi-skilled migrant workers most often take loans in order to obtain employment in the construction and service industries in Qatar.¹⁷ The phenomenon of debt bondage¹⁸ is in large part the reason why migrant workers in Qatar are insecure and vulnerable to exploitation. In other words, the way recruitment of migrant workers is conducted sets the stage for the experience of migrant workers throughout the migration cycle, and whether they are able to enjoy their human and labor rights. The high incidence of debt bondage of mainly low-skilled migrant workers is one of the least researched and understood factors in the migration cycle.

Critics of human and labour rights violations most often shift the blame to “Qatar” in a rather generic manner. Far less attention has been given to the violations by the migrants’ own nationals in their countries of origin in addition to those who are complicit in Qatar. Human and labour rights violations in the migration process begin prior to the migrant workers leaving their country and often appear to be either ignored by employers, or aided and abetted by employers, upon their arrival in Qatar. And because all employers are required to have a Qatari sponsor with a majority stake, sponsors must undertake the responsibility to prevent these violations, whether in Qatar or the origin countries.

One of the few researchers on labour recruitment to Qatar has euphemistically referred to “information asymmetries” in the recruitment process.¹⁹ It actually refers to lies and deceit in the briefing of migrant candidates regarding the job tasks, conditions of work and accommodation, work hours, wages and overtime pay. Employers are very much at an advantage against any complaints an employee may have, because the employer knows about their financial background and the debt that they are caught up in. In interviews with migrant construction workers at their accommodation sites in Qatar, the following description of their arrival was all too common.

- Interviewer: Are you receiving the amount of money that you were promised before you left your home country?
Worker: No. They are paying less salary and less food-allowance.
Interviewer: When did you find this out?
Worker: When I arrived.
Interviewer: Did you complain to your employer about this?
Worker: Yes I did, as soon as I arrived.
Interviewer: What did they say?
Worker: They said, “If you do not like it, you can turn around and go back home.”

¹⁷ According to the PwC monitoring report on the compliance of contractors and sub-contractors of TDIC with its Employment Practices Policy, 75 per cent of the workers interviewed paid recruitment and relocation fees (PwC, 2012).

¹⁸ “Debt bondage” is when a person’s labour or services is used to repay a debt. See Anti-Slavery, “Bonded Labour”, http://www.antislavery.org/english/slavery_today/bonded_labour.aspx

¹⁹ Breeding, Mary (2012) “India-Persian Gulf Migration: Corruption and Capacity in Regulating Recruitment Agencies” in Mehran Kamrava And Zahra Babar (Eds) (2012) *Migrant Labour In The Persian Gulf*, Hurst & Company, London, pp 137-154.

In this exchange, common to many of the interviews conducted with construction workers in Doha, we can identify a number of elements of human and labour rights violations. First, the fact that the worker is not receiving the salary that was promised shows that he was deceived before arriving in Qatar. The fact that the company is unconcerned about the complaint suggests that the worker is being exploited due to his inability to return home. Thus, the employing company personnel may or may not be aware that they are benefitting from a form of debt bondage, forced labour and trafficking that includes the three elements of: 1) transportation by 2) means of deception for 3) economic exploitation.

The International Labour Organization, of which Qatar is a member state, makes clear the conditions that constitute forced labour, which is summarized in the following table. Many of these conditions have been identified as operating in contractor recruitment and treatment, both by international human rights organizations as well as in this study.

Table 2. Identifying Forced Labour in Practice (ILO)

<i>Lack of consent to (involuntary nature of) work (the “route into” forced labour)</i>	<i>Menace of a penalty (the means of keeping someone in forced labour)</i> <i>Actual presence or credible threat of:</i>
<ul style="list-style-type: none"> • Birth/descent into “slave” or bonded status • Physical abduction or kidnapping Sale of person into the ownership of another • Physical confinement in the work location • Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for noncompliance • Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.) • Deception or false promises about types and terms of work • Withholding and nonpayment of wages • Retention of identity documents or other valuable personal possessions 	<ul style="list-style-type: none"> • Physical violence against worker or family or close associates • Sexual violence • (Threat of) supernatural retaliation • Imprisonment or other physical confinement • Financial penalties • Denunciation to authorities (police, immigration, etc.) and deportation • Exclusion from future employment • Exclusion from community and social life • Removal of rights or privileges • Deprivation of food, shelter, or other necessities • Shift to even worse working conditions • Loss of social status

ILO (2005) *A Global Alliance against Forced Labor*, International Labour Office, Geneva, page 6.

The Qatari authorities, along with its clients and their contractors, have a responsibility to actively influence the recruitment process in the sending countries in order to prevent these conditions. Indeed, the QF Mandatory Standards for Migrant Worker Welfare for Contractors and Sub-Contractors (QF Standards) have already gone a long way to establishing the foundations for such reform. They prohibit migrant workers from paying fees in the origin countries. They are not part

of Qatari law, but an ethical-contractual agreement, to be established in the course of businesses tendering for projects and carrying them out.

There are also cases of deception (or misunderstanding) that occur during the recruitment process with regard to employment conditions such as wages, allowances, job requirements and living conditions in Qatar. When such misrepresentation takes place, workers arrive in Qatar and find their conditions less than their expectations from promises made; yet they are not in a position to return home. When workers have clear expectations about the money they are going to earn, they make financial plans for their families, for most travel to Qatar to earn a better income than they would at home.

Family Dependents

Male construction workers on contract in Qatar are mostly referred to and treated as “single” men, because they are required to migrate as individuals. Most, however, are married with dependent children. The minimum salary requirement for bringing family members is QAR 10,000 (approx. \$2,700) per month, far in excess of most construction workers (in Bahrain, it is the equivalent of QAR 2,400 or \$660). Thus, family members are not allowed to accompany them, regardless of whether they are married and have dependent children. The Qatar 2010 Census showed 68.34 per cent of non-Qataris in the population were married, with 30.23 per cent never married. Another study by Gardner et. al. showed 71.9 per cent of low-income migrant workers were married. 88.1 per cent of these men had children.²⁰ In the small number of interviews (22) conducted for this study with employees of Qatar Foundation construction companies (22 interviews), 86 per cent were married and all but one had dependent children.

The financial support of families is a primary motivation for migrating to work in Qatar. Indeed, a major expense of workers is the cost of communicating with families back home (44% use cell phones). A study by the research unit at Qatar University showed that 91 per cent of workers’ remittances was spent on “basic family needs”. It was concluded that, “migrant workers’ remittances contribute significantly to alleviate the poverty of individuals and households to whom they are sent.”²¹

According to the Maqasid of Islam, “the objective of Family (*maqsid al-nasl*) is to make the family a safe refuge for all of its members. One realizes this objective by first protecting against premarital sex and extramarital affairs (*zina*), divorce and maltreatment and then by promoting the institution of marriage, fertility, and

²⁰ Gardner, Andrew, Pessoa, Silvia, Diop, Abdoulaye, Al-Ghanim, Kaltham, Le Trung, Kien and Harkness, Laura, “A Portrait of Low-Income Migrants in Contemporary Qatar”, *Journal of Arabian Studies* 3.1 (June 2013), pp. 1-17 <http://dx.doi.org/10.1080/21534764.2013.806076>; Rahman also showed from a survey of over 9,000 Bangladeshi migrants in the Gulf (98.5% male) that 63 per cent were married, 82 per cent of who had children. The migrant workers were the sole breadwinners for their families, who relied entirely on the remittances: Rahman, Md Mizanur (2011) “Recruitment of Labour Migrants for the Gulf States: The Bangladeshi Case”, Institute of South Asian Studies (National University of Singapore) ISAS Working Paper, No. 132 - 6 September 2011.

²¹ SESRI (2011) *Migrant Labor Workers in Qatar: Demographic Profile, Employment and Working Conditions, Remittances, Quality of Life and Future Outlook*, Social and Economic Survey Research Institute, Qatar University. Page 6.

family cohesion.”²² To what extent does the prevention of family migration violate these objectives, when the individual is separated from his wife and children? There is evidence that many marriages fail as a result of extended absence of the main breadwinner of the family.²³ Although typically under-reported, sexual harassment, as well as voluntary premarital and extramarital affairs are common with both male and female migrant workers when they are abroad. Premarital and extramarital pregnancies and abortions have also been reported, both in the origin and destination countries.²⁴

The United Nations Convention for the Protection of All Migrant Workers and Members of their Families does not insist on family reunion rights for migrant workers abroad, although it does specify the rights of family members who accompany the migrant worker in the receiving country, such as the right for a partner to work and education for children. Similarly, the International Labour Office (ILO) only recommends, “facilitating the reunification or family members of migrant workers as far as possible, in accordance with national laws and practice.”²⁵

The importance of the family of potential migrants of sending countries has been given increasing recognition from a range of perspectives. For example, the International Organization for Migration (IOM) has included families in the migrant pre-departure orientation seminars for the 11 Colombo Process countries (Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam).²⁶ This assists in not only informing all family members of the expectations, but can help to alleviate the anxiety and loss of those left behind. This is particularly important for mothers who, already in hardship, are left with primary responsibility for children who may be emotionally and psychologically affected by the absence of their husbands.²⁷

While there has been some research on the effect on families of migrant workers who go abroad on temporary contracts, it is important to encourage further analysis of the psychological, emotional and economic well being of families left

²² The Maqasid refers to the goals or objectives in Islam, namely the preservation of Religion, Life, Lineage, Intellect and Property. An attempt was made to convert these into a population survey index that could be measured: see Cordoba Initiative (2009) *Shariah Index: State of the Muslim World, Annual Report 2008*, Gallup Inc. Page 14.

²³ On Sri Lankans, see Gamburd, Michel. (2000). *The Kitchen Spoon's Handle: Transnationalism and Sri Lanka's Migrant Housemaids*, (Ithaca: Cornell University Press).

²⁴ For example, from interviews with local Sri Lankan men in the village, Gamburd's study of returnee maids from the Gulf shows how suspicion is placed upon Sri Lankan women working abroad. Stories of “[u]nwanted pregnancies, secret abortions and attempted infanticide” (Gamburd, 2000: 219) are revealed to indicate the health dangers posed, but in reality bring moral questions of promiscuity upon the women more stereotypically. As one male Sri Lankan villager explained: “In the Middle East, Sri Lankan women are like prostitutes... Muslim people's sons [are] fond of womanizing, and so the family hires a couple of housemaids so that the sons stay home instead of going out” (Gamburd: 2000: 219–220). See also Jureidini, Ray (2006) “Sexuality and the Servant: An exploration of Arab images of the sexuality of domestic maids in the household” in S. Khalaf and J. Gagnon (eds) *Sexuality in the Arab World*. Saqi Press, London, Chapter 6, pp. 130–151.

²⁵ International Labour Office (2006) *ILO Multilateral Framework on Labour Migration*, International Labour Office, Geneva. Page 28.

²⁶ See Agunias, Dovelyn Rannveig and Aghazarm, Christine (2012) *Labour Migration from Colombo Process Countries: Good practices, challenges and ways forward*, IOM-MPI Issue in Brief No. 1 May 2012. <http://www.migrationpolicy.org/pubs/ColomboProcessBrief.pdf> retrieved 25 February 2013.

²⁷ See Al Malki, Noor (2012) (Executive Director Doha International Institute for Family Studies and Development) *Symposium on Family, Migration and Dignity* held at the Qatar National Convention Centre, 27–29 March 2012.

behind in the origin countries.²⁸ Communication services such as mobile phones with cheap international calls, email, Skype and other social media should be provided conveniently in labour accommodation sites for easy access to workers' families at home. Indeed, workers should be counseled that regular contact with family at home is mandatory. At the same time, it should be recognized that families are often a source of pressure and anxiety for migrant workers, for they can be ruthless in demanding remittances. Family members may also provide loans with an emotional attachment to the pressure to repay.

In short, much more consideration should be given to the fact that the large majority of migrant workers in Qatar are family men, taking responsibility for their families at home and seeking to maximize the support they can provide.

Research Focus

While previous research by the IOM, the World Bank, independent research centers, academics and scholars has looked at recruitment fees, remittances and the like, they have been mainly concerned with economic development issues. The current project sought to examine the entire process of recruitment both in the sending and receiving countries, with particular focus on the conditions of debt bondage and trafficking (both direct and indirect). This report aims to provide an analysis of the multi-layered interests that are at stake in the recruitment process and how loopholes in the laws of the sending countries and Qatar create a fertile ground for the pursuit of those interests that may violate the human and labor rights of migrant workers.

The research was qualitative and exploratory in the sense that it seeks to pave the way for multi-stakeholder discussions on alternatives to existing recruitment practices, particularly recruitment charges and fees as the liability of the migrant worker. Even where companies are paying these charges, there is evidence suggesting that prospective migrant workers in the country of origin are also paying. This money is being paid to licensed recruitment agencies, their sub-agents in rural areas and individuals through migrant networks.

Finally, it should be noted that it was not possible to focus this research only on labour recruitment for Qatar Foundation contractors and subcontractors. Thus, the research findings apply to labour recruitment to Qatar and the GCC States more generally.

Objectives

The objectives of the research project were to:

1. document the official and unofficial procedures of the recruitment phase of the migration cycle in origin countries;
2. identify the factors that contribute to debt bondage, forced labour and human trafficking;

²⁸ See Taran, Patrick (President, Global Migration Policy Associates) (2012) *Symposium on Family, Migration and Dignity* held at the Qatar National Convention Centre, 27-29 March 2012.

3. assess the extent to which the recruitment process can be leveraged from Qatar;
4. evaluate the successes and shortcomings of the existing regulatory and legal framework in the sending countries and Qatar;
5. develop a model of ethical recruitment of migrant workers which would ensure their human and labor rights throughout the entire migration cycle;
6. develop a package of solutions on how the Qatari authorities and its clients could actively intervene to eliminate the charges and financial burdens on migrant workers and to ensure consistency between expectations prior to arrival, employment and living conditions thereafter.

Methodology

The research took a qualitative approach to the recruitment process in the study of all phases of recruitment and stakeholders involved in the 5 main labour sending countries.²⁹

1. Desk review of literature on recruitment of workers to Qatar (or other GCC countries) from the 5 main labour sending countries.
2. Interviews with the Human Resource managers from a selection of current Qatar Foundation contractors seeking information on recruitment procedures and problems from the perspective of the contractors.
3. Interviews with the labour attachés of the 5 respective embassies in Doha on recruitment process, fees, contracts and wage determinations.
4. Interviews with migrant workers in Qatar and returnees in the sending countries explored the impact of their experiences in Qatar as well as their families back home.
5. From the interviews with the contractors, sub-contractors and embassies, the project sought to procure: a) a list of preferred labour recruitment agencies in the five major sending countries; and b) a list of preferred placement agencies in Qatar.
6. Agencies interviewed in the countries of origin canvassed the procedures and problems they faced in negotiating with placement agencies in Qatar, governments, contractors, sub-contractors and migrant workers themselves. Observations also took place in their pre-departure seminars, pre-departure pamphlets and other literature from agencies, governments and NGOs concerned in various ways with migrant worker issues.
7. Interviews were also conducted with the respective governments of the 5 sending countries, raising the problematic issues of debt bondage and trafficking. The idea was also to canvass possible alternatives including the possibilities of inter-governmental cooperation, collaboration and partnership.
8. Finally, interviews were conducted with NGOs concerned with migrant labour issues and international organizations such as the International Labour Organization (ILO) and the International Organization for Migration (IOM).

²⁹ The study by Gardner et. al. estimated Nepal (39%), India [mainly Kerala](29%), Bangladesh (11%), Sri Lanka (9%) and Philippines (5%). See Gardner, Andrew, Pessoa, Silvia, Diop, Abdoulaye, Al-Ghanim, Kaltham, Le Trung, Kien and Harkness, Laura, "A Portrait of Low-Income Migrants in Contemporary Qatar", *Journal of Arabian Studies* 3.1 (June 2013), pp. 1-17 <http://dx.doi.org/10.1080/21534764.2013.806076>

Table 3. Summary of interviews conducted³⁰

	Philippines	Nepal	Bangladesh	Sri Lanka	India	Qatar	Total
Recruitment Agencies	4	6	6	6	6	2	30
Government Offices	4	3	3	1	6		17
International Agencies	1	3		1	2		7
NGO Offices	1	5	6	5	6		23
Training & Testing Centers	2		2				4
Qatar Returnee Workers	3	12	8	11	8		42
Migrant Workers						22	22
Employers						3	3
Total	15	29	25	24	28	27	148

³⁰ See Appendix 1 for a more detailed summary.

CHAPTER 2

GOVERNMENT COLLABORATION

Recommendation 1: *The Qatari government should seek to ensure standardized ethical recruitment practices in the labor sending countries by developing Government-to-Government agreements on ethical recruitment. Through GCC collaboration, this could be developed for the region as a whole*

It is by now an often-stated observation that, despite the liberalization and globalization of trade and finance across national boundaries, it has not been the case with borders and the transition of people. Migration, though a historically fundamental practice of human beings, remains under the control of sovereign nation states to decide who enters their territories and who doesn't. There have been many attempts since the Second World War to regulate or govern international migration, but despite states' need for international cooperation, governments have been very reluctant to even entertain letting go of their sovereign power to determine the character of their populations. Thus, the international movement of people has developed into "a rich tapestry of multiple institutions that co-exist across the bilateral, regional, inter-regional, and multilateral levels, through both formal and informal structures."³¹ Qatar has entered into bilateral agreements with the main countries of origin of its migrant workforce³² and participates in at least two multilateral relations with respect to migration, namely, with the GCC states and the Colombo Process and continues to entertain formal as well as informal negotiations and agreements with a range of countries on wages and conditions and numbers of foreign nationals who want to work in the country.

The importance of migrant labour to the development of Qatar's economy generally and the construction requirements for the 2022 World cup is also

³¹ Betts, Alexander (2010) Global Migration Governance Briefing Paper, Department of Politics and International Relations, University College, Oxford. <http://www.imi.ox.ac.uk/pdfs/global-migration-governance-policy-brief> retrieved 18 December 2013.

³² Some argue that the term "migrant" is inappropriate for temporary contract labour in Qatar and the other GCC countries because they are not permanent migrants who settle in a destination country with an opportunity to become citizens. The UN Convention on the Rights of All Migrant Workers and Members of their Families defines it thus: "The term 'migrant worker' refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national." The term that describes permanent migration is "immigration". A permanent migrant is an "immigrant" who "emigrates" from his/her country of origin. The term "migrant" is used here for temporary labour migration. For Qatar, therefore, foreign workers are neither immigrants, nor emigrants, but migrant labour, or migrant workers. For a more detailed discussion of this terminology, see Dito, Mohammed (2007) Migration Policies and Challenges in the Kingdom of Bahrain", Discussion Paper for The Forced Migration & Refugee Studies Program The American University in Cairo, Egypt, October 23–25, 2007 http://www.ucegypt.edu/GAPP/cmrs/reports/Documents/Mohammed_Dito.pdf Retrieved 19 December 2003.

matched by the importance of migrant labour emigration for the major labour sending countries to Qatar. The Table below indicates relatively low labour force participation rates and significant reliance upon migrant foreign currency remittances as a proportion of GDP. To give one example, migrant remittances of over \$10 billion in 2009 to Bangladesh were 12 times greater than foreign direct investment and 6 times more than total foreign aid received.³³ Although it has also been pointed out that because the GCC countries pegged their currencies to the U.S. dollar, migrant workers' remittances have been lowered with the depreciation of the U.S. currency.³⁴

Table 4. Country Data (2010)

	Bangladesh	Nepal	Philippines	Sri Lanka	India
Population	148.7 million	30.47 million (2011)	94.85 million (2011)	21.04 million (2011)	1.2 billion
Adult Employment Rate	36.1%	80.1% (2008)	59.3%	48.2%	56%
No. of LRAs *	987	769	1263	500	1820 (2005)
Unemployed	5%	3.2%	7.3%	3.9%	4.7%
Underemployed	28.7%	54%	4.1%	2.9%	N/A
Working Abroad	6.9 million	2.2 million	8.1 million	1.7 million	10 million
Remittances (% GDP)	11%	22.3%	10%	7.9%	3.9%

*Licensed Recruitment Agencies

Sources: Bangladesh: BOESL, BAIRA; Nepal: DOFE, ILO, UN Data; Philippines: ILO, UN Data, MPI, POEA; Sri Lanka: UN Data, Sri Lanka Dept. Census and Statistics, World Bank, IOM, SLBFE; India: UN Data, World Bank, Indian Labour Bureau, CDS.³⁵

Government-to-Government Collaboration

Perhaps an umbrella recommendation in this report is for the government of Qatar to increase government-to-government collaboration when it comes to labour recruitment. As a partner state with observer status in the inter-governmental Colombo Process collaborations Qatar has promised, "to sign agreements with

³³ United Nations Economic and Social Commission for Western Asia (ESCWA), *Inter-Regional Report on Labour Migration and Social Protection*, May 2013, United Nations, New York, ESCWA, Beirut.

³⁴ Rajan, S. Irudaya & Steinmayer, Vanessa (2012) "The Global Economic Crisis and Impact on Migration from South-Asian and South-East Asian Countries", in Irudaya S. Rajan (ed) *India Migration Report 2012: Global Financial Crisis: Migration and Remittances*, Routledge, Pp. 27-46.

³⁵ I am grateful to Aakash Jayaprakash for collecting this data.

many countries that export labour, that protect the workforce and clarify rights and obligations.”³⁶

The Colombo Process is a broader regional multilateral co-operation initiative launched by the labour sending countries of Asia in 2003. The eleven member countries for the process are Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam. The eight destination country participants are Bahrain, Italy, Kuwait, Malaysia, Qatar, Republic of Korea, Saudi Arabia and the United Arab Emirates.

Associated with the Colombo Process, in 2008 the IOM announced an agreement in Manila between the representatives of the national associations of recruitment agencies from nine Asian countries (Bangladesh, China, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam) to “promote ethical and professional recruitment practices” and with the IOM serving as the “association’s secretariat”. The core values of this agreement were identified as “professionalism, equity, service to humanity, integrity, trust, honesty, passion and fairness.”³⁷ The formation of the Alliance of Asian Associations of Overseas Employment Service Providers from this meeting committed to ethical recruitment policies and practices. The agreement signed, however, did not explain precisely what comprises ethical recruitment.

Again in 2011, in the report on the fourth meeting of the Colombo Process countries, the concept of unethical recruitment was merely referred to as “non-payment in violation of contractual provisions” – which limits it to the payment of wages. Reform, it was argued, needs to “rationalize migration costs, promote transparency and openness in recruitment processes, strengthen monitoring and supervision of recruitment practices, and prevent slippage of regular migrant workers into any form of irregularities”.³⁸ These were very general ideas without the benefit of detailed action proposals. No mention was made of ethical recruitment practices and what they should look like.

Government-to-government negotiations and agreements on the supply of labour is not something new for the Qatar government. For example, in early 2013, a contract was being negotiated with the government of Qatar to supply up to 30,000 Bangladeshi women for domestic work and other services. The contract was subsequently agreed upon in April 2013 along with agreements with the governments of Bosnia, Macedonia, Cambodia and Vietnam.³⁹ In another government-to-government negotiation, Nepal lifted its ban on sending

³⁶ Letter from Khalid Bin Jassim Al Thani, Director of the Human Rights Department of the Qatar Ministry of Foreign Affairs to Mr Philip Luther, Interim Director of the Middle East and North Africa Programme of Amnesty International, 7 October 2013; see Annex 1, Amnesty International, *The Dark Side of Migration: Spotlight on Qatar’s Construction Sector Ahead of the World Cup*, 18 November 2013. <http://www.amnesty.org/en/library/asset/MDE22/010/2013/en/ca15040d-290e-4292-8616-d7f845beed7e/mde220102013en.pdf>, retrieved 18 November 2013.

³⁷ see Colombo Process website, at: http://www.colomboprocess.org/index.php?option=com_content&view=article&id=4:asian-employment-agencies-agree-on-ethical-recruitment-&catid=2:latest

³⁸ International Organization for Migration (2011) *Migration with Dignity*, Report of the Fourth Ministerial Consultation of Overseas Employment and Contractual Labour for Countries of Origin in Asia: 19-21 April 2011, Dhaka, Bangladesh. Page 52.

³⁹ See: *Doha News* “After a long delay, five new countries agree to send maids to Qatar”, April 26, 2013. <http://dohanews.co/after-a-long-delay-five-new-countries-agree-to-send/#>

housemaids to Qatar in 2012, after the Qatar government agreed on particular terms and conditions that included a guaranteed month off after a year employed, life insurance coverage and the opening of a bank account in the housemaid's name. These negotiations and agreements had been under discussion since December 2011.

Sending country governments can sometimes be used specifically to circumvent the malpractices of private recruitment agencies. For example, in March 2013 a tension arose in Bangladesh when the government barred private recruiting agencies from sending workers to Malaysia because of the practice of sending workers with invalid documents and charging exorbitant fees (between \$250–500 per person). A migrant rights association in Bangladesh⁴⁰ emphasized that even though the Bangladesh government recruitment agency, the Bangladesh Overseas Employment Services Limited (BOESL), charged workers when they were deployed, it was only one-tenth the charges by private recruitment agencies – “a minimal cost”. Thus, there was much support for government-to-government recruitment. As a consequence, in April 2013, the Bangladesh Association of International Recruitment Agencies (BAIRA) called for a strike to protest the government's bilateral labour supply arrangements, not only with Malaysia, but also with Thailand. BAIRA's General Secretary noted, “The government can talk and fix a rate, which the private sector cannot.”⁴¹

While private recruitment agencies may collectively have more capacity than governments to recruit large numbers, they often need to bribe low-level government officials to provide them with clearance papers, otherwise they will not process them or seriously delay them. This adds to the recruitment costs. Such bribes are far less likely to happen with a government agency. On the other hand, one respondent pointed out that there are private recruitment agencies that are wealthy and influential in the government. He stated that there were some 10–12 members of the Bangladesh Parliament who had recruitment agencies. This was acknowledged in the Trafficking in Persons (TIP) Report for 2013. For Bangladesh:

During the year, there was some evidence of official complicity in human trafficking. Several NGOs reported a nexus among members of parliament and corrupt recruiting agencies and village level brokers and indicated that politicians and regional gangs were involved in human trafficking. Some NGOs also report that official recruitment agencies in Dhaka have linkages with employers in destination countries who sometimes put their migrant workers in situations of servitude. Low-level government employees were also complicit in trafficking. According to the Ministry of Home Affairs, the government prosecuted a civil servant who was complicit in trafficking.⁴²

⁴⁰ Mr Anisur Rahman Khan, International Migrants Alliance Research Foundation, 3 March, 2013.

⁴¹ BDNews24.com “Manpower exporters call strike” 7 April 2013 <http://bdnews24.com/bangladesh/2013/04/07/manpower-exporters-call-strike> Retrieved 14 April 2013.

⁴² U.S. Department of State, 2013 Trafficking in Persons Report (<http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215395.htm>).

Sending country governments do provide much in the way of facilitating migration. In Bangladesh, BMET has 38 migrant worker training centers around the country and levies a small registration fee⁴³ to maintain a welfare fund for Bangladeshi expatriates, principally for the families of deceased overseas workers including a \$2,500 lump sum, transportation and burial costs (around \$450). If a worker is ill or injured and the employer cannot afford medical treatment, BMET will pay to have them repatriated.⁴⁴ Nepal also established an Employment Welfare Fund for migrant workers in 2008, for education and medical treatment of families left behind, for female orientation programs, child care centers for the children of female migrants abroad and public awareness programs.⁴⁵

In the Philippines, workers employed through government-to-government arrangements are those who filed the least number of complaints, or reported the least number of problems or concerns. Thus, it was argued, the presence of government responsibility for the plight of workers in government-to-government recruitment along with the absence of any other middlemen between workers and employers seem to affect the experience of workers to a decisive extent.⁴⁶

The Philippines government had originally acted as the primary agency for the deployment of migrant workers around the world. While being the most entrepreneurial government with respect to the facilitation of Filipino overseas workers, by 2008, the Philippines government's role has been considerably reduced over time. It now only handles one per cent of the total annual deployment, restricted to government-to-government arrangements where there are bilateral agreements between the two countries.⁴⁷

In India, each state has a government recruitment arm. In an interview with the International Organization for Migration in Kerala, it was argued that bringing about reform in the charging of workers is a difficult task. However using state recruitment agencies is a strong possibility.

What could be done at the moment is relying more on the state recruitment agencies because either they don't charge anything or they charge a nominal amount which is very low, roughly around 5000 rupees for all services. In all the states there are state recruitment agencies. These state recruitment agencies can be the focal point of Qatar Foundation. They have very fair terms and conditions. And they do both skilled and low-skilled recruitment. Their business is very transparent [and] they have the capacity to meet the

⁴³ The Bangladesh Ministry now has over 14 million prospective migrant workers registered.

⁴⁴ Interview with Mafruha Sultana, BMET, 3 March, 2013.

⁴⁵ Nepal Foreign Employment Bureau: *Foreign Employment Rules 2008* <http://fepb.gov.np/noticedetail.php?id=22> Retrieved 22 December 2013.

⁴⁶ Interviews with POEA and OWWA, 12 December 2012.

⁴⁷ See Rosalinda D. Baldoz, of the Philippine Overseas Employment Administration: IOM Conference Proceedings, *Organizing the Association of Employment Agencies in Asia: Moving Forward to Action on Ethical Recruitment* April 3-4, 2008 Astoria Plaza Hotel Manila, Philippines http://www.colomboprocess.org/follow_sub5/IOM%20proceedings%20LOWER%20RESOLUTION.pdf

numbers, as they can recruit from several other places within India. If need be, they can recruit people from any province.⁴⁸

In Nepal, the government has established bilateral agreements with Korea and Japan. While Korea has a quota requirement of only 2000–5000 workers per year, the whole system is electronic (Electronic Permit System). CV's are uploaded onto the “portal” and three CVs per position are presented to the Koreans (randomly selected by the software) and if they are not selected the next three are put forward and so on. The system appears to have completely circumvented recruitment agencies.⁴⁹ Indeed, one of the main functions of the recruitment agencies is the administration of all the legal and contractual paperwork that should be largely unnecessary in this age of digitalization and smart cards.

The Qatar Ministry of Labour has recently publicly acknowledged this new process, stating:

The Ministry of Labour in Qatar is in the process of implementing a programme for electronic connection with labour-exporting countries. Cooperation between the Ministries of labour will be in the form of establishing an electronic information base for those seeking jobs in Qatar. The website will allow employers in Qatar to choose their workforce from the available applications. This project will ensure there will no longer be any discrepancy between the job the worker has signed up for in his country, from that signed in Qatar, as all documents listed in the information base, including the work offer by the employer, will be registered. In case of any disagreement between the two sides in the future the information can be checked and verified.⁵⁰

Similarly, India's Ministry of Overseas Indian Affairs has established an “e-Governance”, or “e-Migrate” program for,

greater levels of efficiency, transparency and accountability in the emigration system. ... [automating] emigration clearance, registration and employers' permits, dispense with discretion, mitigate harassment of emigrants and remove corruption. ... interlinking with recruiting agents, employers, immigration counters, Indian Missions abroad, insurance companies and state governments, etc.⁵¹

It is anticipated that although it may not reduce exploitation entirely, electronic recruitment will enhance accountability of the various stakeholders involved. It will

⁴⁸ Nitin Kumar, International Organization for Migration, Trivandrum, Kerala. Interview 10 May 2013.

⁴⁹ Nonetheless, Nepalese workers are paying enormous amounts of money to be included on the list to Korea – from \$10,000–\$13,000. Although their salaries are in the vicinity of \$1,000 per month, it still means that they will be required to work for at least one year to recoup these costs.

⁵⁰ Letter from Khalid Bin Jassim Al Thani, op. cit.

⁵¹ T.K. Manoj Kumar, Joint Secretary Ministry of Overseas Indian Affairs, Emigration Policy Division.

also to some extent monitor the movement of workers that will partially address the problems of disappearance, illegality and overstay.⁵²

Bilateral Agreements

India had entered into a bilateral labor agreement with Qatar in the 1980s, but there had been no “progress” for many years. However, in November 2007, along with other countries, an MOU was signed with Qatar “to address mutual concerns”, including the enhancement of employment opportunities and cooperation in the protection and welfare of Indian workers and “broad” policies on recruitment procedures for foreign employers.⁵³ More recent attention is being given to the long-standing anticipation of the reform of India’s Emigration Act of 1983, with the Emigration Management Bill of 2011 that will address issues such as insurance, airport emigration checks, regulating and monitoring of recruitment agencies, legal and employment issues in Qatar and other GCC countries and a review of bilateral agreements with destination countries.⁵⁴

The extent to which bilateral government negotiations and agreements can determine the employment requirements of the private sector contractors in Qatar’s construction industry is not clear, but interlocutors for the sending country governments are active. All sending countries have government ministerial involvement to encourage and manage migration and the welfare of labour abroad, for example:

India:	Ministry of Overseas Indian Affairs
Philippines:	Philippines Overseas Employment Administration
Nepal:	Ministry of Foreign Employment
Bangladesh:	Ministry of Expatriates’ Welfare and Overseas Employment
Pakistan:	Ministry of Labour, Manpower and Overseas Pakistanis
Sri Lanka:	Ministry of Foreign Employment Promotion and Welfare

Within these ministries, there are often a panoply of departments and bureaus for administrative, policy, welfare, think-tank research as well as the management and regulation of emigration visas, and licensing of recruitment agencies. There are also government recruitment agencies, such as the Bangladesh Overseas Employment Services Limited (BOESL) and the Sri Lankan Bureau of Foreign Employment (SLBFE), which are now increasing their operations. In India, each state has its own government recruitment agency.

The table below shows that sending states also have support and welfare services they offer to their nationals in Qatar through their respective embassies (see Table below).

⁵² Dr T.L. S Bhaskar, Project Coordinator, India Center for Migration, Ministry of Overseas Indian Affairs. Interview 10 May 2013.

⁵³ Ibid; also see http://moia.gov.in/pdf/agreement_with_gove.pdf; http://moia.gov.in/pdf/additional_protocol.pdf

⁵⁴ see BWI Connect (2013) “BWI Affiliates in India Appeal to Minister of Overseas Indian Affairs for Early Enactment of the Emigration Management Bill” 27 November 2013 <http://connect.bwint.org/?p=977> Retrieved 22 December 2013.

Table 5. On-Site Support & Welfare Services Offered: Countries of Origin Embassies in Qatar

Services	Bangladesh	India	Nepal	Philippines	Sri Lanka
Consular Services	•	•	•	•	•
Grievance Redress, Conciliation	•	•	•	•	•
Distressed Workers' Resource Center				•	
Medical & Legal Assistance	•	•	•	•	•
Training & Development				•	

Source: Respective embassies in Qatar⁵⁵

In the Philippines, there is what is referred to as the Government Network for Overseas employment, covering both temporary and permanent migration. This is identified as a number of government institutions that work in a “one country, team approach”, meaning that all institutions dealing with migrant affairs strive for collaboration, coordination and convergence in their policies and activities. This Network includes the Department of Labor and Employment (DOLE) with its two main administrations directly involved in migrant affairs, namely, the Philippines Overseas Employment Administration (POEA) and the Overseas Workers' Welfare Administration (OWWA). There are also the Philippines Overseas Labor Offices in destination countries (POLOs), Technical Education and Skills Development Administration (TESDA); Department of Foreign Affairs with its Office of Undersecretary for Migrant Affairs as well as embassies and consulates abroad. Finally, there is the Office of the President of the Philippines with its unit, the Commission on Filipino/as Overseas (CFO).

Although regulatory frameworks for migrant workers exist in the sending countries, there is widespread acknowledgement that there remains a serious lack of control over the thousands of private recruitment agencies competing against one another intra-nationally and internationally. Despite its comprehensive legal and regulatory framework, the Philippines government recognizes overseas employment, including the recruitment process, as being replete with challenges and loopholes which allows unscrupulous private actors – whether natural persons or legal entities – to circumvent laws and regulations. In discussions with government representatives, it was emphasized that the Philippines government seeks to tighten enforcement by introducing various programs and procedures as well as entering into bilateral arrangements with various destination countries for their workers.

The Qatar government has to negotiate on the international labour market and many labour sending countries are now demanding higher wages and better conditions. Qatar has clearly made market decisions regarding wage levels of certain occupations. For example, in November 2012, a government delegation from the Philippines was in Doha to negotiate their mandatory \$400 salary for

⁵⁵ I am grateful to Afiga Heydarova for constructing this table.

domestic workers.⁵⁶ CLADS, the Coalition of Licensed Agencies for Domestic and Service Workers was also a part of the delegation. Almost immediately following this meeting, it was reported that Qatar had imposed a ban on Filipina domestic workers because of the salary requirement.⁵⁷ The report was based upon a manpower agency complaint about visa restrictions on Filipinos. In June 2013, the Philippines ambassador in Doha denied there had been any ban, but said that the numbers entering had been significantly reduced. The Doha News, however, still insisted that despite his assertion, there remained an “unofficial ban”.⁵⁸ Under Philippines law, a Filipina domestic worker cannot leave the Philippines legally unless she has a contract specifying a salary of \$400 per month.

In principle, all sending country governments have a set of minimum standards for overseas jobs that require validation before workers leave their countries. Validated documents are required for emigration clearance procedures that purport to vet outgoing migrant workers. They go through administrative procedures that ratify employment offers, recruitment agents and the employers abroad. In India, for example, the Protector General of Emigrants (PGE) under the Ministry for Overseas Indian Affairs has 15 offices in various states across India that oversee the licensing and regulation of recruitment agencies. The PGE insists that it can reject an application for emigration on the following grounds:

1. That the terms and conditions of employment which the applicant proposed to take up are discriminatory or exploitative;
2. That the employment which the applicant proposes to take up involves work of a nature which is unlawful according to the laws of India or offends the public policy of India or violates the norms of human dignity and decency;
3. That the applicant will have to work or live in sub-standard working or living conditions;
4. Keeping in mind the prevailing circumstances in the country where the applicant proposes to take up employment, would not be in the interest of the applicant to emigrate;
5. That no provision has been made for meeting the expenses which may occur in case it becomes necessary to arrange for the repatriation, or that the arrangements made in this regard are not sufficient for the purpose.⁵⁹

It is not clear, however, whether these provisions amount to the equivalent of an exit visa.⁶⁰ One author has pointed out that, “Emigration clearance does not guarantee workers any protection. This is primarily because worker welfare can

⁵⁶ In reality, the Philippines government was merely trying to enforce the implementation of this regulation it had made back in 2006. The vexed issue of wage determination will be discussed in a later chapter.

⁵⁷ *Doha News*, “In response to requests for higher pay, Qatar imposes temporary ban on Filipina Visas”, 28 November 2012, [visashttp://dohanews.co/post/36733881400/source-in-response-to-requests-for-higher-pay-qatar#ixzz2DaVoxtf7](http://dohanews.co/post/36733881400/source-in-response-to-requests-for-higher-pay-qatar#ixzz2DaVoxtf7), retrieved 13 December 2013.

⁵⁸ *Doha News*, “Despite Ambassador’s denial, unofficial ban on new Filipina maid visas continues”, 16 June 2013, <http://dohanews.co/despite-ambassadors-denial-unofficial-ban-on-new/>, retrieved 13 December 2013.

⁵⁹ See Ministry of Overseas Indian Affairs (2007), *Emigration and You*, Emigration Policy Division, New Delhi. <http://moia.gov.in/services.aspx?id1=21&idp=21&mainid=17>, Retrieved 1 December 2013.

⁶⁰ Note that most destination countries of Indian nationals do not require an emigration clearance, but it is required for all Arab states, as well as Malaysia, Brunei, Sudan, Indonesia and Thailand.

only be guaranteed under local labour laws in the destination countries.”⁶¹ This relates to some sense of powerlessness over migrant workers’ welfare after they leave their home country, despite attempts at protective measures through legislation at home and agreements with receiving countries abroad.

After many decades, there has been recognition by the labour sending countries that there is a responsibility by their governments to not only facilitate labour emigration but also to provide a supportive infrastructure for their nationals going abroad with regulatory mechanisms to prevent their exploitation and assist in their re-integration. They are not only encouraging out-migration, because of the national benefits such as the economics of recruitment, reduced unemployment and remittances, but they must be mindful of and helpful with migrant worker welfare. These measures should also be coordinated with the labour receiving countries such as Qatar and with full cognizance of the international human rights and labour rights obligations. For example, the Doha Declaration on Foreign Workers that took place in May 2007 has been criticized because, although it sought increased cooperation between the GCC states and greater policy integration through international agencies such as the ILO and other UN bodies, “more concrete steps toward policies to protect migrants’ rights did not figure in this Declaration.”⁶²

Sending countries have enacted their own legislation to purportedly protect their nationals abroad. An IOM study of Colombo Process countries summarized these laws (Table 6).⁶³

In July 2013, the Nepal government announced that labour deployment to Malaysia rose by 60 per cent, largely because state-owned companies exhibited a preference for Nepalese workers over others. This increase was also attributed to lower hiring of Nepalese in the Middle East, Indonesia and Myanmar and because the Malaysian government had stopped employing Bangladeshi workers.⁶⁴ Indeed, the Nepal Association of Foreign Employment Agencies (NAFEA) stated a clear preference in dealing with government operations, noting that:

Malaysian state-operated plantations and factories are comparatively safer and better places to work as they offer good wages and other facilities like overtime and insurance. With Malaysian companies offering attractive pay packages, there has been a decline in departures of migrant workers

⁶¹ Kumar, Krishna (2010) “Migration Policy Reforms in India: Some Reflections” in Irudaya Rajan (ed) *Governance and Labour Migration: India Migration Report*, 2012, Routledge, pp. 243-250.

⁶² United Nations Economic and Social Commission for Western Asia (ESCWA), *Inter-Regional Report on Labour Migration and Social Protection*, May 2013, United Nations, New York, ESCWA, Beirut.

⁶³ International Organization for Migration (2011) *Labour Migration from Colombo Process Countries-Good Practices, Challenges and Way Forward* http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=1&products_id=758

⁶⁴ This was despite a government-to-government memorandum in 2012 between Bangladesh and Malaysia to supply up to 300,000 workers over the following three years. See Siddiqui, Tasneem & Sultana, Marina (2013) *Labour Migration from Bangladesh, 2012: Achievements and Challenges*, Refugee and Migratory Movements Research Unit (RMMRU), Dhaka, January 2012.

Table 6. Sending Country Legislation Protecting the Rights & Welfare of Overseas Workers

Country	Main statute	Subsequent decrees	Key provisions
Bangladesh	Emigration Ordinance (1982)	Overseas Employment Policy (2006)	Provision of legal assistance to overseas workers. Signature of bilateral agreements with labour-receiving countries. Establishment of labour standards in terms of working hours, rate of wages, overtime, leave entitlement, health services, and freedom of mobility. Increased regulation of the migration process. Improved coordination between governmental and non-governmental stakeholders. Bangladesh Emigration Ordinance (1982) Overseas Employment Policy (2006). Source: IOM country assessment.
India	Emigration Act (1983)	Emigration (Amendments) Rules (2009)	Higher application fees and security deposit; obligation to produce documents verifying qualifications and financial health for recruiting agencies. Obligation for recruiting agencies to arrange pre-departure skill testing; insure workers' visas; and fees at 45 days worth of wages; renew workers' visas; and ensure the provisions of employment contracts are respected by the foreign employer. Agencies banned from retaining workers' travel and employment documents. Reduction in number of ECR (Emigration Check Required) countries from 154 to 17 to reduce the regulation of movement. Introduction of mandatory insurance (Pravasi Bharatiya Bima Yojana) at a nominal cost: life insurance, medical and legal expenses coverage. Abolition of the mandatory provision for ECR passport holders to obtain a suspension from the Government (Protector of Emigrants) to visit overseas for purposes other than employment. India Community Welfare Fund for "overseas Indian workers duped by unscrupulous intermediaries in host countries, runaway housemaids, victims of accidents, deserted spouses of overseas Indians or undocumented workers in need of emergency assistance, or others in distress". Source: Ministry of Overseas Indian Affairs.

Table 6. Continued

Country	Main statute	Subsequent decrees	Key provisions
Nepal	Foreign Employment Act (2007) as amended on 31 May 2007	Foreign Employment Regulations, 2064 (2008)	Enhanced protection mechanisms: mandatory skill and orientation training; establishment of a Welfare Fund; provision of health check – ups, shelters and legal assistance; appointment of labour attachés; creation of a Labour Desk (at international departure points). Obligation for recruiting agencies to provide comprehensive employment contracts and to insure workers. Penalties (fines and imprisonment from three to seven years) for offenses such as sending of minors abroad, operating without a license, not respecting employment contracts, sending workers to countries not approved by the government. Creation of a Foreign Employment Department under the management of the Ministry of Labour and Transport Management and of two independent institutions: the Foreign Employment Promotion Board and the Foreign Employment Tribunal (Special Court). Source: Department of Foreign Employment, Government of Nepal.
Philippines	Migrant workers and Overseas Filipinos Act of 1995 (RA 2042)	Amending Acts: RA10022 (2010): “Migrant Workers and Overseas Filipinos Act of 1995, As Amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and For Other Purposes.”	Evaluation of the levels of protection of Overseas Filipino Workers (OFWs) in receiving countries; establishment of criteria for host countries to guarantee protection through a certification process. Foreign employer and recruiting agencies are responsible for the repatriation of OFWs. Penalties for offenses such as illegal recruitment, loans by agencies, sending of minors abroad. Additional personnel to staff Overseas Filipino Resource Centers. Expand free access to skills and livelihood programmes. Promote the use of the legal-assistance fund to settle cases against abusive employers. Compulsory medical and life insurance for agency-hired workers. Source: Overseas Workers Welfare Administration.

Table 6. Continued

Country	Main statute	Subsequent decrees	Key provisions
Sri Lanka	Sri Lankan Bureau Foreign Employment Act, No. 21 of 198	National Labour Migration Policy for Sri Lanka (2008)	SLBFE Act of 1985 to be amended. Increased regulation and monitoring of recruiting agencies; penal provisions to address offences. Strengthening of the capacities of overseas missions to address workers' protection and guidance needs. --Ensure access to skill development training to maximize the benefits of migration for national development. Address issues of abuse, violation, exploitation and prevent human trafficking. Enhanced protection mechanisms: psychological and medical support, repatriations for distressed workers. Development of a plan for provision of insurance, pension and welfare by the State. Implementation of a mechanism to facilitate return and reintegration: priority access to services, special services on arrival at the airport, tax concessions and special benefits to children of migrant workers. Creation of the Sri Lanka Migration Studies Institute to study migration issues and collect data. Source: Ministry Of Labour, War Invalids And Social Affairs.

Source: International Organization for Migration (2011) *Labour Migration from Colombo Process Countries-Good Practices, Challenges and Way Forward.*

to almost all the other leading labour destinations like Qatar, Saudi Arabia, the UAE, Kuwait, Bahrain and Oman.⁶⁵

It was also noted that Qatar has been giving preference to Indonesian, Filipino and Myanmar workers due to the incidence of Nepali workers going on strike. It is not clear if this is true, but it was also reported by Nepali Department of Foreign Employment (DOFE) that young Nepali workers prefer Malaysia to Qatar because of “better wages, climactic conditions and worker-friendly laws.”⁶⁶ However, Nepalese in Qatar constitute the second-largest population after Indians, and their numbers are rising.

Better financial arrangements for the payment of wages and remittances are also required. Where workers are not allowed to open bank accounts in Qatar, arrangements can be made with banks in the sending countries that cater for migrant workers, even though at this point they have been established partly to provide loans to migrant workers for recruitment charges, which should be abolished.

High-level intervention is required in the recruitment of migrant workers to Qatar. The kind of serious intervention being proposed is not just regulatory, but includes greater active responsibility based on bilateral and multilateral relations with the labour sending countries and in conjunction, for example, with the Colombo Process members. Consideration may also be given for the Qatar government and its clients to collaborate with existing private ethical recruitment agencies or establish them in the sending countries, either as an arm of the respective Qatari embassies or independently. Sending countries, however, may have ownership restrictions as applied to private recruitment agencies, but government-to-government arrangements may be able to bypass these restrictions. For example, Philippines law only allows foreigners to own a maximum of 25 per cent share in any private recruitment agency. However, it is said that some Arab investors have managed to gain complete control over the management and profits of some agencies.⁶⁷ As Qatar is the ultimate employer in all projects within the nation, the authorities can provide a political oversight to complement the implementation of the new standards for migrant workers’ welfare.

It is unclear at this stage how the governments and regulatory agencies of migrant workers will receive the new stipulations of QF and Q22 Standards. There is an urgent need to find solutions to the establishment of cross-national jurisdictions – between origin and destination countries. This will include discussions and agreements over joint liability⁶⁸ – and how blame can be apportioned when things go wrong between recruitment agencies, employees, employers and governments.

⁶⁵ *Kathmandu Post* “Malaysia displaces Qatar as top destination for Nepali workers”, 23 July, 2013. http://www.ekantipur.com/the-kathmandu-post/2013/07/23/related_articles/malaysia-displaces-qatar-as-top-destination-for-nepali-workers/251536.html

⁶⁶ *ibid.*

⁶⁷ Philippines Overseas Employment Administration, interview 3 February 2013.

⁶⁸ Models of joint liability can be seen in the Philippines and in Ethiopia.

Establishment of a national coordinating body

Qatar could establish a National Employment Bureau (or another name), perhaps along the lines of the Labor Market Regulatory Authority in Bahrain. Such a bureau could be a “one stop shop” arrangement with representatives from the relevant departments and organizations that handle the administrative requirements from visas to residency and work permits, complaints and disputes and the like. This would be more efficient than the current decentralized processes through, for example, the Ministry of Interior, Ministry of Labour, Search and Follow Up Department, Chamber of Commerce, labour courts, tribunals and the like. This coordinating body (or perhaps a National Steering Committee) could have representatives of all stakeholders that can address and monitor recruitment practices both in Qatar and the labour sending countries. Indeed, a sub-committee that deals specifically with recruitment could be established within such an authority because it must operate internationally and could have representatives from the embassies (such as labour attachés) of sending countries.

The National Employment Bureau would be required in the first instance to cement ethical labour supply arrangements with all the major labour sending countries, clarifying “all the steps, procedures, fees and responsibilities” between the states and enforce all bilateral or indeed multilateral agreements.⁶⁹ Where private or government recruitment agencies are used, a transparent set of accreditation criteria is required for registering of strictly ethical recruitment practices (discussed further below in the chapter on recruitment agencies). This will require an exclusive list of preferred accredited recruitment agencies abroad and local placement agencies that are provided to all contractors and subcontractors as well as labour supply agencies in Qatar. Ongoing collaboration with the governments of the sending countries is critical to achieve this on a sustainable basis.

⁶⁹ see Endo Esaku & Afram, Gabi (2011), *The Qatar-Nepal Remittance Corridor: Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process*, World Bank, Washington.

CHAPTER 3

FINANCING OF LABOUR MIGRATION

“Fees are at the centre of most recruitment irregularities”

(Agunias)⁷⁰

“Induced indebtedness is a key instrument of coercion”

(ILO)⁷¹

What the recruiter gets is not a fee for the recruiter’s service, but a ‘bribe’

(Abella)⁷²

Recommendation 2: *Recruitment fees should be re-classified as bribes extorted by recruitment agents and banned. Workers should not pay any charges or fees for recruitment and arrive in Qatar debt-free. Employing companies should pay for all recruitment costs (fees and charges), as is the norm for more highly skilled workers and professionals. This is now detailed in Qatar Foundation’s Mandatory Standards.*

At the heart of the vulnerability of migrant workers in Qatar (and elsewhere in the Gulf states) is the payment of “fees” by workers to sub-agents and/or registered recruitment and placement agencies in order to obtain a job.⁷³ The migration economist and former Director of the International Migration Programme of the International Labour Organization (ILO) in Geneva, Manolo Abella, states quite clearly:

The fee is not determined by the financial value of the good procured but by demand itself ... What the recruiter gets is not a fee for the recruiter’s service but a **‘bribe’** for the job he or she offers.⁷⁴

⁷⁰ Agunias, Doreen Rannveig (2012) *Regulating Private Recruitment in the Asia-Middle East Labour Migration Corridor*, August 2012, Migration Policy Institute and International Organization for Migration, page 3. <http://www.migrationpolicy.org/pubs/Labor-recruitment.pdf>

⁷¹ International Labour Organization (ILO) (2005) *A Global Alliance Against Forced Labour*, International Labour Office, Geneva, page 2.

⁷² Manolo Abella, in Agunias, Doreen Rannveig (2012) op. cit. page 7.

⁷³ Note that the issue of recruitment fees will be revisited numerous times throughout this report as it is a crucial element of the analysis and key to understanding rights violations, corruption and possible reform.

⁷⁴ See Abella, in Agunias, Doreen Rannveig (2012) *Regulating Private Recruitment in the Asia-Middle East Labour Migration Corridor*, August 2012, Migration Policy Institute and International Organization for Migration, page 7, my emphasis. <http://www.migrationpolicy.org/pubs/Labor-recruitment.pdf>, retrieved 12 May 2013.

Thus, from the very beginning of the migration cycle there is a level of unfairness occurring in the procurement of jobs in origin countries where workers are obliged to pay recruitment agents. These payments may be seen as “bribes”, as Abella has suggested, but recruitment agents in fact demand the payments so it is more a form of “extortion”. Only those who can raise the money will be chosen, which creates distortion in the labour markets of the sending countries. Indeed, they are more likely to be chosen, precisely because they are willing to pay. Thus, recruitment agencies are in the business of selling jobs, or selling visas, along a chain of middlemen from the contractor in Qatar to a local sub-agent/s in a remote region of countries of origin.

What became particularly noticeable in this study was that it is the poorest, low-skilled workers who pay the agency’s commission as well as other costs such as medical test, training, pre-departure seminars, advertising and the like (see further details below). One recruitment agency in Bangladesh explained: “All low-skilled workers usually pay this charge. All skilled workers pay half. The extra money levied from low-skilled workers is an “adjustment” to cover skilled workers and professionals.” That is, the large numbers of low-skilled workers subsidize the smaller number of skilled workers and professionals deployed.

Induced Indebtedness

The money paid to recruitment agencies is a type of investment for the migrant worker, but more importantly, if he⁷⁵ has had to borrow money to pay these fees, there is substantial pressure to follow through with whatever contractual arrangements are made in order to repay the debt. Even if the migrant worker used his own savings, or was given, or borrowed money from his family or friends, there is a powerful obligation to recoup that money and pay it back. The debt establishes a momentum of vulnerability and dependence upon those who are employing him. He must agree to and conform with whatever is asked of him until his debts are repaid and he has established the financial security of his family back home – an enormous burden that too often results in jobs being performed with wages and conditions that are unacceptable. The individual may not want to work under the circumstances being offered, but is required to do so because the alternative of returning home empty-handed is not considered an option. Thus, he is also engaged in a form of “forced labour”.⁷⁶

In a study by the IOM in Bangladesh, workers were asked where they obtained the funds for the migration costs they had to pay. The most important sources of funds for migration were:

- (i) (28.20%) from own family
- (ii) (16.48%) land sale

⁷⁵ Only the masculine will be used here as we are addressing a relatively exclusive male population of construction workers in Qatar. There is, however, a burning need for research that directly addresses female migrant domestic workers and female service workers also.

⁷⁶ The ILO defines forced labour as, “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (ILO Forced Labour Convention, 1930 (No. 29)).

- (iii) (15.50%) land mortgage
- (iv) (14.32%) savings
- (v) (10.51%) loans
- (vi) (7.31%) work place
- (vii) (4.00%) selling assets such as land, house, gold
- (viii) (1.80%) cattle and
- (ix) (1.88%) others⁷⁷

The proportion of those obtaining loans in this survey seems low compared with a more recent study in Qatar (see below). The IOM noted: “An interesting aspect of these sources of funding for migration is the total absence of any formal or institutional engagements of finance, such as banks or credit-NGOs.”⁷⁸ As will be seen below, however, this may now be changing with banks in Nepal and Bangladesh providing low interest loans for prospective migrant workers. In repaying their loans, Nepalese (and others) in Qatar typically assist one another. For example, one respondent had seven men sharing a room. Each month they would give their salaries to one person who would then send it home to pay off their loan or to provide a large lump sum to their families. Thus, every seven months, one person would be able to send seven salaries. They also borrow from one another when there is pressure to send extra money home.

In discussion with the Ministry for Expatriate Welfare & Overseas Employment in Dhaka,⁷⁹ it was pointed out that family members or other local lenders were much less likely to provide loans if a young man wanted to open a local business venture. Funding migration costs for a job contract abroad, however, was deemed to be a much more secure investment. When a worker at the Probashi Kallyan Bank in Dhaka was asked why he was borrowing to spend so much money on the migration charges, rather than starting a small business for himself and his family in his own country, he replied:

Well, sir, it is very difficult to gather all that amount of money from relatives or friends. When they hear that I am going outside the country to work, then they are ready to pay me. But when I request an amount of money to start a business here, they will not believe it.⁸⁰

When asked for a further explanation, Mr Kazi Abdul Kalam of the Ministry for Expatriate Welfare & Overseas Employment explained that there is more risk in starting a business compared with the guarantee of an income (and repayment of the loan) if there is a salaried job abroad. Also, “the person asking for the money may not be trustworthy, or he is not seen to be a hard-working person, particularly if unemployed. Maybe he doesn’t work and is seen as lazy. But when he goes outside, he will be completely changed.” That is, he will have to work hard in a

⁷⁷ International Organization for Migration (IOM) (2002) *Recruitment and Placement of Bangladeshi Migrant Workers: an evaluation of the process*, IOM & UNDP, Dhaka, Bangladesh, November 2002. Page 58.

⁷⁸ IOM op. cit. page 59.

⁷⁹ Interview with Mr Kazi Abdul Kalam, 3 March 2013.

⁸⁰ Ad hoc interview in the bank, 4 March 2013.

highly disciplined set of working conditions and under contract - and this is the guarantee that the loan will be repaid.

So here we have a kind of conspiracy, or collusion, with the debt bondage that workers are forced into where the creditor and the employer are syncopated to ensure the work is performed and the contract fulfilled. The legal and contractual obligations to an employer in Qatar, where the worker cannot easily abscond and shirk his responsibilities to earn a regular salary for at least two years, is understood perfectly by family, friends, loan sharks and banks whose loans are less at risk than any local entrepreneurial ventures.

“Induced indebtedness is a key instrument of coercion” that forces workers to accept jobs and wages they did not initially agree with.⁸¹ As the indebtedness originates in the home country, it is an integral part of the recruitment process and establishes the future context of employment in the receiving country.

With usurious interest rates, this indebtedness is quite incompatible with Islamic finance ethics. Nonetheless, ILO Convention 181 allows recruitment agents to collect fees from workers if and when governments of sending countries allow it - and all major labour sending countries do allow for migrant workers to pay commissions to recruitment agencies.⁸² In practice, this leaves the door open for recruitment agencies to charge whatever they can get away with under cover of the silence of the workers and absence of documentation.

The “fees” allowed are normally one month’s salary, although in Bangladesh it is three months salary and in India, one and a half months (45 working days).⁸³ It is important to note, however, that the term “fees” relates only to the agency’s commission for their services. It does not include other charges that may be foisted on the worker. No sending country has a ban on workers paying the recruitment agents for procuring them a job abroad, unless it is for domestic work. However, there is little policing of what the recruitment agents actually do charge. Depending upon the level of exploitation, workers can lose up to 60 per cent of their wages over a two-year period as they pay off their loans.⁸⁴

In India, for example, the Ministry of Overseas Indian Affairs⁸⁵ has stipulated a maximum of approximately \$320 (Rs.20,000), but in reality agencies charge three to four times that amount. The one exception to this as identified in a study of

⁸¹ International Labour Organization (ILO) (2005) *A Global Alliance Against Forced Labour*, International Labour Office, Geneva. Page 2,5.

⁸² Women being recruited for domestic work should not pay anything, even though the norm is that they do pay, perhaps with the exception of Sri Lankans, but also there are no controls over the extent to which women in domestic service have their initial monthly salaries deducted.

⁸³ Noman Shameem, Sadia International, Bangladesh. Interview 1 March 2013; Shri Pradeep A. Indian Protectorate of Emigrants, Trivandrum, Interview 10 May 2013.

⁸⁴ Marie Apostol, at Verité, Manila Philippines, Interview 6 December 2012.

⁸⁵ See Emigration Amendment Rules of 9 July 2009, http://moia.gov.in/writereaddata/pdf/gazettenotification_eng.pdf; Under the Indian Emigration Act of 1983, the first non-Arab bilateral labour agreement with Qatar was entered into but it did not cover drivers, cooks, houseboys and housemaids. Ministry of Overseas Indian Affairs, <http://moia.gov.in/pdf/qatar.pdf>

corrupt recruitment practices between India and the Gulf States, is a government-based recruitment agency in Goa who only charged the approved rate and who would only deal with employers who would pay all other costs.⁸⁶

The Goa exception may indicate that public ethical principles are more likely to be abided by if government is involved in recruitment, and where the pursuit of private profit maximization is not present. In a study of Indian migration to the Persian Gulf was the observation that Qatari employers were aware of the costs foisted upon the workers and that they were “more than one or two months of wages”. While the employers in the study all paid for the airline ticket, food and accommodation,

[M]ost managers ... said it was the responsibility of the recruitment agent and the job candidate to agree upon a rate for the service, and employers tried to avoid being involved in this process...Overall, most employers avoided taking responsibility for their recruitment practices in India.⁸⁷

It should not be concluded, however, that employers are passive recipients without any right or ability to influence the practices of recruitment agencies. They are active in selecting the recruitment agency, skills testing and deciding on whom to employ as well as colluding in the financial arrangements. Charges to workers, and/or employers in the receiving country can pay for the following items: advertisement costs, interview costs, medical testing costs, insurance, orientation seminar fee, Department of Labor charges, government tax, airline ticket, airport tax and recruitment agency commissions. Visa/work permit charges are usually borne by the employer, although it is not always clear that they do. Again, the lack of transparency of these charges makes it difficult to determine what is being charged and who pays.

For example, why should the employee pay for the advertising charges of the recruitment agency? The request for advertising normally comes from the employer for a job opening. Second, why should a prospective employee pay for being interviewed for a job or a pre-departure orientation seminar, even if their government mandates the latter? Third, it is curious that many sending country governments require an insurance policy prior to departure, mainly to cover costs if a worker dies abroad; the policy providing for a casket, transport and some financial compensation for the worker’s family. It is deemed curious, because employers are also required to have their employees covered by insurance. One agent in the Philippines suggested that it is just an extra cost and is rarely used; and it would be unusual if the employer’s insurance did not also cover death benefits.⁸⁸ On the other hand, in Bangladesh it was explained that, in addition to establishing a bank in 2010 for migrant workers and a scholarship fund for the children of overseas workers, the government has plans on instituting an insurance

⁸⁶ Breeding, Mary (2012) “India-Persian Gulf Migration: Corruption and Capacity in Regulating Recruitment Agencies” in in Mehran Kamrava And Zahra Babar (Eds) (2012) *Migrant Labour In The Persian Gulf*, Hurst & Company, London, pp 137-154.

⁸⁷ Breeding op. cit., page 150.

⁸⁸ Miriam Mondragon, Proprietor, Mirben International Recruitment Agency, interview 4 December 2012.

scheme for migrant workers, arguing, “Although they have insurance over there, we are thinking the families should have some insurance policy here as well. Because sometimes it takes a long time to receive the compensation money.”⁸⁹

When there are arrangements that the employer pays all charges it is still unclear to what extent migrant workers are also paying recruitment agents to procure the job for them. It is unusual for the employing companies to ask their employees if they had paid additional charges – and gone into debt to pay them. For example, data from a random survey of 1,000 low-income workers in Qatar shows that 71.2 per cent paid to get their job in Qatar – the average being \$1,095. More than half (55.8%) raised the money from personal or family savings, while 45.6 per cent obtained loans.⁹⁰ Unfortunately, we do not know from this study the proportion of employers who had also paid. Workers are not usually in a position to ask the company what it had paid to their agency.

The ITUC has noted with reference to Nepal that loans from individuals (“loan sharks”) average 35% per annum, which is “142 per cent higher than the maximum acceptable interest charge of 14 per cent annual interest, as stipulated by the [Nepal] Government”.⁹¹ Although banks charge less, most migrant workers cannot provide the required financial collateral required for bank loans, forcing them to accept exorbitant interest rates from lenders. These fees must be paid for in advance of travel unless there are trust arrangements with their employers in the receiving country to deduct the money from their salaries, but Qatari labour law prohibits this.

Amnesty International’s research in Nepal found that migrant workers paid an average of NPR 100,000 (\$1,400) in fees to recruitment agents in advance of their departure. Approximately 74 per cent of those interviewed paid far more than the maximum that should be charged by recruitment agencies under Nepalese law. The scale of this debt is reflected in the fact that the Gross National Income per capita for Nepal in 2010 was only \$490.⁹²

In a Philippines campaign against “excessive placement fees” in 2012, the migrant rights NGO *Migrante*, called for Overseas Filipino Workers (OFWs) to document the fees charged to them during the migration process. This would then serve to substantiate subsequent complaints to be filed against the agencies with the Philippine Overseas Employment Administration (POEA). The campaign organizers revealed that the government was making exceptions to receiving countries such as Canada, UK, Ireland, Norway, the Netherlands and the U.S.A. There, employers are required to pay both the recruitment and placement fees.⁹³ The government

⁸⁹ Mafruha Sultana, Bureau of Manpower, Employment and Training (BMET), Interview 3 March, 2013.

⁹⁰ Gardner, Andrew, Pessoa, Silvia, Diop, Abdoulaye, Al-Ghanim, Kaltham, Le Trung, Kien and Harkness, Laura, “A Portrait of Low-Income Migrants in Contemporary Qatar”, *Journal of Arabian Studies* 3.1 (June 2013), pp. 1-17 <http://dx.doi.org/10.1080/21534764.2013.806076>

⁹¹ ITUC (2011) “ILO Committee of Experts on the Application of Conventions and Recommendations”, page 3. http://www.ituc-csi.org/IMG/pdf/ituc_ilo_ceacr_nepal_.pdf, retrieved 24 May 2013.

⁹² in ITUC, op. cit. page 4.

⁹³ see <http://migranteme.blogspot.com/2012/10/campaign-vs-excessive-and-unnecessary.html?spref=tw>

was allowing recruitment agencies to charge workers going to these countries and so the agencies were “double-dipping”, by taking fees from the employers and the migrant workers.

There is nothing stopping recruitment agencies from charging fees to both the employer and employee. There is no regulatory oversight in the countries of origin and destination to prevent this. Employers do not check if their employees have paid agency fees and employees do not check with the company if they have paid agency fees – or for what amount. Employees are typically passive and silent, in fear of offending or antagonizing their employers and jeopardizing their jobs.

Recruitment Fees⁹⁴

Consistent with ILO principles, the law in Qatar forbids Qatari placement agencies from charging migrants any fees.⁹⁵ This leaves the costs of the placement agency in Qatar as the responsibility of the employer. For those companies who find it financially onerous, or who do not want to pay these charges in order to keep their overall costs down, both recruitment and placement agencies have relieved employers by increasing the charges to the migrant workers at the point of recruitment in the sending country.

There are times when an agent may be in a hurry to fill a position available, but the worker may have no money and cannot raise a loan, or it may take too much time to do so. The recruitment agent may decide to provide the loan so the order can be filled quickly, but it will be taken from the worker’s wages. As one agent in the Philippines explained:

I cannot tell my client that the worker cannot deploy because of money, so I will arrange to take care of the problem here, not to burden them. But they can help me to collect the money. Even the workers will be happy to have their salaries deducted for those costs. They are eager to work. The problem is only the money. So, there is a visa and the company is waiting for the worker, so I will not let them travel because of money? No, I will let them travel.

The same agent in the Philippines lamented:

You know, it would be very well appreciated if we get clients who pay everything, and then later on deduct from the salary. Because it is fast deployment, and a lot of people would accept the offer. Then we can announce on the website that there is no placement fee, which attracts more people.⁹⁶

Here, the recruitment agent is openly revealing how willing she is to deceive workers into believing there is no fee. They will be attracted by the advertisement

⁹⁴ Note: for ease of comparison, all figures of costs and payments are presented in US dollars, converted from the local currencies at the market rate as of September 2013.

⁹⁵ See Labour Law 2004, Article 33; also Ministerial Decision No. 8 of 2005, Articles 14 & 19.

⁹⁶ Genoveva De Castro, Owner/Manager, Jenerick International Recruitment Agency, Interview 5 December 2012.

and when they arrive in the office it will be explained that the employer will pay for the recruitment charges and then deduct it from their wages. Further, the employing company could classify the recruitment charges as a loan to the worker. Indeed, there are provisions in Qatar's labour law (Article 70) that may cater for that:

The employer may not charge any interest on the loan he may grant to the worker and shall not deduct more than 10% from the wage of the worker in settlement of the loan.

The total of the sums to be deducted from the wage of the worker in settlement of the deductibles and debts due from him shall not exceed 50% of his aggregate wage. If the percentage which shall be deducted from the wage of the worker within one month exceeds this percentage, the deduction of the excess percentage shall be deferred to the following month or months.⁹⁷

It is not clear to what extent this provision in the law is being used to enable employing companies in Qatar to recoup recruitment costs from their employees. It does not seem to contradict Article 33 (quoted above) that prohibits agencies in Qatar from taking fees or costs from workers. Further investigation would be required to determine whether it is a common practice.⁹⁸

From interviews with the human resource managers of three contractors in Qatar, one confirmed that they pay the recruitment charges of some, but not all, workers from other countries. This depends largely on skill levels. They mostly pay for flight tickets as well as trade testing fees, although it was not clear if that applies to all workers regardless of country of origin. When three Filipino workers from the same company were interviewed, they revealed they had in fact paid recruitment fees, but only one was given a receipt that merely stated "placement fee". When asked what he thought about workers paying the recruitment charges the HR manager answered:

I am against it. We are trying to diminish this. That is why we are paying for the tickets and are negotiating also to pay the medical and the trade testing fees, so that they don't bother the workers. But you can't succeed in this. I have been in the field for more than 25 years, and you cannot - impossible, because the agents are greedy. They want to gain from everyone.

Suggesting that they were negotiating with agencies to pay them for recruitment costs was a rather incongruous response, unless they were trying to make certain that the agency did not also charge, but this was not mentioned.

Another company in Qatar argued that if the company identifies a potential employee, then they should not be charged any fee as per the agreement with

⁹⁷ Qatar Labour Law (14) 2004, Article 70.

⁹⁸ Indeed, the QF Standards that now require contractors to pay recruitment fees means that auditors need to be vigilant that they are not taking advantage of Article 70 of the Labour Law as a "loophole" provision.

the recruiting agency. The company pays for the airfare and the only cost for the worker is medical testing and document fees. In their contract with a recruitment agency in the Philippines it states, “It is hereby agreed and understood by both parties that the candidates recruited or called for the recruitment shall not be charged for any amount for whatsoever the reason, except the placement cost as approved by POEA [Philippines Overseas Employment Administration].” This clause comes close to QF recruitment standards, but which mandates that the workers, regardless of whether the sending country governments allow them, pay no fees or charges whatsoever.

Currently, there is no real control or transparency over the charges foisted on migrants at the point of recruitment, nor of possible false information provided to migrant workers, particularly by sub-agents.

Candidates with little education believe what they are being told. An agent comes to a small village and offers to put your children through college. They are desperate and want to believe it. They find the money and travel to work and support their family. But as soon as they have paid the money, they are tied into the system. And the intimidation and use of fear in the home country and the country of employment is endemic from that point on.⁹⁹

It is also odd that origin country governments stipulate minimum recruitment fees based on monthly salary. This means that the higher the salary, the higher the fees, at least in the low-skilled and semi skilled sectors as though it were based on progressive taxation. It is not entirely clear, however, why this rationale has been accepted. For example, what has the recruitment agency to do with the salary level of the migrant worker? Does the recruitment agency set, or bargain the salary for the worker and therefore deems it justifiable to take a percentage? Does it cost the agency more to procure a job with a higher salary? Surely the fee should be set in accordance with the costs of the services provided by the agency and a profit margin negotiated between the agency and the employer.

One recruitment agency in Nepal explained that the costs borne by the employer or employee were seen as something to be negotiated with the recruitment agency. Three different approaches were offered:

1. Free recruitment: the employer in the receiving country pays all the fees and charges
2. Semi-free recruitment: the fees and charges are shared between the employer and employee. This is usually negotiated, but typically the cost for the employer will be the cost of the interview, visa, work permit and the airfare. All other costs are to be paid for by the migrant worker.
3. General Recruitment: the migrant worker pays for all costs and charges except for the visa/work permit, which must be paid for by the employer.¹⁰⁰

⁹⁹ Remarks by Nick Forster, FSI Director, *Building capacities of the workers of the Ministry of Labor & Social Affairs*, QFCHT, ILO, UNODC Tripartite Meeting on Forced Labour and Trafficking, Oryx Rotana Hotel, Doha, 20 November 2012.

¹⁰⁰ “Seven Oceans” Recruitment Agency, Kathmandu. I am grateful to Arif Zaher for providing this data.

The overwhelming strength of the culture and commitment to worker responsibility for the payment of recruitment fees has seen the development of the Probashi Kallyan Bank in Nepal and Bangladesh, established primarily to cater for these costs to facilitate labour migration. In Nepal, Mr C M Koynes, Managing Director and CEO of the Probashi Kallyan Bank stated that they are willing to lend all the migration costs without collateral:

Here the migration cost, in comparison with all 17 labour sending countries, is very high. It is because of two or three reasons. The demand and supply is the first one and because of that, the middlemen take advantage and the intermediaries make a lot of money this way. And again, the interest rate for any loan either taken from banks or moneylenders or informal money lending agencies is 120-150%. And the commercial bank hardly gives any loans to the migrants. Some banks have opened their revenues but the interest is 15-17%. But you can only extract loans from these banks if you have a certain amount deposited in that bank. Otherwise, you are not eligible. The prime minister has established this bank that has an interest rate of 9% without any security. Within two years we have earned a reputation of a bank that has come to the rescue of the migrant workers. All of those we have financed, we have given them money within 2-3 days, which was previously unthinkable in this country.¹⁰¹

The Probashi Kallyan Bank in Bangladesh was also established as a specialist bank for migrant workers to provide low interest loans for recruitment charges, to receive wage payments and to facilitate remittances that family members at home can access directly.¹⁰² To qualify for the “migration loan”, the applicant must:

- 1) Be between 18-40 years of age;
- 2) Have a valid voter identification card;
- 3) Be Bangladeshi by birth;
- 4) Be physically & mentally fit;
- 5) Produce valid and genuine overseas job related documents duly attested by the competent authority;
- 6) Have a valid passport with minimum of 3 years validity;
- 7) Promise to route all wages/income into Bangladesh through this bank or its nominated representatives;
- 8) Personal guarantee by a reputed citizen or close relation;

¹⁰¹ Mr C M Koynes, Managing Director and CEO, Probashi Kallyan Bank. Interview in Kathmandu, 4 March 2013. Mr Koynes went on to say, “And the second mission of the bank is that when the migrant worker returns, we will provide them with an integrated loan. The idea behind this is that most of these workers when they return they want to settle in the urban areas as 90% of these workers who go abroad are from the rural areas. And the collateral is simple for this loan. The interest rate is 11%. The third mission of the bank is to bring back their money to the country and make it reach their beneficiaries as early as possible.”

¹⁰² There have been recent complaints in Bangladesh that the bank has not advertised itself sufficiently and not enough migrant workers have been taking advantage of their low interest loans. There have also been allegations of nepotism in its employment practices. See: Rabiul Islam, Aspirant migrants unaware of Probashi Kallyan Bank, *Dhaka Tribune*, 11 May 2013 <http://www.dhakatribune.com/banks/2013/may/11/aspirant-migrants-unaware-probashi-kallyan-bank>. Retrieved 11 December 2013; Rabiul Islam Nepotism widespread in Probashi Kallyan Bank, *Dhaka Tribune*, 22 September 2013, <http://www.dhakatribune.com/banks/2013/sep/22/nepotism-widespread-probashi-kallyan-bank>, Retrieved 11 December 2013.

- 9) Have the loan covered by an insurance policy covering death or loss of limbs risk;
- 10) Have a character certificate from the Chairman/Members of the union *parishad* [municipality board];
- 11) Provide a registration card from the Bureau of Manpower, Employment and Training (BMET).

Because only 25 per cent of workers are provided with a job offer that details the terms and conditions, the bank has no option but to waive the normal requirement to see a contract: "So the bank depends on the employee and this loan is given to the employee on the basis of trust."¹⁰³

In Bangladesh, there are some 48 banks, both public and private, all dealing with remittances. Where there are no government-to-government or private bank arrangements between countries, workers must rely upon Western Union and thus pay more commission for the service, although it is immediate.¹⁰⁴ The preferred system in Bangladesh is for the employer to pay the wages into the worker's bank account in Bangladesh. Their beneficiaries will receive it in 3-4 days. By contrast, using the *hawala* system¹⁰⁵ is considered illegal because there is no paperwork and thus no transparency. Importantly also, the government of the sending country will not receive remittances in foreign currency. However, if the employing companies in the destination countries paid the recruitment fees, it would result in increased foreign currency earnings for the sending countries.

From interviews with recruitment agencies in the five sending countries, quite a range of charges were billed to prospective migrant workers prior to their departure. As will be discussed later, the range of charges is important to document, rather than just providing average payments.

Nepal Recruitment Charges

There were only three recruitment agencies visited in Nepal. Two of these were ethical recruitment agencies that did not charge workers anything for recruitment. The third did not provide details of charges. However, according to the Nepal Association of Foreign Employment Agencies (NAFEA), costs paid to agencies by Nepalese workers going to Qatar, Dubai and Saudi are between **\$1,300** and **\$1,500**. Amnesty International has reported average recruitment fees of \$1,400 although Nepal's Department of Foreign Employment sets a maximum of \$970

¹⁰³ Pamphlet, Probashi Kallyan Bank (Expatriate's Welfare Bank): www.pkb.gov.bd

¹⁰⁴ Indeed Western Union advertising, including government offices handling migration issues, pre-departure seminar rooms and the like are overwhelming in all the five countries visited.

¹⁰⁵ Also known as *Padala* (Philippines) or *Hundi* (India), the *hawala* is an informal funds transfer system (IFT). If person A wants to send money to person B in another country, he asks a local hawaladar and pays him in the currency of his own country. The hawaladar for person A then contacts another hawaladar in the other country who then pays B in his own currency, after a code has been given to authenticate the transaction. After the remittance, the two hawaladars can settle what is owed in various ways, in cash or in kind, or transferred to other intermediaries or in a wholesale settlement process. Because of minimal overhead costs, it is cheaper than banks. "It is less expensive, swifter, more reliable, more convenient, and less bureaucratic than the formal financial sector." See El-Qorchi, Mohammed (2002) "Hawala", *Finance and Development*, Volume 39, No 4, December 2002, International Monetary Fund, <http://www.imf.org/external/pubs/ft/fandd/2002/12/elqorchi.htm> Retrieved 29 December 2013.

for workers going to the Gulf States.¹⁰⁶ This amount, however, probably relates to the total charges, rather than simply the commission charged by the recruitment agency, which is what other governments normally specify. Costs for other countries can be as high as \$7,000. For Japan it is \$18,000.¹⁰⁷

India Recruitment Charges

The recruitment agencies interviewed for this study varied in their responses to the question of how much they charged workers for recruitment costs, ranging from \$500 to \$1,500. The Charishma Recruitment Agency (Kerala) said they charged a minimum of **\$500**.¹⁰⁸ This was to cover the cost of airfare, immigration clearance, medical testing, document attestation, visa charge and trade testing.¹⁰⁹ This figure did not make sense, given the comparatively higher rates charged by other agencies. Presumably, in addition to these charges there would be an additional \$500 as pure commission for the agency. For example, the Global Hunt recruitment agency (Delhi)¹¹⁰ charges labourers **\$1,562**, comprising medical costs (\$70), Visa and ticket cost (\$383),¹¹¹ Emigration Clearance Requirement (\$56, but which should be \$3) and \$1,000 service charge (i.e. commission).¹¹² The Qatar Manpower Agency¹¹³ (Delhi) charges workers between \$800-\$1,000; Shreenath Associates¹¹⁴ (Mumbai) charge **\$1,240** and Norka Roots¹¹⁵ agency (Trivandrum) charges **\$1,093**.

In India, the Protector of Emigrants at the Ministry of Overseas Indian Affairs advised that there is an emigration clearance required for certain categories of low-skilled workers, that includes a maximum service fee of 20,000 rupees (approx. \$320) (or the equivalent of 45 day's salary, whichever is less).

Sri Lanka Recruitment Charges¹¹⁶

In Sri Lanka, workers bear the costs of charges that range from \$145-\$840. The government owned Sri Lankan Foreign Employment Agency only charges workers the approved Sri Lankan government registration fees, namely, \$100 per worker,

¹⁰⁶ Amnesty International (2011) Out on a Limb: Nepalese Workers Failed by State and Recruitment Industry, <https://www.amnesty.org/en/library/asset/ASA31/008/2011/en/535f6c5b-45e1-474c-b024-224e0ab26b08/asa310082011en.pdf> Retrieved 22 November 2012.

¹⁰⁷ Bal Bahadur Tamang, Nepal Association of Foreign Employment Agencies, Kathmandu. Interview 13 February 2013.

¹⁰⁸ Interview 10 May 2013.

¹⁰⁹ For professional workers, they merely charged 12-15 per cent of annual salary as commission. Employers normally pay for all other costs related to professionals.

¹¹⁰ Interview 11 May 2013.

¹¹¹ It was said: "although the airfares are paid for by worker, sometimes the employer reimburses them."

¹¹² For professionals they charge 20% of annual salary and for "mid-level" workers, 17% of salary.

¹¹³ Interview 14 May 2013.

¹¹⁴ Interview 4 May 2013.

¹¹⁵ Interview 7 May 2013.

¹¹⁶ Although we were able to observe and discuss the recruitment of migrant domestic workers in most countries it has not been addressed in this report. Domestic workers would require a separate study. It may be pointed out here, however, that a number of recruitment agencies in Sri Lanka gave inconsistent and confusing figures on the costs of recruitment of migrant domestic workers. It was also said that prospective domestic workers receive \$1,000 to apply and are given the money just prior to deployment. This was confirmed by a number of sources who also explained that sometimes the domestic worker takes the money but does not leave, then go to another agencies for another \$1,000 - as a "scam". In an attempt to stop this they were introducing a "fast track" exit procedure at the airport to prevent them from absconding once they had received the money.

approval forms (\$5) and Medical resting (\$40) for a total of **\$145**. By contrast, Al Reshad Enterprises¹¹⁷ charges \$230 commission, \$US 380 for airfare \$190 for a sub-agent and \$40 for medical and police report for a total of **\$840**.

The employing companies that Summit Lanka Pvt. Ltd¹¹⁸ recruit for pay the agency \$200 per person commission. However, if their client pays the airfare, they do not pay the \$200. The ticket is around \$230,¹¹⁹ medical tests are \$42 and the agency commission is \$230 “as approved by the Sri Lankan government - i.e. up to 40 per cent of monthly salary”. The total charge to workers is **\$1,185**. The Royal Regency recruitment agency charges approximately \$92 for registration fee, \$230 for the airfare, \$57 for medical tests, \$10 for the police report, \$57 for training (including a uniform and meals), \$20 for their passport, \$115 for transport and \$76 for commission for a total cost of **\$657**. Selco International charges \$92 for the government tax (or registration fee), \$57 for medical tests, \$11.50 for government orientation seminar, \$23 for transportation and uniforms, \$20 for the passport (or \$38 for fast processing), \$38 for visa processing, \$1.50 for the police report (others charge more), \$3 for the Foreign Ministry, \$12 for Qatar embassy attestation, \$190-206 for the airfare, and \$450 commission (or one month’s salary, whichever is higher)¹²⁰ ; total cost **\$903**. For professionals, the Qatar embassy requires the original education certificate to be verified, charging \$23.

Summit explained, “the government stopped giving loans for low-skilled workers around two years ago because they were not being paid back by the workers. We can’t trust low-skilled workers, moneywise.”

Bangladesh Recruitment Charges

In Bangladesh, workers reportedly pay recruitment charges between \$616-1,200. The Dhaka Eastern Overseas Recruitment Agency said they spent between \$100-200 in advertising but they do not charge workers for this. They take a commission of \$200 per person, \$500 for the airfare, \$20 for government tax, \$15 for the Qatar embassy fee, \$20 airport tax, \$50 for medical test, \$50 for skills testing, \$100 for passport and \$50 for sub-agents, for a total of **\$955**. DSRB International charged \$26 for the trade skill test, \$102 for medical test, \$51 for “immigration permission”, \$77 for “manpower permission” and commission of \$360 - a total of **\$616**. The employing company was expected to provide the air ticket of around \$300. Sadia International charges \$45 for Medical, \$55 for immigration clearance, \$300 for the airport tax, \$200 for training, commission \$250 plus airfare (eg. \$350) coming to total of approximately **\$1,200**.

¹¹⁷ Interview 19 March 2013.

¹¹⁸ Interview 23 March 2013.

¹¹⁹ For professionals, it is \$350 plus half of their first salary as commission.

¹²⁰ Selco noted that the commission is negotiable, depending on whether the employer or the worker is paying. If it is a bulk recruitment order, then the commission can be reduced.

Philippines Recruitment Charges¹²¹

Recruitment charges in the Philippines are relatively low in comparison to other sending countries. This is largely because agency fees are taken in kickbacks or collected from workers in other ways and under different designations. Excel Green Kard International recovers \$60 for the compulsory training by the Technical Education and Skills Development Authority (TESDA), \$60 for medical testing, \$144 for insurance and the regulation one month's salary for commission (one month's salary), a total of approximately **\$664**. Jenerick International Manpower explained that their "package" for the whole process is a charge of **\$1,600**, "inclusive of everything ticket, visa stamping in the labor office, training, passport, transportation, food, airfare from the province to Manila etc." Insurance is \$140, the TESDA training \$50 and they take approximately \$250 commission. Sub-agents are paid \$300-400 and the agency pays them immediately in order to receive the passport. These costs will be retrieved from the workers.

Other research on recruitment fees in the Philippines suggests that low-skilled workers, with an expected salary of around \$432 per month, paid \$270 to \$400. But these are only the agency commissions. Professionals such as nurses or engineers pay a smaller proportion of their annual income (\$400-\$800 in fees).

[R]elative to other countries, recruitment costs for Filipino migrant workers heading to the United Arab Emirates and, even more generally, to the Persian Gulf, are much lower compared to costs facing migrants from other sending countries, such as Sri Lanka, India, and Nepal. Various reasons have been given for this discrepancy, including the existence of more sophisticated regulations in the Philippines and the desirability of Filipino workers in general, due to their higher education and English language skills.¹²²

At the premises of Mirben International Recruitment Agency in Manila, there were large signs advertising that the agency does not charge any recruitment fees. Thus, there was no data for fee structures from this agency. Further, the accommodation building attached to the office and food was provided free of charge.¹²³ Mirben even paid the cost of passports. This agency's clients were largely women for domestic work abroad. Therefore, ostensibly, Mirben's income can only be derived from their clients, the employers abroad, who pay all costs. However, as Agunias points out, agencies that advertise a "no placement fee" policy to entice applicants may end up charging "recruitment-related costs" that will be deductible from the person's future salary¹²⁴ that may be from 3-4 months, just for the accommodation

¹²¹ Only two agencies interviewed in Manila dealt with construction workers as well as female domestic workers. The third agency only deployed migrant domestic workers. It is noteworthy, however, that one agent clearly explained how she draws up a replacement (or substitute) contract, or agreement, to replace the mandatory contract that specifies a minimum of \$400 per month for domestic workers. She explained: "in order not to deceive them, I tell them that their employer is not prepared to pay the \$400, but only \$270. So sign here." She does not give them a copy of this contract, because it is illegal and she would be liable to prosecution.

¹²² Agunias, Dovelyn Rannveig, (2010) *Migration's Middlemen: Regulating Recruitment Agencies in the Philippines-United Arab Emirates Corridor*, Migration Policy Institute, Washington. Page 11.

¹²³ The building clearly had been a large 3-storey factory or warehouse that, according to the owner, could house 500 - in bunk beds. There were 300 young women there preparing to be deployed as domestic workers at the time of our visit.

¹²⁴ Ibid.

provided; and whether deducted by the employer and remitted back to the agency or directly remitted by the migrant worker to the agency; or from the employer to the placement agency in Doha and then to the recruitment agency in the Philippines.

Table 7. Summary of Private Recruitment Agency Charges*

Country	Charges Range US\$	Approx. Average Charge US\$
Philippines	664-1,600	1,130
Nepal	1,300-1,500	1,400
Bangladesh	616-1,200	925
Sri Lanka	657-1,185	900
India	1,093-1,562	1,300
India Workers, Doha**	710-1,185	890

*Taken from only 15 recruitment agencies interviewed for this research

**From 9 interviews in Doha where workers provided the amounts

The data on the recruitment charges provided from this research was very limited and from a small convenience sample. They cannot be seen as representative of each of the sending countries. They nonetheless provide some idea. Although it is commonly understood that workers from the Philippines generally pay less than those from other countries, the data provided in the table above do not reflect that. Also, from interviews in Nepal and Bangladesh, there were claims from both that they paid the most. At the same time, we know that some workers from the countries visited have paid between \$3,000-\$5,000 to recruitment agencies.

Importantly, while most studies of recruitment charges provide the average costs to the workers, these accounts are in a sense misleading and do not tell the full story. In the next section below, it will be made clear that some of the large differences in the recruitment charges reflect the practice of kickback payments to personnel of some employing companies in Qatar. As shown above, there are quite large differences between the amounts workers pay, depending on the agency they use within their country, but also depending on their destination country. As one returnee from Qatar in Nepal noted:

If we want to go to other countries, they ask for too much money. UK, New Zealand, Japan, Kuwait, Korea is too much money. Only Qatar, Dubai and Saudi is \$1,300 or \$1,500 etc. But other countries are almost as high as \$7,000.

This is partly because the fees are based upon different salary levels in the destination countries and possibly higher fares, but the latter would be marginal. Typically, however, prospective migrants are unaware of the regulatory maximum recruitment charges that their governments specify. For example, only 5 per cent of the 200 respondents interviewed by the IOM for a study conducted in Bangladesh had some knowledge of the maximum fees allowable.¹²⁵

In interviews with 22 workers of QF contractors¹²⁶ we found some significant differences in the recruitment fees paid. For example, an Indian worker recruited directly by his cousin paid \$200. Another who was hired through a friend paid \$1,185. Three Indian workers – a mason, a carpenter and a secretary – who were recruited by the same agency paid, respectively \$650, \$720 and \$830. These may only be marginal differences. However, with another Indian agency, 5 workers paid very different amounts. For example, one gypsum worker paid \$710 while another gypsum worker paid \$1,185. Of the three masons recruited by the same company, one paid \$710 another \$915 and the third paid \$1,095. These charges are substantially discrepant and do not reflect the monthly salary levels, nor the one month's salary as allowable commission. The salaries of the gypsum workers were both QAR1,000 (\$270) while the masons ranged between QAR750 – 900 (\$200-250). Few workers knew what the payment was for. Two said it was for the airfare, one said it was the agency's commission and the rest said they did not know. They probably did not ask, were not told and were not given a receipt.

As noted previously, many workers pool their resources in order to pay off their loans as quickly as possible. If there are 5 or 7 together in a room, one month's salary from each may be able to eliminate the debt and eliminate possible threats to their families. If a worker was first in the rank, his loan could be paid off in one month, or up to 6 or 7 months. It is a kind of deconstruction or informalization of the loan. Better to owe fellow workers on the job site than to owe a loan shark back in the home country. It is at this point that whoever is the debtor in the home country can raise the payback requirements and in practice continue it indefinitely, if there is no proper written contractual agreement with interest rate and due dates. We did not, however, find any instances of this happening, nor examples of conflict between the workers over the money shared. This is not to say it does not happen.

Worker Payments as Source of Corruption - "Kickback" Bribery

Employing Companies in Qatar, or their representatives, often require being feted and given special treatment when they go to the sending countries to do the trade testing and candidate selection. Recruitment agents do not hesitate to provide them with what they ask for. More importantly, perhaps, the employing company owners or their representatives can charge the agency from \$200-600 per

¹²⁵ International Organization for Migration (IOM) (2002) *Recruitment and Placement of Bangladeshi Migrant Workers: an evaluation of the process*, IOM & UNDP, Dhaka, Bangladesh, November 2002, page 57.

¹²⁶ These interviews for the Migrant Worker Welfare Initiative were conducted mid-April 2013.

head for the contract. If the order (or demand letter) was for, say, a modest 200 workers, the kickback to the company owner or the representative will be \$80,000 assuming an average payment of \$400 per worker. As the demand increases, so do the kickbacks. Thus, if the recruitment is for 1,000 workers, the kickback could be \$500,000.

These ex-gratia payments, bribes, extortion or kickbacks, by recruitment agencies to employing companies are entirely dependent upon the ability of the recruitment agency to recoup such expenses from the workers they recruit. As one recruitment agent explained, skilled workers pay much less than low-skilled workers and most often nothing. Certainly, professionals pay nothing. This means that the poorest, most low-skilled workers are paying for:

1. the monetary kickbacks that go either directly into the pockets of HR managers and other middle managers who travel to the sending countries for skills-testing and to decide on who will be hired;
2. the ex-gratia payments in-kind that entertain the above managers – for example, hotel bills and food may be paid by the recruitment agent, but the manager takes the receipts back to his company for reimbursement. In addition, managers of contractors like to have recruitment agents provide their entertainment in nightclubs, casinos and brothels.¹²⁷

Any documentation or estimation of recruitment costs, charges and fees is going to be questionable if it does not take into account such expenditures and cash payments made by the recruitment agency to the company or personnel of the company with which it is dealing; that is, the company that is contracting the agency to recruit its labour. The range of payments as told by migrant workers themselves, by agencies, by governments and researchers need to factor in these kickback payments that are essentially bribes or extortion.¹²⁸

Any inquiry, or audit, of a QF contractor, should include a check on which personnel choose the labour recruitment agencies from the various source countries, as well as labour suppliers in Qatar; and who travels to these countries to make arrangements with the agencies that might include trade skills testing, interviews and short-listing of candidates for deployment. From the perspective of the contractors, subcontractors, labour supply companies and their personnel in Qatar, there is a conspiracy of silence. From the perspective of the agencies in the sending countries, there is a resentful compliance in order to stay in business. Many agents interviewed for this study expressed regret that they were required to accept these procedures, with the knowledge that it is their own compatriots who are unknowingly bearing the costs of the luxury, entertainment and kickback payments.

¹²⁷ Recruitment agencies and government official in the five sending countries all acknowledged this.

¹²⁸ Agunias (2010: 27) noted that the strict exit requirements from the Philippines meant that migrants often set aside money to bribe migration officials at the airport. This is the only reference to bribes in her report.

The cutthroat competition, or what one respondent called the “unholy competition”, became intense during the financial crisis of 2007-8¹²⁹ as recruitment agencies won business contracts by supplying workers free of charge to the employing company – precisely because they could charge the workers. To make themselves even more attractive, the recruitment agents also began paying the employing companies a sum of money per person deployed.

During one interview, a recruitment agent insisted that some of these kickback payments are being made with the full knowledge of the executives of the employment companies. Indeed, he explained that he sends money directly into the companies’ accounts as income, so that there are accounting records. Others suggested that only the middle managers were involved and that their superiors were unaware of what was occurring. These, as reported by the agencies, are always “under-the-table” cash transactions.

This practice must be seen as one of the most cynically exploitative practices in modern labour relations. Not only are individual workers placed in positions of debt bondage, it is the most vulnerable, the poorest, low-skilled, least educated, and least able to pay, who are charged the fees. Others who are classified as skilled are spared from this servitude because of their fewer numbers, high demand for their services and their unwillingness to pay. It is precisely for this reason that this kickback practice cannot be deemed to be simply part of the “culture of business” and thus legitimated.

In all countries visited, there were recruitment agents who claimed they did not participate in kickback arrangements. Others said they paid because they had no option if they wanted to maintain their business and be competitive. For the latter, some complained that they were victims of these demands; one of the difficulties they faced in the industry. Those agents interviewed who denied making such payments also said that they had agreed to kickbacks in the past, but do not do it any longer because now they are dealing with larger, more reputable companies. Some did intimate that if they felt it was necessary, they would do it. It was unclear whether they were hedging their bets on whether this interviewer was potentially a large client and were trying to ascertain if that was a requirement for the business. If they said they would never do it, they ran the risk of not being considered as a business partner. Others were quite unabashedly forthcoming, explaining the range of financial and in-kind options.

From our interviews, there were two main sources that informed about the kickback system. The first was the recruitment agencies themselves. They argued that the competition was so great that if they did not accept the demands, they would not get the contracts and would go out of business. The second source was government officials in Nepal, India and Bangladesh who were well aware of the practice and who also complained of endemic corruption throughout the system.

¹²⁹ Another respondent suggested it has been practiced since the late 1980s.

In an attempt to locate when kickback payments are typically made, one indicator is the discrepancies between nationals in what they are charged. From an interview with one recruitment agent in Dhaka, it was pointed out that the extra charge, from \$200–600 (or more), is an indication that the recruitment agent is paying kickback money to the employing company in Qatar. He noted that if Bangladeshi workers in Qatar were interviewed and they said they paid \$1,000 to the agency for the job, it would mean the employing company was not taking anything. If they said they had paid \$1,500, it would mean that the company had taken a kickback of \$500 for that worker.

Thus, estimating the average costs of recruitment to agencies does not tell the whole story. The charge to workers is not merely accounted for by a reference to “whatever the market will bear”. It also reflects under-the-table bribes to the employing company or its employees in order for the agency in the sending country to obtain the contracts.

Although we did not obtain first-hand evidence, it would seem reasonable to assume that some placement agencies and labour supply firms in Qatar are also demanding these kickbacks in exchange for the visas/demand letter/labour orders. The World Bank report noted how surreptitious payments through a *hawala* system enabled Qatari-based agencies to receive payments from agencies in Nepal, but again, the corruption of bribery and kickback payments were not mentioned.¹³⁰

In addition to the testimonies of the agencies in the sending countries as well as other stakeholders interviewed, two direct examples of the kickback payments system were documented during the research for this report.

The first experience with this author was with a Bangladeshi individual in Doha who, when I mentioned I was going to Dhaka, offered to introduce me to a recruitment agent there as he was often asked to find workers (the name of the agency is not mentioned in this report). When I returned from Dhaka, this individual continued to contact me to see if I could provide him with an order to supply workers to Qatar Foundation. For some months I resisted discussing it with him and emphasized repeatedly that I was not in a position to do this. However, when his persistence increased, I asked him “what will I get if I place an order?” He would not speak about it on the telephone, but insisted we should meet to discuss the matter. When we met, I asked what he would give me if I placed an order for 30 workers? His reply was \$500 per head. When I asked how much would it be for 100 workers, the payment rose to \$600 per head. Thus, for 30 workers, I would be given \$15,000 cash, with no documentation. For 100 workers, I would receive \$60,000. This example illustrates how the kickback payments system functions in practice.

The second, similar, example involved email correspondence and a telephone conversation, between a recruitment agent (RA) in Bangladesh and a businessman in Doha who assisted in the research.¹³¹ The exchange was the following:

¹³⁰ Endo Esaku & Afram, Gabi (2011), *The Qatar-Nepal Remittance Corridor: Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process*, World Bank, Washington.

¹³¹ While providing this documented evidence, the businessman asked to remain anonymous.

I saw your advertisement in Qatar Living for Bangladeshi workers. How much do you charge to bring in 50 workers for the construction sector (brick layers, masons, pipe fitters, steel fixers)?

RA: Thanks for your mail. We don't charge any money from the company, and the company just needs to provide the visa and joining ticket. May I know your requirements details? How much basic salary are you paying to the worker, food, accommodation and other facilities?

We can pay salary in range of 600-900 QAR (With over time it will be 750-1,000), and we can provide visas and tickets. Food allowance is 200 QAR, free housing and transport. How much will you charge each worker? Do you require any further information from me?

RA: No I don't have any problem.
We charge 600 USD from each worker. In this 600 USD we do immigration permission, manpower permission medical check up and our service fee is including.
Please give me your company details.
And if you have any demand you can tell me.

Can you provide me with a detailed breakdown of the different costs that make up the \$600?

RA: Thank you for your early response. We don't provide cost details to anyone. This is our company policy. May I know why you are asking this?

We don't provide any money receipt to worker as they don't need it, but we have a worker agreement form where all the details of fee, company details and salary details written in our Bangla language. Where they agree to work in that following company and to show the company if needed. We give it with employee when they leave our country. However, we maintain it for our own company policy.

The correspondence was subsequently followed up with a telephone call to Dhaka.

I have been speaking to some other recruitment agencies in Dhaka, and they are willing to offer me a good commission. I'm a serious businessman, will there be commissions in our dealings? I want to do what's best for our business.

RA: Good! I don't wish to bargain with you either. I will give you 2,000 QAR [approx \$550] per worker, which is 100,000 QAR [\$27,400] for this deal.
Please send me the demand letter soon so that we can go forward.

I supply workers to another company ...

RA: Do not worry! The workers won't say a word. We have all these silly government regulations and all, but we can take care of that.

So will you be charging the workers for my commission?

RA: Of course! I won't be paying you from my own pocket. The workers pay willingly. If you have other demands, let's talk again soon. I hope to receive the demand letter as soon as possible.

The two cases above demonstrate the extent to which agents in sending countries are willing to compensate employers in Qatar, at the expense of the workers. These are quite substantial sums of money involved. Yet, one scholar has argued that this is merely petty corruption that exists between countries of origin and the Gulf States in the migration process. It is nothing new and reflects systems of influence, discrimination based upon class, caste, gender and other factors which are all functional and are no more cause for moral outrage than the kinds of corruption that we see in London financial networks or American politics.¹³² Comparatively, this may be true, but what is of concern is not so much the illegal ways and means by which migrant workers find their jobs in Qatar, but the extent to which they are the poorest who end up bonded and exploited through the charges they must pay and which are by no means petty to them. As this report shows, it is serious corruption that is operating that amounts collectively to tens of millions of dollars.

It is the process of recruitment that initiates the whole cycle of abuse and vulnerability of workers, where deception, bribery and any other opportunities to exploit the circumstances of migrant workers, take place. To take a rough and conservative estimate, if 300,000 low-skilled workers are required over the next two or three years in Qatar, there is potential for \$120 million in kickback bribes to employers (assuming a modest average of \$400 per person). Alternatively, ethical recruitment that is paid for by employers will be added to the budgets of their project tenders – in a level playing field – and increase the foreign currency earnings of the origin countries. Ultimately, the Qatari authorities will pay for this, but purchase a more equitable and honest model of labour recruitment.

In summary, the evidence from the study suggests that prospective migrant workers in the country of origin are paying far above the recruitment commissions that their countries allow (usually one month's salary, but up to three) in addition to other costs. These are being paid to licensed recruitment agencies, their sub-agents in rural areas and individuals through migrant networks. Some of these funds are being paid back to the placement agencies in Qatar as a means to circumvent Qatari Labour Law that prohibits deductions from wages for recruitment fees. The costs borne by workers, up to \$3,000–\$5,000 (approx. 11–18,000 QAR), are essentially “bribes” demanded (extorted) by recruitment agents to secure the jobs in Qatar for which they enter into debt with high interest rates. This is of course usury, a practice that is frowned upon and is illegal in Islam; yet Muslim employers and sponsors turn a blind eye to their participation in allowing or requiring their employees to pay these charges/bribes. They sell jewelry,

¹³² Osella, Filippo & Osella, Caroline (2012) “Migration, Networks and Connectedness Across the Indian Ocean” in Mehran Kamrava And Zahra Babar (Eds) (2012) *Migrant Labour In The Persian Gulf*, Hurst & Company, London, pp 105–136.

property and other assets in order to secure the employment. This is now well documented.¹³³

The study also found evidence of widespread “kickback” bribes by recruitment agencies in the sending countries to personnel of employing companies in Qatar in order to secure the labour supply contracts, ranging from \$200–\$1,000 (approx. 730–3,650 QR) per person. Agencies often also cover the costs of Qatari company personnel traveling to the sending countries for trade skill testing, including hotel charges, food, “entertainment” and sometimes airfares. The poorest, low-skilled workers go into debt to pay for the costs of this corruption, subsidizing skilled and professional personnel who are fewer in number and usually pay nothing.

The banning of recruitment fees and other charges to workers may be considered as one of the most important recommendations that have been adopted in QF Mandatory Standards. As it is implemented, it should have broad ranging reform of the current corrupt practices, from recruitment agents in the sending countries to agents and employing companies in Qatar. It will go a long way in eradicating or at least reducing the corruption and conditions of debt-bondage, forced labour and trafficking.

It may also be argued that, for the migrant destination country, any individual, organization, agent or company that resists the mandatory elimination of workers paying recruitment fees must come under suspicion in light of the findings on “kickback” bribery.

¹³³ For India, see Rajan, S. Irudaya, Varghese, V. J. & Jayakumar, M. S. (2011) *Dreaming Mobility and Buying Vulnerability: Overseas Recruitment Practices in India*, Routledge, New Delhi.

CHAPTER 4

RECRUITMENT AGENCIES

Recommendation 3: *To ensure proper recruitment practices, ethical recruitment agencies must be employed who take nothing from migrant workers. Sub-agents in local regions, another source of deception and exploitation, should also be regulated, brought under ethical agencies, or not used at all. This requires the establishment of a comprehensive accreditation process. To assist in ensuring ethical recruitment practices, formal collaboration or partnership between the Qatar authorities, its clients and private ethical agencies, as well as with government agencies of the sending countries, either through the relevant ministries of the Qatar government or directly. The Qatari government could establish its own recruitment agency with offices in the main labour sending countries. A combination of state and market recruitment would be a balance of government-to-government and private ethical agencies. Government-to-Government agreements with ethical recruitment principles may be the best way to set benchmarks for the whole industry of labour supply for Qatar.*

Recommendation 4: *Agencies in Qatar who supply (or lease) labour on a temporary basis need to be monitored to ensure compliance with ethical recruitment standards. Although labour supply firms may be convenient alternatives for contractors and subcontractors, they must not be used to avoid the responsibilities of direct hire.*

Recruitment of migrant workers to Qatar must go through an individual or corporate agent that is licensed by the Qatari Ministry of Labour.¹³⁴ The law here, however, only applies to Qatari placement agencies and not recruitment agents and agencies in the sending countries.

There are 4 types of recruitment that prospective employers utilize in the Asian sending countries:

1. Direct employer recruitment
2. Government employment services
3. Individual brokers with access to migrant networks
4. Private employment agencies

¹³⁴ See Labour Law 2004, Articles 27–37.

It has been suggested that the first two means have substantially declined and almost disappeared in Asia, while the second two have increased globally because of the increased scale and diversity of migrants. At least half of migrants move because they know others, including relatives, who have migrated before them.¹³⁵ It has been suggested that skilled workers, industrial/technical and construction workers mostly use personal and migrant networks. Arab workers are even more likely to use networks. Asians, on the other hand, mainly use private employment agencies.¹³⁶

For most countries, deployment of female domestic workers requires the use of an agency in both sending and receiving countries. Because they are deemed to be particularly vulnerable, agencies are required to take responsibility and be available for direct contact if anything goes wrong. In Bangladesh, after a ban in 1998 against sending women abroad as domestic workers, the government realized that illegal migration and trafficking of women had increased as a result. The ban was eventually lifted in September 2003, but restricted to around 20 the number of recruitment agencies that were allowed to deploy domestic workers. These agencies have to submit extra security funds of around \$20,000 to the government.¹³⁷

In the Philippines, as in most of the sending countries, the laws make the license renewal of recruitment agencies contingent upon monitoring results by POEA. It is renewable every four years. Recruitment agencies have to provide a security bond that is usually substantial but varies from country to country, to be paid by recruitment agencies before they receive their license. In case of fraudulent conduct of a recruitment agency with regards to workers, the government may utilize the security bonds to settle their obligations.

In all our interviews in India reference was made to the reform of the Indian Emigration Act of 1983 that was widely considered to be outdated and inadequate. Nonetheless, the procedures for the licensing of recruitment agencies by the Ministry of Overseas Indian Affairs require that they be a registered company, have police clearance and substantial financial backing. They require at least 50 square meters of office space that is accessible to prospective migrants and lodge a bank guarantee of 20,000,000 rupees (approx \$320,000) that will be forfeited if they break the law. More recently, it was legislated that recruitment agents must have a university degree (in any field). However, there is no “character test” conducted and no interview. The Protectorate of Emigrants oversees the licensing procedure in each state.¹³⁸

While there is provision for the registration of recruitment agencies in India, on a state-by-state basis, there are many unregistered agencies operating with the

¹³⁵ For Bangladesh, see Rahman, Md Mizanur (2011) “Recruitment of Labour Migrants for the Gulf States: The Bangladeshi Case”, Institute of South Asian Studies (National University of Singapore) ISAS Working Paper, No. 132 - 6 September 2011; for India, see Rajan, S. Irudaya, Varghese, V. J. & Jayakumar, M. S. (2011) *Dreaming Mobility and Buying Vulnerability: Overseas Recruitment Practices in India*, Routledge, New Delhi.

¹³⁶ International Labour Organization (2013) *The Living and Working Conditions of Migrant Workers in the Gulf Cooperation Council Countries*. Note, however, that this study focused on Kuwait and UAE and did not include Qatar.

¹³⁷ Mafruha Sultana, BMET, interview 3 March, 2013.

¹³⁸ Shri Pradeep A., Protector of Emigrants, Trivandrum. Interview 8 May 2013.

knowledge of the governments who seem powerless to do anything about it. It has been observed, however, that there is a tendency in India (and likely elsewhere) that recruitment agencies recruit people from the same community in India to the same country and where possible, to the same company. This serves to prevent social isolation by the formation of communities, or Diasporas, in the destination countries. Indeed, sometimes reintegration back home is difficult and they want to leave again.¹³⁹

There was an attempt in India around 2008 to reform the Indian Emigration Act because it was based upon a “protective framework” for those below a certain education level who required a clearance for emigration. Following discussions with the International Organization for Migration (IOM) the government wanted to move towards the “management of migration”, but critics argued that it should not be a “free play of market forces” that will undermine the rights of migrant workers. The dialogue stopped and the government seems to have abandoned the idea.¹⁴⁰

Private recruitment agencies act as “private gatekeepers”. As intermediaries between the employers and migrant workers, they are able to manipulate information, as well as negotiate on behalf of both parties. The ILO refers to them as “merchants of labour”¹⁴¹ namely, all those intermediaries involved in generating an income from the migration process. These include private recruitment agents, sub-agents, placement agents, government employment services, as well as family members who provide finance for the travel, accommodation and employment – and who do not provide the funds freely, but treat it as an investment in their relative, and expect high interest rates.¹⁴² These are all operating in the “migration industry” comprising travel agents, labour recruiters, brokers, interpreters, housing agents, immigration lawyers, human smugglers, human traffickers, government departments, ministries, embassies and consulates and so on.¹⁴³

By contrast, it is reported that there is an increasing tendency by employing companies in Qatar and elsewhere to use existing and former employees to procure new migrant labour from the sending countries. They may use their contacts with registered or unregistered recruitment agencies or sub-agents in their home countries or may solicit friends and relatives. However, the estimations of the extent of network recruitment are contradictory. For example, the ILO estimates that up to 80 per cent of recruitment are now arranged in this way, bypassing private placement agencies in the receiving countries.¹⁴⁴ On the other hand, a recent ESCWA report suggested that over 90 per cent of labor recruitment

¹³⁹ Rajan, S. Irudaya & Auke Boere (2012) “Low-skilled Indian Construction Workers in the Gulf, Singapore and Malaysia Return to India: Reintegration and Remigration” in Irudaya S. Rajan (ed) *India Migration Report 2012: Global Financial Crisis: Migration and Remittances*, Routledge, pp. 151-168.

¹⁴⁰ J. John, Executive Director, Center of Education and Communication, Delhi. Interview 13 May 2013.

¹⁴¹ It is not clear if this term is derogatory. See Kuptsch, Christiane (2006) (ed) *Merchants of Labour*, International Institute for Labour Studies and International Labour Office, Geneva. <http://www.ilo.org/public/english/bureau/inst/download/merchants.pdf>

¹⁴² Personal interview with former Nepali worker in Doha, 13 Sept. 2012.

¹⁴³ See Castles, Steven and Miller, Mark (1998) *The Age of Migration*. Basingstoke: Macmillan.

¹⁴⁴ Mr Azfar Khan, ILO, interview, 31 January 2013.

that takes place in Bangladesh, India, Pakistan, and Sri Lanka is done through private agencies.¹⁴⁵ Another estimate for Bangladesh, suggests 62 per cent use private individuals.¹⁴⁶ In the Gardner et al. (2013) survey of low-income workers in Qatar, 64.2 per cent workers used a private agency, while 35.7 per cent used some other form of intermediary, namely individual migrant networks.¹⁴⁷ Until a broader, large-scale survey is conducted between the sending and receiving countries that canvasses governments, agencies, employers, and migrant workers, it is not possible to generalize the proportions of those who use private agencies or non-registered individuals brokers.

It has been noted that many individual brokers may be coerced (by their employers or sponsors) into recruiting relatives, friends, neighbors, and other villagers from their home countries.¹⁴⁸ These individual brokers operate outside whatever regulatory frameworks are in place and may be implicated in much of the corruption and trafficking that has been identified. Financial transactions of individual brokers who are employees in Qatar are often done clandestinely, rather than through legal channels. As was explained in an interview in Dhaka, some Bangladeshi workers are doing recruiting business for their sponsors.¹⁴⁹ At least in some Gulf countries, certainly Saudi Arabia, there is a limit or ceiling to the amount of money a worker can remit home.¹⁵⁰ If his salary is \$250 per month, he will not be able to remit more than this, because he needs to present his identity papers (*iqama*) when sending money by Western Union or any other financial intermediary. If he earns \$3000 from other activities, for example, he will be obliged to find other means.¹⁵¹

Country of Origin Ministries for Migrant Welfare

All sending countries have substantial government involvement to encourage, regulate and manage the migration of labour abroad, for example:

India:	Ministry of Overseas Indian Affairs
Philippines:	Philippines Overseas Employment Administration
Nepal:	Ministry of Foreign Employment
Bangladesh:	Ministry of Expatriates' Welfare and Overseas Employment
Pakistan:	Ministry of Labour, Manpower and Overseas Pakistanis
Sri Lanka:	Ministry of Foreign Employment Promotion and Welfare

Within these ministries, there are a panoply of departments and bureaus for administrative, policy, welfare, think-tank research as well as the management and

¹⁴⁵ United Nations Economic and Social Commission for Western Asia (ESCWA), *Inter-Regional Report on Labour Migration and Social Protection*, May 2013, United Nations, New York, ESCWA, Beirut.

¹⁴⁶ Rahman, op. cit.

¹⁴⁷ Gardner, Andrew, Pessoa, Silvia, Diop, Abdoulaye, Al-Ghanim, Kaltham, Le Trung, Kien and Harkness, Laura (2013) "A Portrait of Low-Income Migrants in Contemporary Qatar", *Journal of Arabian Studies* 3.1 (June 2013), pp. 1-17. <http://dx.doi.org/10.1080/21534764.2013.806076>

¹⁴⁸ *ibid.*

¹⁴⁹ Mamunur Rashid, Managing Director, Probashi Kallyan Bank, Dhaka, 4 March 2013.

¹⁵⁰ It is not certain whether this applies in Qatar.

¹⁵¹ See below the case with a Bangladeshi worker and kickbacks.

regulation of emigration visas, licensing of recruitment agencies etc. In Bangladesh, for example, there is also the Bureau of Manpower, Employment and Training (BMET). Established in 1974, the bureau operates as the government regulator. It ceased recruitment practice with the establishment of Bangladesh Overseas Employment Services Ltd as the government recruitment agency. BMET renews licenses of recruiting agencies, provides emigration clearance after verifying visa papers and employment contracts, welfare services to workers abroad, training and the promotion of migration. It is also increasing government-to-government contracts for the supply of Bangladeshi labour.

Government recruitment agencies

The Philippines government had originally acted as the primary agency for the deployment of migrant workers around the world. While being the most entrepreneurial government with respect to the facilitation of Filipino overseas workers, by 2008, the Philippines government's role has been considerably reduced over time. It now only handles one per cent of the total annual deployment, restricted to government-to-government arrangements where there are bilateral agreements between the two countries.¹⁵² The Bangladesh Overseas Employment Services Ltd (BOESL) was established in 1984. This is a government run recruitment agency that has in the past dealt more with professional migrants in small volumes, but is now more active and with a greater range of occupations.¹⁵³ In Sri Lanka, there is Sri Lankan Bureau of Foreign Employment (SLBFE). In India, each state has its own government recruitment agency. However, as with most other countries, government agencies deploy only a small proportion of migrants compared with the private sector, in part because they do not advertise and market their services; perhaps also because local sub-agents work mostly for private licensed and unlicensed agencies. In Kerala, the Department of Non Resident Keralites Affairs (NORKA) was established by the government in 1996 to ensure the welfare of the migrant workers from that region - to "redress their grievances and safeguard their rights." In 2002 the department established NORKA-Roots as their field agency, acting as an interface between the Non-Resident Keralites and the Government of Kerala and provides a forum for addressing migrant worker problems and rights and rehabilitating returnees.

Associations of Recruitment Agencies

Most associations of recruitment agencies in sending countries have been established to serve the interests of their members as government lobbyists, but also with the view to professionalize and protect against unlicensed brokers that undermine the reputation of the industry. Typically these associations have a code of ethics, or code of conduct, that serve as guidelines for their member agencies.

¹⁵² See Rosalinda D. Baldoz, of the Philippine Overseas Employment Administration: IOM Conference Proceedings, *Organizing the Association of Employment Agencies in Asia: Moving Forward to Action on Ethical Recruitment* April 3-4, 2008 Astoria Plaza Hotel Manila, Philippines http://www.colomboprocess.org/follow_sub5/IOM%20proceedings%20LOWER%20RESOLUTION.pdf

¹⁵³ Between January 1984 and June 2012, BOESL deployed 29,042 professional (13%), Skilled (50%) and semi-skilled (37%) workers; mainly to South Korea (25%), Jordan (23%), KSA (13%) and UAE (9%), as well as Qatar (5%) - calculated from unpublished draft of Annual Report of BOESL, 2011-2012, courtesy of Managing Director, Mr Mohd. Zahirul Islam.

Bangladesh:	Bangladesh Association of International Recruitment Agencies (BAIRA)
Sri Lanka:	Association of Licensed Foreign Employment Agencies (ALFEA)
Nepal:	The National Association of Foreign Employment Agencies (NAFEA)
Kerala:	Non-Resident Keralites Association (NORKA)
Philippines:	Many specialist associations based on countries of destination and occupations

Sub-agents in Recruitment

Most formal licensed recruitment agencies are located in the main cities without offices directly in the rural villages and towns. Licensed agencies generally rely upon local sub-agents, particularly in outlying regions, to recruit locally. While convenient, sub-agents operate illegally and are often the original source of deception, false promises and financial exploitation. Nonetheless, workers who can read may go directly to licensed agencies in answer newspaper or online advertisements for jobs and training.

One suggestion to circumvent local sub-agents but capture a wider number of prospective migrant workers, including those who do not read, is to use television. When asked if sub-agents are paid by licensed agencies, a recruitment agent and former secretary general of the association of recruitment agencies in Bangladesh, (BAIRA) stated:

Obviously, no one will work without money; the more steps, more money. That's why we have suggested a few things to the ministry. Like if we go through the advertisement, because these people don't read the papers. So what we have suggested is to go through the television, through public channels. That is all over the country. I have requested this in many seminars, like there is a time frame where people are watching certain channels for dramas or news. So I have requested 3-4 minutes or 2 or 1, before the important programs to tell people what is available. That would be more important than the newspapers. We have the *upazila* [sub district] layer of local government and above that layer, a union *parishad*.¹⁵⁴ So if we provide a center in every local government, which provides equipment like fax machines, later when we have the demand we can fax it to them, or email it to them, and they can put it on television... So the grassroots labour people will be informed - where they need to go and for what job. That's the way you can use it internally. So this is one level. You can make lots of seminars, in the rural areas. In the migrant born areas. We can make the direct communication with them.^{155, 156}

¹⁵⁴ Bangladesh has 500 *upazilas* and 4,451 *union parishads* (or union councils) that are the smallest rural administrative and local government units.

¹⁵⁵ Sadia International, Mr Noman Shameem.

¹⁵⁶ On March 13, 2007, BAIRA's Executive Committee was dissolved and its President MAH Salim (MP) of *Silver Line Associates*, was arrested with accusations of malpractice and monopolization of manpower export, among other charges.

A government representative in India expressed this sentiment in a very similar manner:

More importantly, if you consider stage 1 of migration, where the middleman meets a potential migrant worker at a village. That is where the problem starts. Then we thought perhaps the government should consider empowering the local government institutions with some sort of migration management at the local level (the lowest local government institution in India is called *panchayat* which is in the village). Another idea is to carry out extensive awareness campaigns in collaboration with local government institutions in villages. That is one idea we thought of. The second was to make the recruitment agents have some sort of collaboration with the *panchayat* and tell them that we are coming to village to recruit trained manpower. Now, if you empower local government institutions with basic know-how of migration it can help create some kind of awareness in the local government office. You publicize in key places in the village. These are all ideas. There comes a point where you can no longer talk theoretically. All the exploitation is common knowledge. You do not have to read an article that this person was exploited and that so many illegal things are happening. I know that. I think it is time to discuss solutions; and simple solutions that can be implemented.¹⁵⁷

Dr T.L. S Bhaskar later added that the Ministry does spend a great deal on media campaigns, especially through national and regional television, in local languages. They have made several movies and documentaries of around 2-3 minutes. It was not certain, however, how effective these campaigns were as no impact assessment had been done.

Awareness raising campaigns that warn against dishonest sub-agents are important. Because of their informality in the industry, there is no fixed price for the services of sub-agents. Importantly, however, if the licensed agency pays, there is more control over the sub-agent.

Sometimes you need to pay them. Otherwise they will not perform. Because no one will work for free. We are happy to do that because I will still have control. If they don't take money from the workers, at least they will be accountable. But if he takes money directly, he will not be accountable. When they [workers] come to us for an interview we ask if they have paid, but they say no, they refuse. They are thinking that later there will be some problems with the local people [sub-agents]. This process has been around since 1978, so we cannot eliminate it overnight. This is the local system. We need direct communication between the employer and the employee. Only then can we reduce the cost.¹⁵⁸

¹⁵⁷ Dr T.L. S Bhaskar, Project Coordinator, India Center for Migration (Ministry of Overseas Indian Affairs), a Ministry "research think tank" that also provides training programs for skilled and low-skilled workers and capacity building exercises for migration stakeholders. Interview 10 May 2013.

¹⁵⁸ Sadia International, Mr Noman Shameem.

Even when licensed agencies pay the sub-agent, there is no guarantee that the worker has not already paid them something. One agent in Manila complained that sub-agents get more than her, “yes, they are the ones who are earning more than us. We are earning \$250 [commission] and they are earning \$300-400.” However, the agent went on to say that when the sub-agent brings the worker to their office, she pays the sub-agent immediately when the passport is handed over. It is impossible to control what workers pay to the sub-agent, “because this is internal, between the workers and the sub-agent. Maybe the sub-agent has given them food, transport, ID papers in the province.” So, the agent pays the sub-agent whether or not the worker pays the sub-agent. “We don’t know. We don’t ask. It’s an arrangement between them.”¹⁵⁹

The Sri Lankan Bureau of Foreign Employment “Draft ‘Code of Ethics’ for Recruitment Agents Employing Migrant Workers” makes provision (Article 5, ix) that where sub-agents (or “local collaborators”) are involved, licensed foreign employment agencies (LFEAs) “must instruct and administer them to ensure that they comply with the laws of the country and hold them liable for the recruitment of workers, including losses to workers.”¹⁶⁰ One agency in Manila that recruits a range of occupations, but mainly domestic workers, explained that she insists on paying the sub-agents. She goes out regularly to the provinces to meet with the sub-agents or telephones them and makes sure that prospective workers are not paying them. The large majority of sub-agents she deals with are women (a ratio of 20 women to 1 male) because “they are usually the ones who need additional income.”

I must be strict about this, that the agent takes nothing from the worker... and I double check and ask the worker if they have paid anything to the agent. If the agent asks for some amount from the worker, the worker can complain to the POEA about illegal recruiting. The POEA cannot charge us, because the sub-agent is not under our profile, but the POEA puts their name on a blacklist.¹⁶¹

Indeed, the principal “wild-card” in any attempt to stop workers paying agents is the local sub-agent, who is able to recruit in his/her local area but in all countries operates illegally – or at least outside the regulatory framework that requires only registered agencies to recruit and deploy migrant workers abroad. Here, there is no control over what is said to the prospective migrant worker and, quite typically, sub-agents paint only positive images of high wages and decent living conditions that may be misleading.

These unmonitored informal procedures of the sub-agents in remote rural villages and communities in the recruitment of low-skilled labour are one of the most vexed issues in the reform of the industry. As Frantz points out, for Sri Lanka,

¹⁵⁹ Genoveva De Castro, Owner/Manager, Jenerick International Recruitment Agency, Interview 5 December 2012.

¹⁶⁰ Note that this remains a draft bill, so currently there are no formal regulations governing sub-agents.

¹⁶¹ Beth Mesona, Manager, Excel Green Card Agency, Manila. Interview 3 December 2012.

Labour migration to the Middle East is a predominantly rural phenomenon ... [where] ... At the village level, it is facilitated by a vast network of 'brokers' and 'sub-agents', who act as mediators-for-hire between potential migrants and recruitment agencies, helping migrants with paperwork and administrative procedures... at the village level ... brokers' activities are not regulated, and some charge excessive fees for their services. They are well-known figures in most villages, and though they are sometimes viewed as exploitative, they provide valuable services for those seeking employment abroad.¹⁶²

There have been strong recommendations for the regulation of these local sub-agents,¹⁶³ but it is not entirely clear how this is best done – whether incorporation into existing licensed agencies, or separate, individual registration and licensing. In Kerala, the Protector of Emigrants explained that he intervenes in the relationship between the recruitment agency and sub-agents. Sub-agents are not allowed to accept fees by the terms and conditions of the recruitment agency license. However, they may act on behalf of an agency, take money and provide a receipt in the agency's name.

Sub-agencies are not accepted as per the Act, but people use them because of convenience. ... So what I do is, because I'm also an arbitrator, I will ask them both to appear before me and see if the recruitment agent has actually given him the receipt. At this stage, we have to see whether this person is being cheated or not.¹⁶⁴

In Bangladesh, most prospective migrants come from rural villages. The recruitment agents are mainly based in the capital city of Dhaka, so they rely heavily on sub-agents who act as mediators between the migrants and recruitment agencies – taking a fee from both. Playing a critical role in matching demand and supply of labour, sub-agents must gain the trust of prospective migrants – therefore, they tend to be rural religious, economic or political elites based in small cities, towns and villages, assisting in paperwork, passports, bank accounts, medical check-ups and transportation to airport. And sometimes act referees for moneylenders to get credit.¹⁶⁵

During a discussion with a recruitment agent in Bangladesh in relation to the no-fees policy of migrant domestic workers, he suggested:

The girls are going free of cost and that is also a problem. I have suggested to our Ministry, don't make it free, for anyone. It will be a free ride. Impose some kind of money as a security. If you don't come back before completion of the

¹⁶² Frantz, Elizabeth (2011) *Exporting Subsistence: Sri Lankan Women's Migration for Domestic Work in Jordan*, PhD thesis, The London School of Economics and Political Science. Page 38.

¹⁶³ Agunias, Doreen Rannveig, (2010) *Migration's Middlemen: Regulating Recruitment Agencies in the Philippines-United Arab Emirates Corridor*, Migration Policy Institute, Washington.

¹⁶⁴ Shri Pradeep A., Indian Protectorate of Emigrants, Trivandrum, Interview 10 May 2013.

¹⁶⁵ Rahman, Md Mizanur (2011) "Recruitment of Labour Migrants for the Gulf States: The Bangladeshi Case", Institute of South Asian Studies (National University of Singapore) ISAS Working Paper, No. 132 – 6 September 2011.

two-year contract, this money will be taken back by your family members. It will be refunded. Because, if it is free, they are going there for three months and then come back. We have to pay for those expenses. The government is not going to pay. As per the agreement, we need to pay.

At one level, this makes some sense and it could obviously be a major problem for recruiters and employers' labour turnover. On the other hand, this agent assumes that money is the only motivator and is not considering the rights of people to make decisions based on a variety of both economic and non-economic factors.

From discussions with an agency in Katmandu, Nepal, the workers are predominantly sourced via sub-agents in rural areas and personally interviewed and evaluated at the office in Nepal. Sub-agents bring in approximately 60 per cent of the workers, while 35 per cent are recruited via the company's database. The remaining 5 per cent are "walk-ins", that is they find their own way to the agency and ask for work abroad. This agency advises workers not to pay the sub-agent, but if they wanted they could pay them RP 5000 (\$60) out of courtesy (sub-agents typically charge \$60-120).¹⁶⁶

Anyone who has some connection with a recruitment agency can act as a sub-agent, recruiting as an individual for licensed agencies. The problem with this is that the main criterion for the prospective migrant worker is his or her capacity to pay the sub-agent. This is the first thing that the sub-agent wants to know before proceeding any further with recruitment. The effect of this is that those who may be better qualified for a job may be ignored merely because of their incapacity to pay a sub-agent's fees. The sub-agents may or may not be paid by the recruitment agency. If not, they get their income from the workers.

Then there is what is referred to as "facilitation fees". There are sub-agents as well as employees within a recruitment company who might say to a client, "I can put your application at the top of the list, on the first batch that goes out. You pay me \$500 for this".¹⁶⁷ Breeding's study in 2010 of construction companies in Qatar and recruitment agencies in India stressed three "informal practices" that "potentially undermine formal institutions and allow for abuses of contract brokering".¹⁶⁸ Most important is the relationship between registered recruitment agents in the main cities of India and their sub-agents, primarily in rural areas. These sub-agents have become increasingly important since the financial crisis from 2008 reduced the labour demand from Qatar and other Gulf states (putting some 30% of recruitment

¹⁶⁶ The International Trade Union confederation (ITUC) also criticized the government of Nepal for failing to apply its own laws regarding recruitment agencies. Article 25 of the Nepal's Foreign Employment Act of 2007, for example, insists that contracts should be in the Nepali language prior to travel; and Article 53 says that recruitment agents should not charge migrants more than the government-imposed upper limit on service charges and promotional costs. These provisions are being regularly violated. The ITUC argued that two contracts are used when the basic salary is below this amount. The Government knows this and allows it to happen - ITUC (2011) "ILO Committee of Experts on the Application of Conventions and Recommendations" http://www.ituc-csi.org/IMG/pdf/ituc_ilo_ceacr_nepal_.pdf, page 6.

¹⁶⁷ Interview with Marie Apostol Fair Hiring International recruitment agency, Philippines, 5 December 2012.

¹⁶⁸ Breeding, Mary (2012) "India-Persian Gulf Migration: Corruption and Capacity in Regulating Recruitment Agencies" in Mehran Kamrava And Zahra Babar (Eds) (2012) *Migrant Labour In The Persian Gulf*, Hurst & Company, London, pp 137-154. Page 138.

agencies out of business); further, because of the rise of real wages in the Indian cities and the stagnation of wages in the Gulf, the normal source of migrant Indian labour has shifted to the poor rural regions across India (and away from Kerala, where high levels of education, low fertility rate and higher relative wages has made the Gulf less and less attractive).¹⁶⁹ The vulnerability of these rural, largely low-skilled and uneducated workers is the deception through the enticements of the sub-agents to get them to travel to the Gulf, without revealing the comparative benefits of internal migration to urban areas. The General Manager of a large recruitment agency in Mumbai noted: “Slowly, slowly, earnings in India have been increasing. Workers don’t want to go to the Gulf, unless they live in a remote village and don’t know any better.”¹⁷⁰

As Franz noted, the sub-agents can play a valuable role. Any move to delegitimize, reform or undermine the role of sub-agents needs to take into account that many or possibly most prospective migrants from small village communities are more likely to trust the local sub-agent compared with the government or urban-based private recruitment agencies. They are also more likely to process papers more quickly. More importantly, sub-agents can be made liable if anything goes wrong, precisely because of their accessibility at the local level. And there are examples of local sub-agents taking responsibility for problems such as lower wages than promised, or unpaid wages. Even though payments to sub-agents are always in cash with no receipts, no paperwork (i.e. no written evidence), local village adjudication or village courts can have cases brought to them by the migrant worker on their return (or their guardian in the village). The sub-agent can be apprehended and forced to pay compensation. If the sub-agent does not pay, it would be a continuous problem for them to remain living in the village. This can be a much more efficient means of dispute resolution than going through the government and court systems.¹⁷¹ As one interviewee in India put it:

We cannot undermine the role of these sub-agents or the brokers or whoever the intermediary, because they facilitate the entire process. The migrants would not have any information about the kind of jobs provided in various countries; it is through them that they get this information. Migration has got a lot of benefits in terms of financial aspects. A lot of money is coming into the country. So in order to make it smoother, they have to keep the intermediaries intact.¹⁷²

While this may be true, there needs to be some regulation of sub-agents for they can also be the primary source of misinformation, false promises, financial exploitation and outright fraud. In principle, all people, including sub-agents, throughout the origin countries could be educated or become aware of the ethical

¹⁶⁹ Zachariah, K.C. & S. Irudaya Rajan (2012) *Inflexion in Kerala's Gulf connection: report on Kerala Migration Survey 2011*, Center for Development Studies (CDS) Working Papers, No. 450. Trivandrum, Kerala.

¹⁷⁰ Breeding (2012) op. cit. Page 147.

¹⁷¹ Kazi Abdul Kalam, Deputy Secretary, Ministry for Expatriate Welfare & Overseas Employment, Dhaka. Interview 3 March 2013.

¹⁷² Dr Ellina Samantroy, V.V. Giri Labour Institute (Ministry of Labour & Employment). Interview 14 May 2013.

policy of non-payment for recruitment. The ultimate employer in the destination countries through the urban agencies could still pay the sub-agents with proper documentation. Ideally, ethical agencies should have offices and education and welfare activities in the local areas where they recruit.

Qatar Labour Supply Agencies

In Qatar, there is a perception of increased use of what are variously called labor suppliers, labor brokers, manpower suppliers or labor outsource subcontractors. In this report they are referred to as “labour supply agencies”. These are agencies that recruit and “warehouse” migrant labor, hiring (or leasing) them out to companies and other organizations on short-term or seasonal bases. They provide the workers with accommodation and food (or food allowances) as well as pay their wages, insurance and so on. Employing companies that use these workers pay the labor supplier, not the worker. The employers thus do not have any other responsibilities regarding provisions as recreation or sick leave, salaries, insurance and the like. It is assumed that the labor supply agency takes care of all of these matters. These arrangements also mean that the contracting company does not have to think about how the workers were recruited or the conditions of their recruitment.

One labour supply firm in Qatar explained:

Workers have to pay for medical check-up, police clearance in their home countries. The recruitment agencies have different fees schedule. That is why we go to the countries we recruit people from and check how much we are going to be charged. Our company pays for airfare, residence/work permit and medical check-up in Qatar. But for countries like Philippines – we have to pay for their insurance. We usually ask workers how much they had paid to come here. If it is identified that recruitment agencies have charged exorbitant fees, we may stop issuing visas to these companies. But we cannot trust workers all the time. We have thought of establishing our own offices in Nepal, Sri Lanka where the majority of workers come from. There is an office in Chennai.¹⁷³

The use of these labour supply agencies (or “outsourcing” companies) increases the costs of migration and migration recruitment because they are another layer of middlemen taking commissions between the recruitment agency in the sending country and the ultimate employer in Qatar. One labour supply agency¹⁷⁴ in Qatar pointed out that they initially pay the costs to bring workers to Qatar, “but the costs are eventually borne by the candidate.” When asked if he made salary deductions from the workers, he replied, “To be frank, I have an idea about it, but it is not something that we are doing.” The recruitment costs were being paid for through the agency’s “sister companies” in India, Nepal and Sri Lanka that reimbursed the Qatar office: “labour pays themselves to come here, all of them. It is a universal fact, because none of the companies [in Qatar] is willing to pay for labour.” The agent said he knew of workers paying \$1350, but quickly noted,

¹⁷³ Interview 24 September, 2012.

¹⁷⁴ Supply agencies hire out the workers, provide accommodation, food and pay their salaries.

“with our guys, we make sure that they are not charged more than 1000 bucks.” When asked why the agencies in the source countries charge workers, he replied, “Because these companies need to survive. If we do not charge them, then nobody is paying us.” And what about for professionals? “Anybody high-skilled I do not charge. I make sure they are provided with everything. Their costs are usually factored into the bill [to their Qatari corporate clients].”

It is possible, however, that labour supply companies can deduct wages for recruitment costs, even though it is against Qatari labour law. There is little transparency in their transactions because the workers are hired out at a higher cost than they pay the workers. One worker interviewed said that he gets half the amount that the labour supply company charges the contractor. This is presumably to cover the costs of accommodation, food, transport, visa and other costs, but it might also include recruitment costs. It may be that these arrangements are even more exploitive of workers than direct hire, but there is insufficient information and further research needs to probe deeper into the financial conditions of supply agencies in Qatar.

For Qatari contractors, using labour supply companies is a higher cost, but also higher commissions are factored into the migrant worker’s up-front fee charges. One recruitment agent in Bangladesh emphasized, “If we can work with the direct employer [contractor], that is usually hassle-free. We are comfortable, they are comfortable and the price goes down. And when the price goes down, employers may be more willing to pay.” The same agent, however, went on to add the casual assumption (that is not allowable in Qatar) that the employers are able to deduct their charges from the wages of the workers.

Another important thing they can do is fix the charges which are roughly \$1000. That can be deducted from their salaries also. The company pays that money, including our service charge. When the workers go there, the company pays the money to us. When the workers arrive there they will take the money from their salary – like for 3 or 4 months, so it won’t be a burden for the workers.

There are labour supply agencies being subcontracted to QF contractors with suspicious practices. Implementation of QF Standards will identify and take action against any contractors and subcontractors who are engaged in such unethical practices. One, for example, promised overtime for their employees, but when they work 12 hours per day (at QR12 or \$3.25 per hour), they are not being paid the required 150% overtime rate. They are being paid the normal rate. The supply company receives the overtime rate from the contractor, but it is not being passed on to the migrant worker. Another labour supply company procures work visas, but sells them for in excess of QR1,700 (\$460) to agencies in India, whether they are registered or not. Another sells visas to Bangladesh for QR5,000 (\$1,350) each.

Another labour supply company is known to arrange specialized work contracts for only one year, instead of the normal two years, so they can make a profit from the renewal of the visas. Lastly, a manager of a construction company in Qatar issued

a demand letter for 200 workers and asked the recruitment agent when they could expect the QAR200,000 (approx. \$54,000 – around \$270 per worker) into their account. They would also list a salary of QAR1,000 (\$270) but on arrival, workers were only given QAR650 (\$175), saying that QAR350 (\$95) was to cover food and accommodation. In other cases, it is QAR150 (\$40) food allowance.¹⁷⁵

Deception and Trafficking

It is incumbent upon all QF contractors to become aware of and be responsible for the conditions of recruitment that are being conducted by their subcontractors, including labour supply firms. Although not directly related to construction industry, nor QF, the following example illustrates an all too common practice. In a recent case in Doha, a young man (23yrs of age) from Togo in West Africa borrowed \$3,000 to pay an agent (also from Togo) who promised he would play soccer for one of the universities at a salary of 4,000 Qatar Riyals (app. \$1,100) per month. Thinking he would be able to repay the loan in a few months, the young man accepted. When he arrived in Qatar, he was placed into a labor supply agency specializing in security guards and sent to work in the French embassy in Doha, but at a salary of only 1,000 QR (app. \$275) per month from which he must pay for his food, support his parents back home and pay off his loan. His accommodation is substandard with 8 bunk beds per room in a labor camp in the industrial area and the company only provides free transport at 5.30am each morning. Thus, the young man waits around the streets near the embassy for about 2 hours each morning alone in the over-40 degrees heat, before the embassy opens and lets him in. By the time he gets back to the camp, prepares a meal and goes to bed, he is getting very little rest. He is exhausted, stressed and does not want to continue. However he cannot go back home without enough money to pay off his debt.

This young Togolese man was recruited by deception, transported to Qatar and exploited with a lower salary and conditions than promised. He is forced to work in a job that he does not want because he is in debt and has no alternative. The consul at the embassy is sympathetic to the situation, but says there is nothing that can be done. The French policy is to use the services of such labor suppliers and not to directly employ them. It is as if the Togolese security guard does not exist. Only the company that supplies him exists and the embassy contract is only with that company. The company is employed, not the individual. The embassy personnel seem powerless to intervene, to lift the corporate veil and to ask how their workers were recruited and the circumstances of their lives. In other words, they say they cannot intervene to assist a trafficking victim working at their premises.¹⁷⁶

The young man from Togo and 15 other Togolese trafficking victims approached the Qatar Department of Search and Follow Up (of the Ministry of Interior) to file a complaint against the trafficker who actually resides in Qatar. Typically, they did not have documentary evidence to prove their case and the agent was released. Since then, according to the Togolese, the company forced them to sign a false

¹⁷⁵ Note that, for obvious reasons, the names of these companies and the agency have not been revealed.

¹⁷⁶ One might also ask why the security guard is not getting French wages, probably around \$2,000, given he is working on French territory.

statement that their situation has been dealt with (working hours, time off and accommodation), on threat of deportation. In a follow up judicial hearing, the case was dismissed because the men had signed a contract and the government was deemed powerless to do anything. The men remain in Qatar, resigned to their situation and are working to pay off their debts.

In a study by Amnesty International on the experiences of Nepalese migrant workers in the GCC countries who had returned to Nepal, it was concluded that recruitment agencies were routinely involved in the trafficking of Nepalese migrant workers and their subsequent exploitation as forced labourers, in violation of both ILO Convention No. 29 and the key provisions of Nepal's Foreign Employment Act, 2007.¹⁷⁷ The primary violation referred to deception regarding the amount of salary, the type of job expected, hours of work, overtime pay and rest days. 93 per cent of the migrants interviewed said they had been deceived in one or more of these issues. There were also cases where migrants were given a false contract with the name of a fake company and, upon arrival in Qatar, were employed by a different company.

Deception in the recruitment and transfer of migrant workers to Qatar is trafficking as defined in the UN Palermo Protocol (UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime) that came into force on 25 December 2003:

Article 3 (a)

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The United Nations Office on Drugs and Crime (UNODC) (2006: 51) suggests that this definition can be split up into three parts:

- The *action* of: recruitment, transportation, transfer, harbouring or receipt of persons;
- By *means* of: threat, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim;

¹⁷⁷ Amnesty International (2011) “False Promises Exploitation And Forced Labour of Nepalese Migrant Workers” <http://www.amnesty.org/en/news/nepal-protect-nepalese-migrants-false-promises-work-abroad-2011-12-12>, retrieved 27 February 2013.

- *For the purpose of exploitation:* which includes, at a minimum, exploiting the prostitution of others, other forms of sexual exploitation, forced labour or services, slavery or similar practices, and the removal of organs.¹⁷⁸

In most cases, migrant workers become aware of the deception, of false promises or false contracts, which may not be in their own language at two junctures; first, just prior to departure (when they receive their contracts, passports, work visa and airline ticket) making it impossible to challenge because they are already indebted; and second, after they have arrived in Qatar – also too late to complain.

In some cases, contracts signed in the sending country are replaced or substituted with another (in Arabic) upon arrival in Qatar. At this point, migrants cannot refuse to sign the offer, because they are reliant upon the sponsor to pay for a return ticket and to sign an exit visa. The agency or the sponsor holds their passports. Thus, they accept the work and the wages offered and cannot afford to report any deception that may have occurred in the recruitment and placement process.

In the Philippines, there is a practice called “tie-ups”. This is where a licensed agency sets up several tables in its office and rents them out to various individuals who (illegally) conduct recruitment from the office of the licensed agency. These individuals may also include foreigners since they cannot register agencies independently. Such a practice deceives workers to believe that they are being recruited through a licensed agency that is supposed to guarantee lawful recruitment and guaranteed employment. In case of any complaint, workers will not be able to file it against the individual, as there will be no official record of their existence as a recruitment agent.

In Bangladesh, recruitment agencies were sending workers to Malaysia without the proper papers and many thousands were detained because of their irregular status. The recruitment agencies were relaxed about the workers returning because most had paid around \$3,500 in fees. They could only recover \$1,000 on their return through a migrant welfare fund set up by the International Migrant Alliance (IMA) in Dhaka. Agencies re-recruited with fees up to \$6,000, paid \$650 for the airfares and pocketed most of the rest, so it was lucrative business. As civil society organizations like IMA began successfully claiming the full fees, recruitment agencies sought to have the workers regularize their papers in Malaysia, rather than having them return.¹⁷⁹

Ethical Recruitment

In January 2013, the IOM announced an agreement in Manila between the representatives of the national associations of recruitment agencies from nine Asian countries (Bangladesh, China, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam) to “promote ethical and professional recruitment practices” and with the IOM serving as the “association’s secretariat”. The core values of this agreement were identified as “professionalism, equity, service to

¹⁷⁸ Jureidini, Ray (2010) “Trafficking and Contract Migrant Workers in the Middle East”, *International Migration*, Vol. 48 (4) August 2010, pp. 142-163.

¹⁷⁹ Mr Anisur Rahman Khan, International Migrants Alliance, with 4,000 members in 2010. Interview 3 March 2013.

humanity, integrity, trust, honesty, passion and fairness.”¹⁸⁰ Missing from these principles are what they mean in actual practice, particularly when it comes to the “unholy competition” referred to earlier. Typically, governments as well as concerned NGOs, academic research centers and human rights organizations in the labour sending countries in collaboration with others have been concerned about corruption and non-ethical migrant labour recruitment. In 2012, the Institute of Human Rights and Business (UK) and the Bangladeshi Refugee and Migratory Movements Research Unit (RMMRU) jointly launched the Dhaka Principles on Migration with Dignity, a document that “provided the guidelines for the employers and recruiters, including multinational corporations to be respectful of migrant workers’ rights at all stages of migration.”¹⁸¹ As is the case with many articulations of ethical recruitment, this document did not provide enough detail on precisely how various stakeholders ought to behave. Nor was there any stipulation that migrant workers should not pay for recruitment fees and charges.

A draft code of ethics in Sri Lanka, for example, focuses upon proper business standards, “fairness” in market competition and transparency of information. Of particular interest in this document is the requirement that licensed foreign employment agencies should “refrain from bidding down the wages and any other fees or payment of migrant workers” as well as from “substituting employment contracts, either knowingly or unknowingly”.¹⁸² These are clear acknowledgements that the practice is widespread, prompting regulatory principles to be codified by their association. The mismatch, however, between policy and practice is a perennial issue. For example, in a study on labour recruitment to the UAE, Migrant Forum Asia found:

The recruitment agencies in sending countries are subject to varying degrees of regulation and oversight by their respective governments in efforts to protect rights and welfare of migrant workers throughout the migration process. ... Despite these efforts, serious gaps exist between the procedures as proscribed by national laws/policies and the actual experience of migrants as they navigate the recruitment process. These gaps leave workers vulnerable to mistreatment, abuse, and exploitation on the part of unscrupulous recruitment agencies and their sub-agents.¹⁸³

It may be argued that much of the recruitment corruption can be overcome by the stipulation that prospective migrant workers should not pay anything – as a fundamental requirement of ethical recruitment. This policy is now enshrined in Qatar Foundation Standards.

¹⁸⁰ IOM (2013) Colombo Process, at <http://www.Colomboprocess.org>

¹⁸¹ Siddiqui, Tasneem & Sultana, Marina (2013) *Labour Migration from Bangladesh, 2012: Achievements and Challenges*, Refugee and Migratory Movements Research Unit (RMMRU), Dhaka, January 2012, page 14.

¹⁸² Unpublished Draft (September 2012) Association of Licensed Foreign Employment Agents, *Code of Ethics for Recruitment Agents Employing Migrant Workers*. (It was not clear at the time of writing if this draft has been adopted.)

¹⁸³ Migrant Forum in Asia, (2011) *Labour Recruitment to the UAE: Gaps between policy and practice in Sri Lanka, Nepal, Bangladesh, and the Philippines*, MFA, Manila.

QF STANDARDS ON RECRUITMENT

At the end of April 2013, the QF Mandatory Standards for Migrant Workers' Welfare for Contractors and Sub Contractors was publicly launched.¹⁸⁴ As a result of the evidence on extortion, bribery and kickbacks gathered during the research for this report, QF Mandatory Standards ban the practice of workers paying for recruitment costs and fees.

In order to combat the corruption, the new QF recruitment standards for migrant workers' welfare were also developed in the hope that they would be increasingly adopted throughout Qatar and beyond.¹⁸⁵ Among other welfare provisions, the Standards aim to eliminate future trafficking and exploitation at the corporate level. The Standards address recruitment, accommodation, food, safety, security and transport.

Important to the trafficking discussion, with all new capital projects within QF, contractors and their subcontractors will have to ensure that workers do not pay recruiters anything for the jobs they are hired to do. This will eliminate the debt bondage and corrupt practices of kickbacks from agencies to the employing companies that only the poorest low-skilled workers are paying for. The new standards will be accompanied with comprehensive administrative provisions for monitoring, policing and penalties for violations.

Without the need for government legislation, the QF Standards lift the corporate veil by directly addressing the recruitment practices in the origin countries. The aim is to place the moral and contractual onus on all future companies doing business with QF to prevent trafficking, forced labor and debt bondage and strive for the highest ethical provisions of welfare for migrant workers. The standards do not address the sponsorship system or trade union rights, for these require legislative changes, but are "under review" in Qatar and the GCC generally.

On Ethical Recruitment principles, the QF Standards state:

¹⁸⁴ The standards can be downloaded from: <http://www.qf.org.qa/news/news?item=128>

¹⁸⁵ In February 2014, just prior to the publication of this report, Q22, the Supreme Committee for the 2022 World Cup published its *Qatar 2022 Workers' Charter* that is largely based upon QF Standards. The Q22 Charter has a number of ambiguities that need to be addressed. For example: 1) Under 6.3 of "Ethical Recruitment" there is a requirement that Q22 contractors should only use recruitment agencies "registered by Qatari Ministry of Labour." This needs to be made clearer, by specifying ethical recruitment agencies in sending countries as well as those in Qatar (they do not distinguish between recruitment agencies abroad and placement agencies in Qatar). For example, do the Q22 Standards require that the Qatari Ministry of Labour will register foreign recruitment agencies located in the origin countries? This needs to be made clear, even if it is implied. Also, "sub-agents" are not defined; 2) Under 7.1 (g) regarding termination provisions on job offer: this should include termination conditions with penalties (and what they are), not just those without penalties. For example, Labour Law Articles 61-64 specify the conditions by which an employer is entitled to terminate an employment contract "without notice and without payment of the end of service gratuity", but does not specify who in those circumstances should pay the return airfare; 3) Under 9.1 on equal & fair treatment: these provisions do not include wages - i.e. equal pay for equal work, as is stated in QF Standards. Also, gender not included in the anti-discrimination clause of 9.1a; 4) Under section 11 on termination, there is only reference to the law on termination provisions. This is inadequate, because the Qatari law is ambiguous on termination provisions. See section on termination in this report; 5) There are no provisions for exit visa and NOCs in relation to termination provisions, nor the provision that when there is a dispute between employee and employer/contractor, the worker should be allowed to remain in the country to pursue judicial proceedings and be allowed to work - or financially supported by the State, its client or the contractor or subcontractor.

11.1 Ethical Recruitment Principles

- 11.1.1 Workers shall not be charged any Recruitment and Processing Fees or Placement Fees.
- 11.1.2 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.
- 11.1.3 Workers shall receive a signed copy of their Original Offer of Employment in the language they understand prior to their deployment to Qatar.
- 11.1.4 Workers shall be informed about their rights and responsibilities under the Law prior to their deployment to Qatar.
- 11.1.5 Workers shall not be required to sign a contract different than their Original Offer of Employment in their country of origin.
- 11.1.6 Workers shall not be asked by an Employer or Recruitment Agency Local or Recruitment Agency Abroad to participate in any form of forced or mandatory savings in order to pay off Recruitment and Processing Fees or Placement Fees.

These conditions are clearly designed to counter the corruption emanating from the payment of fees and charges by migrant workers; to ensure proper understanding by workers of the terms and conditions of their contracts; that they retain copies of their contracts; that there is no substitute contract; and that wages are not be deducted for loans in relation to recruitment fees.

11.2 Recruitment Agencies

- 11.2.1 The Contractor and Sub-Contractor shall only utilize the service of an agency that is registered and licensed by the competent authority of the jurisdiction in which the agency operates and that does not charge Workers any Recruitment and Processing Fees or Placement Fees.
- 11.2.2 In the event the Recruitment Agency Local registered and licensed in Qatar engages a Recruitment Agency Abroad to recruit Workers from abroad, the Contractor shall exert due diligence to ensure that the local agencies it engaged for the recruitment of Workers from abroad cooperate with registered, licensed and accredited overseas agencies which are approved by the Embassy or Consulate of respective countries from which Workers are recruited.
- 11.2.3 The Contractor shall exert due diligence to ensure that recruitment agencies local or abroad it has authorized for the recruitment of Workers in their country of origin will not charge Workers for Recruitment and Processing Fees or Placement Fees.
- 11.2.4 The Contractor and Sub-Contractor shall have an explicit recruitment policy that stipulates the prohibition of payment of Recruitment and Processing Fees, and Placement Fees by Workers in its contract with Recruitment Agency Local or Recruitment Agency Abroad.
- 11.2.5 The contract between the Contractor or Sub-Contractor and Recruitment Agency Local or Recruitment Agency Abroad shall include a list of all fees paid for by the Contractor or Sub-Contractor for the recruitment and employment of Workers.

11.2.6 The job advertisements from Recruitment Agency Local or Recruitment Agency Abroad shall include the statement that no fees shall be charged to Workers at any phase in the recruitment, selection, hiring or deployment process.

The above set of conditions on recruitment again insists that only licensed recruitment agencies should be used. It is assumed that in time further collaborative regulatory practices in the recruitment industry will improve the licensing and good character assessments of agents. It is also to reduce the increasing practice of using individuals networking through friends, former or existing employees, where much corruption and trafficking can take place, as there is little or no transparency. Again, and in a number of places, the QF Standards reiterate that the migrant worker should pay no fees or charges. QF contractors and subcontractors must have a written recruitment policy stipulating this and all job advertisements in the origin countries must explicitly include this condition. In this way, the dissemination of the principle of no worker payments will be quite wide and not reliant upon the goodwill of agents or orientation seminars. When workers apply for a position in their home country, they should do so with full knowledge that they do not have to pay for anything, other than their passports.

Of course, the possibility that increasing usage of digital and internet-matching and recruitment will begin to eliminate the intermediary agents, but this is still a long way into the future on a mass scale, so these interim measures must be put in place.

11.3 Action Against Unscrupulous Recruitment Agencies

- 11.3.1 The Contractor and Sub-Contractor shall not utilize the service of a Recruitment Agency Local or Recruitment Agency Abroad who charge Workers any Recruitment and Processing Fees or Placement Fees, or failing to inform or misinform Workers about working and living conditions in Qatar, or do not provide a copy of an Original Offer of Employment to Workers.
- 11.3.2 The Contractor shall terminate its contract with a Recruitment Agency Local or Recruitment Agency Abroad, wherever the Contractor or Sub- Contractor has become aware of the agency engaging in activities specified in 11.3.1.
- 11.3.3 Wherever the Contractor or Sub-Contractor has become aware of a Recruitment Agency Local or Recruitment Agency Abroad engaging in activities specified in 11.3.1, the Contractor or Sub-Contractor shall report the agency to QF, Ministry of Labour, and local Embassy or Consulate accordingly.
- 11.3.4 QF has the right to stop any Contractor or Sub-Contractor from utilising the services of any Recruitment Agency Local or Recruitment Agency Abroad and report such an agency to the Ministry of Labour, local Embassy or Consulate accordingly where it is established that the agency engages in activities specified in 11.3.1.

The above sections in the QF Standards make clear that violating specific ethical recruitment practices by local or foreign recruitment agencies will result in mandatory reporting by QF contractors to officials and cessation of business with the agency; and that Qatar Foundation has the authority to initiate such

proceedings. Thus, QF is in reality intervening in the recruitment industry's market relations to insist upon ethical recruitment practices and punish unethical practices.

11.4 Recruitment, Processing and Placement Fees

- 11.4.1 Neither in their country of origin nor in Qatar, shall Workers be charged directly or indirectly any fees, commissions or costs for recruitment, processing or placement.
- 11.4.2 The Employer shall bear all Recruitment and Processing Fees and Placement Fees for all Workers recruited both through a Recruitment Agency Local or Recruitment Agency Abroad.
- 11.4.3 The Employer shall have a written policy declaring that Workers shall not pay any amount to secure a job in its establishment.
- 11.4.4 The job advertisements from the Employer shall include the statement that no fees shall be charged to the Worker at any phase in the recruitment, selection, hiring or deployment process.
- 11.4.5 The Employer shall reimburse Workers for any Recruitment and Processing Fees or Placement Fees paid by them in Qatar or abroad, regardless of whether or not they were recruited for the projects at QF.
- 11.4.6 The Employer shall ensure that the Recruitment Agency Local or Recruitment Agency Abroad it engaged for the recruitment of Workers from abroad returns Workers back to their country of origin at its own expenses if the Worker upon arrival refuses to accept the work because the agency has misled him at the time of entering into contract as to the terms and conditions of the employment.
- 11.4.7 The Employer shall ask a Worker newly assigned to the establishment if he has paid any Recruitment and Processing Fees or Placement Fees.
- 11.4.8 The Employer shall have an effective and efficient grievance procedure that Workers may utilize to lodge complaints against Recruitment Agencies Local or Recruitment Agencies Abroad.
- 11.4.9 The Employer shall ensure that Workers know how to use the grievance procedure without fear of retaliation.

The above clauses again reiterate that workers should pay no fees, but stipulates further that there should be no charges "directly or indirectly" and no "commissions or costs for recruitment, processing or placement". The reason for including "costs" was to make sure that even if sending countries abolished their current allowance of "fees" to be paid by workers to recruitment agencies, these tend to be stipulated only for the agency's service charge or commission. Agents could still charge workers for other costs noted in Chapter 4 and for which they could charge extra and take profits, for they are the ones who normally make the arrangements for the medical test, police clearance, skills testing, training and orientation seminars and the like.

In addition, section 11.4 highlights that QF requires its contractors and subcontractors to pay for these fees and costs. And if a migrant worker is found to have paid recruitment agencies, the contractor or subcontractor is liable for reimbursement to the worker. This will be a strong incentive for contractors and subcontractors to deal only with ethical recruiters. Employers must ask workers

if they have paid the recruitment agency when they arrive in Qatar. As mentioned previously, the current practice is that employers do not ask and workers do not tell. Nor do workers ask the company if they have paid the recruitment agency to see if the agency is taking from both.

One of the dilemmas experienced in the past with reimbursement arrangements is that there is the burden of proof of payment to the agency. As mentioned before, agencies very rarely give receipts for the money they take from workers. It is rather extraordinary that workers do not expect a receipt. If they ask for a receipt, they are merely told there are none and the worker passively accepts it, for fear that to press the issue may jeopardize getting the job he desperately wants. Without receipts, how can a company be certain that the worker has in fact paid the recruitment agency, and how much?¹⁸⁶

The Standards also make clear that employers must repatriate a worker at their own expense when the worker does not receive what he had been promised, including wages, hours of work, accommodation facilities, health insurance and food. Employers, on the other hand may charge the recruitment agency for the costs of repatriation, as is usually the case if a worker does not meet the expectations of the company within a normal probationary period of 3 months, but also up to 6 months (which is the case in Qatar and the UAE).¹⁸⁷

The last two provisions of this section of the recruitment standards state that employers must provide adequate grievance procedures that are genuinely inviting and free from repercussions, such as harassment, intimidation or cancelling of the worker's contract. It is recommended that QF also have a counseling service where workers may go to lodge complaints, as a back up measure, perhaps within the Worker Welfare department of HSSE.

11.5 Informed Consent to Employment

- 11.5.1 Workers shall receive, in their own language, clear and accurate information regarding the position, conditions of work, safety and health risks of the work to be performed, accommodation, salary details, leave entitlement, uniform, food provisions and all other necessary terms of employment before deployment to Qatar.
- 11.5.2 The contract between the Contractor or Sub-Contractor and Recruitment Agency Local or Recruitment Agency Abroad shall stipulate an obligation of the agency to provide Workers with accurate information about working and living conditions in Qatar prior to their deployment.
- 11.5.3 The Contractor and Sub-Contractor shall exert due diligence in ensuring that Recruitment Agencies Local and/or Recruitment Agencies Abroad

¹⁸⁶ In the offices of the Philippines Overseas Employment Authority (POEA), there are a number of posters issued by the Bureau of Internal Revenue that urge migrant workers to "Ask for a Receipt" - to ensure that taxes on all purchases will be forwarded to the government, with 2-4 years imprisonment for failure to provide a receipt.

¹⁸⁷ If a worker decides to leave before expiry of the probation period, he is usually expected to pay his return airfare. This may or may not be written into the contract. If the employer terminates the contract within this period, the employer will pay the return airfare; or, the employer may determine that it was the fault of the recruitment agency and request them to pay; the recruitment agency may claim that if the employer interviewed and chose the candidate, then it is the employer's responsibility to pay the airfare.

provide clear and accurate information to Workers about working and living conditions prior to their deployment.

- 11.5.4 The Contractor and Sub-Contractor shall submit evidence that its Workers were made aware of their rights, working and living conditions before deployment.

Informed consent in the native languages of migrant workers is an important condition in the decision to accept a contract. Here, the employing companies in Qatar are obliged to ensure this is done in the sending countries, prior to departure. Workers need to be provided with a full understanding of not only their rights and terms and conditions of the job but also the health risks from harsh summer heat and other possible factors. These may not seem important to tough young men, but are critical, given the seemingly high incidence of deaths of young men from Nepal that are not adequately explained.

Ethical Recruitment Agencies

Most of the international recruitment agencies worldwide make statements about ethical practice, corporate responsibility and codes of conduct. However, most of these ethical issues tend to relate to how employees of the agencies must conduct themselves internally. Being also aware and paying lip service against debt bondage, trafficking and forced labour, they are not seen as particularly active in actually combating these human rights violations. The development of ethical recruitment agencies is a critical requirement for the reform of the recruitment industry generally. This requires changing the market where employers pay the recruitment costs, preferably voluntarily. As was suggested in the interview with Verité International in Manila, “Right now, being a broker in the Philippines is a dirty word. It is not something decent businessmen would go into. If we can build a market where employers pay as a matter of choice, there will be more good businessmen investing in the [recruitment] market.”¹⁸⁸

There were only two clearly ethical recruitment agencies interviewed during the course of this research.

The first was FSI Worldwide in Nepal¹⁸⁹ that now has authorization to conduct a pilot project with a QF contractor in order to show empirically that their ethical recruitment practices will lead to greater quality, efficiency and productivity in the construction sector. This will be achieved, they argue, by a much closer relationship between the migrant workers recruited and the employing company and that ethical recruitment “makes business sense”. Multiple intermediaries only create corruption against the candidate and the employer, rather than adding value. Their approach to business is first, if employing contractors insist upon an ethical and debt-free supply of labour, then agents and the labour market will have to comply. Second, by paying for the recruitment costs, employers are investing in their workforce – “If you are not paying for something, then what do you expect to get?” Third, to ensure that corruption does not creep in over time, it is important to maintain regular inspections or audits of the labour supply chain in

¹⁸⁸ Enrico Bagdioni, Verité International, Manila. Interview 6 December 2012.

¹⁸⁹ Interview 14 February 2013. Established in 2006, it has offices in Nepal, London, Dubai and Nairobi.

the same manner as any quality management process. For commercial business, they argue, ethical recruitment produces higher morale, higher productivity, lower staff turnover, better performance, reduced costs and enhanced reputation.¹⁹⁰

Not only does FSI hold to the principle of no fees for workers deployed, but also much closer matching and with more highly skilled workers that they assist in training, monitoring and managing deployed workers throughout the full migration cycle – what they call “ethical manpower provision”. This management also includes having all of the details of workers’ bank accounts. They will manage their salaries and savings for them, providing cash when needed and remitting to other bank accounts that their families can access.¹⁹¹ FSI have won awards for their advocacy of not only ethical recruitment, but for their anti-trafficking activities, such as Business Leader’s Award to Fight Human Trafficking in January 2013. Their argument is that better skilled workers who arrive debt free are going to be more content and more efficient. Thus, contractors will require less labour to complete the work tasks required. An important part of their strategy is to avoid the corruption that arises with the use of other “third party” agents, such as sub-agents, and by keeping a tight managerial control over the whole process. In a pamphlet published by FSI, they contrast ethical recruitment with the “traditional model”, summarized as the following:

The second ethical recruitment agency encountered was the Fair Hiring Initiative in the Philippines. This is a fledgling company that will operate not only out of Manila, but has an office located in the region from where they recruit. Their operating principle is that “employers will receive workers chosen for their skills, attitudes and knowledge to do the job they were hired for, not for their ability to pay a fee.” They do not charge jobseekers any recruitment, placement or any other fees, which is seen as the primary solution to the deeply embedded and systemic system of debt bonded forced labor.

Unburdened by debt, confident in their abilities and properly oriented to their rights and responsibilities, as well as to the culture and conditions of their workplace, the worker supplied by the Fair Hiring Initiative can focus on the job, work more productively and safely, communicate effectively and have a better chance to improve the quality of his or her life and that of his or her family and community.¹⁹²

¹⁹⁰ Nick Forster, FSI Director, *Building capacities of the workers of the Ministry of Labor & Social Affairs*, QFCHT, ILO, UNODC Tripartite Meeting on Forced Labour and Trafficking, Oryx Rotana Hotel, Doha, 20 November 2012.

¹⁹¹ Interview with FSI director, Niraj Gurung, Nepal, 14 February 2013.

¹⁹² Interview with Marie Apostol, Fair Hiring International recruitment agency, Philippines, 5 December 2012.

Table 8. Traditional Versus Ethical Recruitment Models

Traditional Model	FSI [Ethical] Model
Network of corrupt, unaccountable agents	Only candidate FSI & client (employer)
Focus on short term profiteering	Core ethos of looking after employees
Exploitation of candidates	Compliant with current legislation
Intimidation of candidates	Intensive interview in native languages
Extraction of illegal fees from candidates	No payment by candidates ¹⁹¹
Limited or no screening	Detailed screening
Falsified CVs & forged certificates	Vetting by trusted professionals
Selection based on willingness to pay	Selection only on merit
	Travel and payroll management
	Training
No ongoing management	Ongoing advice & support
Low Moral	High morale
Low Productivity	High productivity
High staff turnover	Low staff turnover
Poor performance	Outstanding performance
Increased costs	Reduced costs
High wage bill	
Reputational damage	Enhanced reputation
Non-compliance risk	

Source: adapted from FSI Workforce Solutions: Ethics at Work.

¹⁹³ This is not explicitly stated in the FSI pamphlet, but has been made clear in interviews and other public statements (see previous footnote).

It should be noted that migrant domestic workers have been singled out for special attention in both national and international regulations because of their particular vulnerability. The ban on charging domestic workers any recruitment fees was perhaps pioneered in 2006 when the Philippines government banned the taking recruitment fees for domestic workers as well as from deducting charges from their salaries. It is clear, however that the practice still continues, even when employers in the receiving countries expressly ask them not to.¹⁹⁴ In that same year,¹⁹⁵ the Philippines Association for Professionalism in Overseas Employment (ASPROE) was formed with the requirement for membership being that they could not charge placement fees. The founder of this Association, Mr Rene Cristobal noted: "This is perhaps the reason why ASPROE has only seven members. But ASPROE members are the most awarded because they comply with the law."¹⁹⁶

Government recruitment agencies also purport to operate ethically. For example, because of its access to their enormous databank of registered potential workers, the Bangladesh Overseas Employment and Services Limited (BOESL) can also boast the elimination of intermediaries other than itself between the worker and the employer. However, where an employer will not pay recruitment charges, BOESL will charge workers a recruitment fee according to skill classification, but which is reduced if the employer does not pay the airfare. If the employer does pay, then BOESL will not charge workers anything.¹⁹⁷

Another organization, the NGO, Verité,¹⁹⁸ may be singled out because of its long history of activities around recruitment issues in relation to exploitation, trafficking, debt bondage and forced labour. It has regional offices around the globe, and has dealt effectively with multinational corporations who are concerned with their reputations and corporate social responsibility when it comes to their subcontractors and suppliers. We visited Verité's office in Manila and were provided with a range of materials.¹⁹⁹ In particular, the Verité Fair Hiring Toolkit is a comprehensive coverage of practical guidelines on how to detect violations of human and labour rights and to identify where vulnerabilities lie that may indicate circumstances of trafficking, debt bondage and forced labour. The following lists the organization's indicators for possible trafficking and forced labour and may be useful to reproduce here.

¹⁹⁴ See Agunias, Dovelyn Rannveig, (2010) *Migration's Middlemen: Regulating Recruitment Agencies in the Philippines-United Arab Emirates Corridor*, Migration Policy Institute, Washington.

¹⁹⁵ It is not clear which came first, the association or the legislation.

¹⁹⁶ IOM Conference Proceedings, *Organizing the Association of Employment Agencies in Asia: Moving Forward to Action on Ethical Recruitment* April 3-4, 2008 Astoria Plaza Hotel Manila, Philippines Page 22.

¹⁹⁷ BOESL Annual Report for 2010-2011, page 5-6.

¹⁹⁸ "Verité Fair Labour Worldwide is a US-based NGO whose mission is to ensure that people worldwide work under safe, fair, and legal conditions. Verité's programs leverage the power of multinationals to deliver positive change for vulnerable factory and farm workers in company supply chains. The organization's partnerships with Fortune 500 companies, global NGOs, trade unions and governments reduce child labour and forced labour; eliminate unsafe working conditions; increase incomes for workers; and decrease inequality and discrimination. Verité was named winner of the 2007 Skoll Award for Social Entrepreneurship and 2011 Schwab US Social Entrepreneur of the Year. Verité is a member of the Alliance to End Slavery and Trafficking, and with 20 of the largest companies in the world a Founding Circle member of the Sustainable Apparel Coalition. Verité has regional offices in China, Southeast Asia, India and Latin America" see: <http://www.verite.org/helpwanted/about>

¹⁹⁹ Interview 3 December 2012.

Red Flags of Risk and Vulnerability to Broker-Induced Hiring Traps

If one or more of these preconditions for risk of trafficking and forced labor among migrant workers is present, further evaluation should be performed.

- **Presence of Migrant Workers:** Any workplace in which migrant workers are present should be considered at risk for forced labor. Even those with only a handful of migrant workers are not exempt from this risk.
- **Use of Labor Brokers:** When migrant workers are hired through brokers, the conditions of their recruitment and hiring are no longer under the control of, or even readily apparent to, employers. This risk is further magnified when labor brokers use sub-brokers or subcontractors.
- **Informality in Recruitment and Hiring:** The use of labor brokers (or sub-brokers used at any point in the process of recruiting, hiring and on-site management of workers) that either do not operate legally or do not have the required license granted by the relevant public authority in countries of operation is an important sign of risk.
- **Long Employment “Supply Chain”:** The longer the “chain” between worker and employer the higher the likelihood that abuse may occur. Factors that may increase the length of the chain include the number of intermediaries and steps between the worker and the final place of employment as well as “degrees of separation,” which can include language barriers, cultural and social differences, and geographical distances.
- **Extremely Low Costs to Employer of Broker Services:** By comparing how much workers must pay to secure a job with how much brokers paid by the employer for their services, it can become apparent if the broker’s costs are so low that coercive methods in hiring and recruiting are more likely.
- **Binding Terms of Work Visa:** If work visas strictly tie workers to one employer, workers may face strong “menace of penalty” for leaving an abusive job. Governments that allow the temporary contract-based hiring of migrant workers tend to have immigration and other laws that may restrict migrants’ mobility within the country, their reproductive rights, and even labor rights like the freedom to associate and bargain collectively. Though many of these laws have legitimate goals, they can be abused to control workers in ways that may violate not only standards on voluntary labor, but other standards, like non-discrimination and humane treatment.²⁰⁰

One of the keys to reform and prevention of trafficking violations, bribery and the general corruption in the migration industry is to reduce the number of intermediaries in the process between the migrant workers and the employer in Qatar. There are at least three or four or more agents, brokers and the like who take money from the migrant worker to procure his job. But there are also broader levels of corruption. For example, in Nepal, many migrant recruitment agencies do not publicly advertise where their offices are (they do not put signs on their office buildings), for fear of being targeted by officials, police or gangsters for extortion. More systemically, in an interview with the Director of the Ministry for Foreign Employment in Nepal, the director argued that a work permit was required

²⁰⁰ Verité Fair Labour Worldwide. see <http://www.verite.org/node/695>, retrieved 14 November 2013.

for emigration clearance. When this author raised the issue to one of the key informants in Nepal,²⁰¹ it was explained that it is not true, but the assumption of the requirement was a ploy to extort money when the permit was not there. In other words, for a sum of money, the absence of a work permit (which is not in reality required) will be ignored.

They use that excuse, that you should have a work permit which is not a requirement.

RJ - Who is using the excuse? The guy at the passport control or...
All of them

RJ - Who is 'all of them'?
The Immigration, the police, Department of Labor

RJ - And Foreign Affairs?
Foreign Affairs, yes, they all have a link.

RJ - What is the link?
One of the practices in Nepal and India is, we all know that, for example, even a policeman charges or takes money from a taxi driver or you know grocery shopkeeper, these tempo drivers²⁰² you know, everyone. And what happens is: the man on the top, the Inspector General of Police or the Deputy Inspector General of Police, whatever it is, they are on top. They say, "no policeman should take any bribe. We are here to serve the people." They say a lot of things. But they have a policy that this policeman should pay monthly or weekly a certain amount to their in-charge, assistant police inspector or inspector or post-in-charge. So he gets money from all the policemen, right. Then...

RJ - How is that justified? "Just give me some money", is that it?
Yes. I mean otherwise they would be posted to a remote area! (laughs) Then the police inspector has the responsibility to collect a certain amount of money and every week or every month he pays to these superintendents of police. Ok? Then police superintendents also get money from this department and that department. He collects the money and he also passes a certain share to the Deputy Inspector General. Ok? Deputy Inspector General also has a responsibility to collect from this division, this division and this division who pays money to the Inspector General. That's how, at the top, they don't take money from the individual. But they get their share. Similarly, here, at the airport, the policeman or the immigration official, whoever it is, just to get posting at immigration office, you are to lobby and pay maybe 30 lac or 40 lac;²⁰³ more than 60-70 thousand dollars. You need to invest to get a posting there. We know that. That is in practice. I mean he has invested that

²⁰¹ This informant asked to remain anonymous.

²⁰² The Tempo is a three-wheeled, battery-powered taxi.

²⁰³ In South Asia, a "lac" or "lakh" represents 100,000.

money to get that posting there. So, how is he going to reimburse? He has to be reimbursed, right? So, "your passport is fake", "this is fake", "you need to do this", "you need to do that"....

RJ - I understand now.
*It's all one big network of love!*²⁰⁴

Changing the culture of corruption is difficult, even if it is only the requirement that workers do not pay recruitment charges. It is currently an ingrained expectation. If a recruitment agency refuses to accept money from candidates, they may question their legitimacy; and in some cases, as we have seen above, it may be justified. FSI have explained that when interviewing a candidate they make it very clear that there will be no costs other than the purchase of their passport. When the candidate is finally accepted after training and the contract signed, he may still ask, "How much do I pay you?"

The principle of establishing exclusive dealings with ethical recruitment agencies is not a simple matter. On the one hand, there are very few that currently exist. On the other, existing agencies will be only too willing to accept new principles if it means they can do business with Qatari companies. For example, a recruitment agency may not be currently operating with ethical practices such as FSI. However, they may be more than willing to agree to the QF Standards guidelines and ensure that workers do not pay any recruitment costs. Does this mean that they are an ethical agency? In an interview with one recruitment agent, the ethical guidelines were explained. He was genuinely excited about the new standards and expressed a great willingness to participate. He had previously complained about the current corruption and kickbacks arrangements and had admitted that he had taken part in them. However, he then asked if it was acceptable to only operate "ethically" for contracts with Qatar? He explained that he had to also do business in other Gulf States and in countries like Libya, where he had to continue the bribes in order to stay in business there.

This case raises an interesting question. Would QF, for example, accept a recruitment company that conforms to its ethical requirements, knowing that the organization does not practice it elsewhere? Or, does the organization have to be universally "pure" and conduct ethical recruitment wherever it operates? If it were required to be a "total ethical" company, then what monitoring procedure, or evidence would be required as a precondition for acceptance?

It is not possible at this stage to answer these questions with any clarity or certainty. This will require an accreditation process with ethical recruitment guidelines that have yet to be written and implemented. It is recommended, therefore, that QF, Q22 or the Qatari authorities commission a proper instrument for the formal accreditation of ethical recruitment agencies. This will also require a proper infrastructure for it to be implemented. Licensing requirements of recruitment agencies do not lend themselves to proper ethical recruitment as

²⁰⁴ Interview 14 February 2013.

past experience has shown, no matter what financial bonds or escrow accounts are established. Many existing agents engaged in the exploitative arrangements described here may be reluctant to participate in ethical recruitment because it is likely that they will earn only one third of what they are making now. Indeed, it may mean that some agencies will close down, but that is not necessarily a bad thing, because they may not have a viable business model in the first place and are not good businesses.²⁰⁵ On the other hand, if there are fewer ethical agencies involved, their volume of business may be much greater.

Alternatively, there may exist recruitment agents that are perceived to have a genuine moral conscience and who may be more conducive to reforming their own practices and more easily accredited. For example, during an interview with an agency in Sri Lanka, it was explained that they do not recruit female domestic workers.

There are all these issues, especially for females. We have come across so many issues with them. Like I myself was in Saudi Arabia for 10 years as an HR manager for a big company before I came back and started this business. I have seen people suffering there. Women are maltreated, not paid salary, physical abuse – these kinds of things you always read in the newspaper and see in TV. I myself witnessed a couple of incidents. So, I decided no, I am not going to do this business. ... So it was a personal decision, rather than a business decision, not to engage.²⁰⁶

On recruitment of other workers, whether skilled or low-skilled, the same agency was asked if their workers are charged recruitment fees. He explained that, “we always like to get paid by the employer and we do not charge the employee. We think that is the ideal situation of recruitment in which we always prefer to work with.” When asked what happens if the employer refuses to pay, he answered,

If I say no, there are plenty of others who will do it... I am very open with you on this concept. If the employer says “I am not going to pay you. You can collect the fees from the employee.” Or if he says “I will give you the fees, but not the ticket.” If he pays the fees I will not ask anything from the employees, but tell them to buy their tickets and go. If the employer does not provide anything, I tell the employee, “if you wish, this is the job and these are the terms and conditions. If you agree, you buy your ticket and go.” If he says yes, we process and he pays all the expenses plus the ticket and our fees... The ideal is a person who pays the amount in about three months salary. Although I am not personally in favour, the market wishes me to do that... If the worker says no, then we tell the employer he is not accepting.²⁰⁷

This agent has a clear preference for workers not paying, but finds it difficult to refuse a labour supply contract when the employer will not pay. At the same

²⁰⁵ Bianca Granara, Tripartite Meeting on Forced Labour and Trafficking, Oryx Rotana Hotel, Doha, 20 November 2012.

²⁰⁶ P. S. Selvaratnam, Managing Director, Selco International Group of Companies, Colombo. Interview 25 March 2013.

²⁰⁷ *ibid.*

time, he does not seem to pressure prospective clients to pay and allows them to make an informed decision. If the worker has to pay, the company goes to the Sri Lankan Bureau of Foreign Employment with the details of the arrangements and has them determine the allowable charges. “They have some kind of mechanism to do that. We don’t really know how to do it.” They also provide receipts to the employees, “We are the only company that gives receipts.” And they are careful with whom they do business in the destination country, “We do not accept anybody’s job order just because we want to do business. We check if the company pays on time, their facilities and accommodation, etc. We get it right 98 per cent of the time.”

In addition, government agencies can be solicited such as the Bangladesh Overseas Employment and Services Limited (BOESL), the Sri Lanka Foreign Employment Agency (SLFEA) and the various state-based Indian government agencies. As government owned and run recruitment agencies, they may be conducive to ethical recruitment because of direct government control and where there is an interest in the welfare of their nationals. Accreditation procedures may also be applied to them.

In summary, the exclusive use of accredited ethical recruitment agencies should reduce the current cutthroat competition in the recruitment industry that seems to have led to the corruption. These agencies need accreditation according to an established set of criteria and offered to contractors as preferred (or compulsory) labour suppliers who will comply with QF standards. However, a cautionary note was made by the representative of Verité International in relation to the auditing and monitoring of recruitment practices: “Remember that everyone has an incentive to hide the truth. So if the workers don’t trust that something will change, even if you interview them again and again, they are going to be more afraid of displeasing their brokers.”²⁰⁸ Thus, if workers have paid a recruitment agent (or sub-agent) and they are not confident in the no-fee policy, they may deny it.

Additionally, care must be taken to not simply introduce new licensing provisions, which may create a new level of bureaucracy that is also vulnerable to corruption, but to have a clear enforcement structure in place that will also monitor the illegal side of the recruitment market. A combination of state and market recruitment would be a balance of government-to-government, direct hire and private ethical agencies. Government-to-Government, or QF to Government, agreements with ethical recruitment principles may be the best way to set benchmarks for the whole industry of labour supply for Qatar.²⁰⁹

Labour supply firms in Qatar must also comply with ethical recruitment agencies in the sending countries. This is to ensure that contractors cannot deflect

²⁰⁸ Enrico Bagdioni, Verité International, Manila. Interview 6 December 2012.

²⁰⁹ Interestingly, the Bangladesh government decided to sign an agreement with the Bangladesh Association of International Recruitment Agencies (BAIRA) for the recruitment of workers to Hong Kong. It was argued that instead of trying to track individual agencies, to make them more responsible for problems that occurred, “we will hold the Association responsible, not the recruiting agency.” Mafruha Sultana, Bureau of Manpower, Employment and Training (BMET), Interview 3 March, 2013.

CHAPTER 4 - RECRUITMENT AGENCIES

responsibility of recruitment practices to a local labour supplier who pays their wages and provides the accommodation. When a contractor pays a local labour supply company, rather than directly employ the worker, there is currently no responsibility to check on how the workers were recruited or possibly trafficked. Employers who refuse to lift the corporate veil to ascertain the circumstances of the recruitment of migrant workers in their organization should be made accountable.

CHAPTER 5

CONTRACTS AND VISAS

Recommendation 5: *A standardized contract could be developed in conjunction with all stakeholders that makes terms and conditions of employment clearly understood by the contractor and the worker, including detailed termination conditions and liabilities linked to exit visa and NOC rights. Further, and consistent with government regulations, there could be a more explicit set of procedural rules, from the issuance of the demand letter and official validations through to the recruitment agencies and the workers themselves. The procedures could include that all parties, including the prospective migrant workers, be required to sign contracts in their own native language and with time for consideration prior to departure. The workers could be required to produce the contract on arrival into Qatar and be registered with the Ministry of Labour. All workers should retain a copy of their original contract at all times. Substitute contracts on arrival should be banned in accordance with QF Standards (unless they are advantageous to the worker).*

The problems of the current private sponsorship system could be overcome by seriously addressing the loopholes that allow its abuse, or have the government undertake the role and responsibilities of sponsorship for all migrant workers. Regardless of whether such reforms take place or not, sponsor denial of an exit visa or NOC should have automatic judicial review and legal representation with rights of residency and employment until resolved (unless criminal charges are involved).

Recommendation 6: *Qatari contractors and sub-contractors and their labour suppliers in Qatar should be carefully monitored to ensure that the visas of workers are commensurate with the positions they have filled. This will require collaboration with the Ministry of Labour.*

In late 2013, a response to an Amnesty International inquiry into the conditions of migrant workers in Qatar, the Director of the Human Rights Department of the Qatar Ministry of Foreign Affairs stated that future bilateral arrangements would uphold the rights provisions of employment contracts of migrant workers.

Qatar seeks to sign agreements with many countries that export labour, that protect the workforce and clarify rights and obligations. These agreements state clearly that the Ministry of Labour in their countries, as well as the

Embassy of Qatar in that state should certify contracts, in order to certify the information noted in the contract. In the event that the Ministry of Labour becomes aware that the employer has not adhered to the contract with the employee, or a complaint is received, then it would take all legal means and measures against the employer.²¹⁰

Most workers interviewed in a number of QF companies in Qatar did not have a copy of their contracts. Typically, when asked what was in the contract, they were only able to cite the wage level. Rarely are the contracts in their own native language. One HR manager in Qatar explained that the “employment offer” that they receive in their home country is only in English, while the proper contract signed on arrival in Qatar is in Arabic and English. The company said it relies upon the recruitment agent to explain the offer to them in their own language. There is evidence in Qatar that at least some of the larger construction companies do provide in English, Arabic and the worker’s native language. In all cases, however, there needs to be a verification mechanism to show that the worker understood the conditions of employment before departure, for some workers are illiterate in their own languages.

The lack of transparency regarding contracts and visas and who will explain the terms and conditions to prospective migrant workers is something that needs to be addressed. While the origin country agents and sometimes governments provide pre-departure orientation seminars and workshops, whether compulsory or voluntary, there needs to be more standardized procedures for the passing on of such critical information that is arranged in collaboration with Qatari authorities and their clients. This is important because the contract is a legal document and workers are currently bound to them without adequate knowledge and understanding of their rights and responsibilities.

Passports

None of the workers interviewed in Qatar were in possession of their passports. Most accepted that their employers were holding them for “safe-keeping”. But others said it was confiscated against their wishes. The companies all said that passports were available on request. Although the withholding of passports is illegal according to Qatar Labour Law, it is a widespread practice that has been highlighted by all the international organizations in their ongoing critiques of the conditions of migrant labour in Qatar. If employers provided proper secure storage space (as is required under the new QF Standards), the security issue should no longer be a reason, or excuse, for companies not to return passports once the official paperwork has been completed.²¹¹ From an interview with a labour supply company in Doha, it was explained that the company keeps the contracts and passports “for the sake of safety”. It was added, however,

²¹⁰ Letter from Khalid Bin Jassim Al Thani, Director of the Human Rights Department of the Qatar Ministry of Foreign Affairs to Mr Philip Luther, Interim Director of the Middle East and North Africa Programme of Amnesty International, 7 October 2013; see Annex 1, Amnesty International, *The Dark Side of Migration: Spotlight on Qatar’s Construction Sector Ahead of the World Cup*, 18 November 2013. <http://www.amnesty.org/en/library/asset/MDE22/010/2013/en/ca15040d-290e-4292-8616-d7f845beed7e/mde220102013en.pdf>, retrieved 18 November 2013.

²¹¹ This was also a recommendation in the report by Human Rights Watch. See Human Rights Watch (2012) *Building a Better World Cup: Protecting Migrant Workers in Qatar Ahead of FIFA 2022*, Human Rights Watch, June 12, 2012. <http://www.hrw.org/embargo/node/107841?signature=98030612146326550c609a5aaf96422&suid=6>, retrieved 2 July 2012.

“we, as an employer, cannot fully trust workers and what they say. They might, for example, claim that their mother or father died, but then it may turn out that they in fact died three years ago. Each worker costs money to the company and we need to be careful and investigate each individual case”.²¹² It was not explained how keeping the passport and contract assists in their investigations, but it may be assumed that it is a function of control – and a violation of the right to freedom of movement.

Procedures

Generally, employers in Qatar complete a “labour demand letter” that details the number of workers from a particular country with the occupational skills required, and usually covers four main issues: salary, accommodation, food and overtime. The demand letter then needs to be signed and stamped by the Ministry of Interior, the Ministry of Foreign Affairs and the Qatari Chamber of Commerce as endorsement. It then goes to the embassy of the origin country in Qatar for attestation. In principle, the embassy checks on the validity in relation to its own government’s requirements, the suitability of the employer and the conditions of accommodation where the workers are to be housed.²¹³ If it is an individual, rather than a registered company or agency making the request, such as a relative working in Qatar, the Qatar Chamber of Commerce needs to endorse the visa.

The Embassy returns one verified copy to the sponsor and another copy stays in the embassy. The demand letter is then sent to either a placement agency in Qatar or directly to the recruitment agency in the sending country. The employer also gives power of attorney to the recruitment agency in the sending country to recruit on their behalf. The demand letter is also sent to the Ministry of Labour in the origin country for verification and authorization.²¹⁴

The demand letter does not serve as a contract because it contains a list of positions, not persons, even though in our interviews it was often referred to as a contract. Normally, when the candidates have been chosen, the employer will issue a “job offer”²¹⁵ to the particular candidate, again specifying salary, accommodation, food and overtime. However, this job offer is also not a contract because the migrant worker does not sign it.²¹⁶ The authorities, as well as the sponsor, sign the job offer, but not the employee.

In the interview with the Deputy Chief of Mission at the embassy of Nepal, it was asked if the workers receive a contract before departure. “There is no contract

²¹² Interview 24 September 2012.

²¹³ In reality, there was no evidence of an embassy rejecting a demand letter on these grounds. Because the two ministries and the Chamber of Commerce have endorsed it, it will be assumed that the proper procedures have been complied with.

²¹⁴ It is not always clear whether the embassy in Qatar sends it directly to their Ministry of Labour, or whether it is left to the agency in the sending country to send it. If there is no sending country agency involved, then it may go directly to their Ministry of Labour.

²¹⁵ It is noted below that in Bangladesh it was suggested that only 25 per cent of employers provide an individual job offer to candidates selected. It is not clear if this proportion can be generalized until further research is conducted.

²¹⁶ In the case of Selco International in Sri Lanka, they get the candidate to sign the job offer, but this is unusual.

before workers leave Nepal. There is another contract between the manpower agency and the candidate. Indeed this contract is illegal because it usually does not comply with the provisions of the initial contract [demand letter]²¹⁷ It was also suggested that there seems to be a tacit agreement between companies in Doha and agencies in Nepal. “If it is mentioned QAR1,000, workers receive QAR800. If it is mentioned QAR800, they receive QAR600.²¹⁸ The wage reduction may be justified to workers as a deduction for food, accommodation or transport.

The job offer is often referred to as a “sample employment contract”. For each occupational category, there may be a different job offer. For some employers or labour supply firms in Qatar these documents genuinely become the actual contract. For others, a different contract on arrival will replace them, with lesser benefits.

The recruitment agencies in the sending country will advertise the positions, or they may have their own database to draw upon. Their CVs, demographic and identification details are sent to the agency, either directly or through a sub-agent. They do an initial screening of the candidates for a proper match to the position and the employer or human resource manager will go there (or use Skype or the telephone) for skill testing, interviews and selection for the job offer. When the candidate accepts the position, he is sent for a medical examination (primarily for tuberculosis, HIV and hepatitis). The job offer and the medical test results are sent back to the employer who then processes the visa. When the visa is sent, the agency goes to the governing body that deals with foreign employment matters with all the required paperwork for government approval. The ticket is arranged and he is deployed. This is the standard procedure, common to all nationalities of workers.

Recruitment agencies normally recruit more than the actual requirement. For example, if 35 workers are required, they will gather 45-50, just in case they turn out to be unsuitable, ill or some other limitation. They require documentary evidence of a police clearance, a medical test and a passport.²¹⁹ Personnel of the employing company, such as a human resources manager or engineer, or both, usually conduct the evaluations of the candidates. This takes place in a skills training center that agencies either have or have hired. Candidates may be charged for this process. Sub-agents may also charge them for the costs of traveling to the city, accommodation and food, although some agencies provide these services and recoup the costs from those who have been chosen. These latter costs and charges are not transparent and receipts are rarely given to the candidates.

In an interview with a Bangladeshi returnee, it was explained that he was given a folder by the recruitment agency and was told to give it to his employer on arrival, which he did. In it contained his contract he had been “told to sign” but it was only in English and Arabic. When he asked what it said, the response was “don’t think about it”. In other cases, they were told to tear up the contract they had been given

²¹⁷ This is a form of contract substitution.

²¹⁸ Interview 2 September 2012

²¹⁹ If they do not have a passport, the agency or sub-agent will assist to procure one, usually at the candidate’s expense, but sometimes the agency will arrange and pay for it in the first instance.

and signed before departure. It is this kind of intimidation that individual workers are powerless to stand up to, because, as the respondent said, “I needed to go, so no need to ask about my contract. My salary is there and I will benefit.” Making a fuss about the contract risked losing the job and the fees he had gone into debt to pay. The agency explained that he would have free accommodation and free food, but his first wages had been reduced “for food and accommodation”. Once in the country, he was stuck and in no position to complain. “It is important”, he noted, “that there is training and orientation to tell workers to read the contracts and if they have a problem or can’t read English, to get help.”

Irregular Workers

The number of irregular migrant workers in Qatar is unknown. Typically these are individuals who have entered the country with “free visas” but who have not been able to find employment or a sponsor and whose visas have expired without their having left the country. Thus they are stuck in a black labor market, mostly as day laborers and do not have enough money to leave the country, nor a sponsor to sign an exit visa. Many can be seen on roads and highways waiting for someone to offer them work on a daily or hourly basis.

Decreasing the number and vulnerability of irregular migrants would be achieved by utilizing easy exit procedures and bridging visas. Ad hoc or regular amnesties may be offered that give irregular workers the option to come forward and “surrender” themselves to the authorities with the promise that they will not be arrested or detained. Questions must be asked as to how their status in the country had become irregular, because their status may not be their fault, but that of the original sponsor. The migrant worker, who normally has no idea or ability to obtain or renew his work or residency visa, should not be criminalized for his irregular status. Easy exit repatriation should be facilitated, or a sponsor found to regularize their work and residency status by way of a bridging visa – a technique being considered in Ireland as well as other countries.²²⁰ This will increase protections as well as mobility for migrant workers.

Deception and Substitute Contracts

In the survey of low-income households in Qatar, only 44.3 per cent of respondents said they had signed a contract in their home country. That is, more than half (55.7%) did not sign a contract in their home country. However, 76.8 per cent signed a contract in Qatar.²²¹ It may be assumed therefore, that 32.5 per cent signed two contracts, one at home and another on arrival in Qatar. This is the practice of substitution contracts, where the conditions and salary approved by the employee prior to departure is replaced by a contract with reduced benefits when they arrive – when it is too late to refuse and turn back. “Most commonly, this deception involves salary levels, working hours, and type of employment...

²²⁰ Hamill, Kathleen (2012) *Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards an Alternative Governance Scheme in Lebanon*, Kafa (enough) Violence and Exploitation, Lebanon, <http://www.kafa.org.lb/studies-publications/27/2/policy-paper-for-reforming-the-sponsorship-system>, retrieved 12 June 2013.

²²¹ Gardner, Andrew, Pessoa, Silvia, Diop, Abdoulaye, Al-Ghanim, Kaltham, Le Trung, Kien and Harkness, Laura, “A Portrait of Low-Income Migrants in Contemporary Qatar”, *Journal of Arabian Studies* 3.1 (June 2013), pp. 1-17 <http://dx.doi.org/10.1080/21534764.2013.806076>

[D]isinformation can come from a variety of parties who comprise the migration system connecting Qatar.”²²²

A common practice in Nepal, Philippines, and India, is obtaining the signature of the employee on a substitute contract – either at the airport, just prior to departure, or upon arrival in Qatar – or both. Thus, they accept the work and the wages offered and cannot afford to report the deception and coercion involved in the recruitment and placement process. This is trafficking and a major source of anger and disenchantment for migrant workers in Qatar. The labour attaché at the embassy of Nepal in Doha explained,

When they come here, they have a different agreement. If there is a lot of difference between the two contracts, they get frustrated: accommodation not good, not healthy, no A/Cs, no salary every month, sometimes up to 4 months delay. If there is honesty, they might even agree to work for QAR400. But if they sense there is deception, they want to go back home. But, they do not have their passports and exit permit is to be issued by the employer. If the sponsor is gentle, they send them back at their [employer] own costs. If not, then the embassy shows the initial contract [demand letter] and points to all the irregularities concerning accommodation, salary payment, etc. If they don't complete their contract, workers pay their own tickets from their salaries, about QAR700-800.²²³

In Nepal, one recruitment agency, complaining about corruption in the industry, explained,

On the job offer letter, we will get two separate offer letters. One is the actual one to present to the client or to present to the Department of Labor or whatever it is. And the other one is the actual one. So any officer who works here, he will present the official one. The actual working condition is in one and they keep the second. And that is between manpower and the broker or recruiting agent ... at the other end. This is one of the many ways they cheat.²²⁴

Because of the illegality and thus the secrecy of this practice, it is very difficult to obtain proof of substitute contracts. Despite many inquiries and requests of workers in Doha and the sending countries, it has not yet been possible to obtain copies of two documents that show unequivocally the same person, the same employer and the same job at the same time period, where the substitute contract contains conditions and salary less than the original. However, on 25 October 2013, the Philippine Overseas Employment Administration (POEA) cancelled the license of a recruitment agency (Allskills Manpower Services) because of contract substitution in the case of seven Filipina women deployed to Saudi Arabia. One contract was used for processing their exit clearance at the POEA, but they were given another “grossly disadvantageous” substitute contract on arrival in Saudi Arabia.

²²² Gardner, et. al. op. cit.

²²³ Interview Indra Dev Pandey, Labour Attaché, Embassy of Nepal, Doha, 18 January 2013.

²²⁴ Interview NG in Nepal 9 February 2013.

In the original contract, the complainants were supposed to be employed either as nurse or midwife in different hospitals but they ended up working in a dental clinic as clinic nurse or dental technician as indicated in the second contract... The effectivity of the employment contract was to commence upon the workers' arrival in the KSA but was changed to "after passing the Saudi Commission for Health Specialties Exam". Items in the first contract such as salary, transportation allowance, food allowance, and lodging were either reduced or totally omitted in the new contract.²²⁵

Allskills Manpower had also taken excessive recruitment fees from the workers and did not issue receipts for the amounts paid. These all violated the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers and the agency was ordered to refund the workers the excess charges they had paid.

The Philippines is one of the few countries where national legislation forces recruitment agencies to be financially liable for any wage discrepancies between what was promised to the migrant worker and what was actually paid. The law provides administrative liability for the possible suspension or termination of the license of a recruitment agency, as well as criminal liability of managers and other staff members of recruitment agency. This system of "joint and solidary liability" holds that because the employer is beyond the jurisdiction of Philippine courts, responsibility lies with the recruitment agency.²²⁶ In principle, this is to deter recruitment agencies from dealing with unscrupulous employers.²²⁷ But it is also one of the reasons why agencies that practice contract substitution normally keep the document under lock and key, so there is no documentary proof. In the case above, something "went wrong"; the workers were given the substitute contract in Saudi Arabia and the agent was subsequently prosecuted.

The Philippines system that requires government validation of contracts that specify the legislated minimum salary and conditions for departing workers is in a sense a moral hazard because it also fosters contract substitution and trafficking. In an interview with a recruitment agency in Manila, it was made clear that employers in the destination countries are not prepared to pay the Philippines minimum wage. If the agency wants the business, and the worker wants the job, they are prepared to take the risk and flout the rules, which most often leaves the worker more vulnerable to exploitation, trafficking and forced labour and the recruitment agency vulnerable to prosecution if detected.

Visas

There are two types of sponsorship for bringing in migrant workers to Qatar; company and personal sponsorship. The Ministry of Interior issues group visas for

²²⁵ Philippine Overseas Employment Administration, "POEA cancels recruiter's license for contract substitution", Press Release, 25 October 2013, at: http://www.poea.gov.ph/news/2013/PR_Oct2013_AllSkills.pdf

²²⁶ Labor Code of the Philippines Presidential Decree No. 442, Art. 109. "Solidary liability".

²²⁷ Lawyers Beyond Borders, Conference Report, "Building Partnerships for Justice for Migrant Workers" 23-25 November 2011- Bangkok, Thailand.

“individuals, companies and government institutions and authorities that wish to bring in multiple workers.”²²⁸ Both companies and government instrumentalities require approval from the Permanent Committee for Recruitment that will decide on the nationality and number of persons to be allowed under the group visa.²²⁹ For private companies and other organizations the visa fee is QAR300 (\$81) for both Qataris and expatriates, plus QAR1,500 (\$405) for the approval – QAR1,800 (\$486) in total. There are no fees for ministries, government institutions and embassies.

Table 9. Visas Types for Qatar²³⁰

#.	Type of Visa	Definition
1.	<i>Work visa</i>	This is basically a temporary work visa, for six months or less and functions as an entry visa that is provided by the sponsor/employer and has the position or occupation listed. The sponsor may be a company, an institute or a person. There is a monthly charge, where companies and institutes pay 100 QAR/month and individual sponsors, 20 QAR/month. A residence permit (Qatari ID) cannot be issued with this visa. However, the sponsor/employer can convert it within 90 days of arrival to have a residency permit and Qatari ID card.
2.	<i>Work visa under the sponsorship of companies and institutes</i>	This visa has a one-time charge, which is QAR220. It can be issued for a year or more. A residence permit (Qatari ID) can be issued with this visa.
3.	<i>Work visa under personal sponsorship (servants and others..)</i>	The fee for this type of visa for Qatari sponsors is QAR 220. For non-Qatari sponsors the fee is QAR1,020. It may be issued for one year or more. A residence permit (Qatari ID) can be issued with this visa.
4.	<i>“Free Visa”</i>	This is not an official visa, and is illegal. It may be either of the three types of work visas as above and is usually obtained through a worker’s network in Qatar. The sponsor can be a person as well as a company. The recipient of this visa is not restricted to an employment contract (hence “free”). The worker negotiates to pay a regular fee to the sponsor for the maintenance and renewal of the visa.

²²⁸ Ministry of Interior, Passports and Expatriate Affairs, Chapter 16, “Group Visa” <http://www.moi.gov.qa/site/english/departments/PassportDept/news/2010/12/26/23347.html>

²²⁹ Requests for visas for domestic workers requires an additional approval from the Committee Reviewing Recruitment Applications under the Ministry of Interior.

²³⁰ I am grateful to Umair Doga for this summary.

Once workers are in the country, a residence permit is required.²³¹ For this, the worker must have an employment contract and a Qatari sponsor (who can appoint a representative to sign official papers). The Ministry states, “It is usually the responsibility of the sponsor to handle all paperwork involved in obtaining the Residence Permit.”²³² This takes from two to six weeks, during which time the worker cannot leave the country. The cost of a residence permit for personal sponsorships is QAR352 (\$95) and for company sponsorships QAR1,052 (\$285). Along with the residency permit, a work permit is required and issued by the Labour department of the Ministry of Labour, at a cost of QAR100 (\$27). These all require photographs, fingerprinting, iris scanning and a blood group certificate. In addition to these, with company sponsorships, the labour contract must be attested by the Labour Department and the company’s establishment ID submitted.

QF construction contractors have complained about the difficulty in securing enough visas for a particular job category. For example, if there are not enough electrician visas available for a company, they will use a driver visa and have him perform the electrician duties.²³³ The HR manager of a large construction contractor in Qatar explained that the Ministry of labour issues a limited number of visa categories for each company. This creates “asymmetry”:

The positions stated in the contracts may differ based upon the job category of the visa made available – e.g. the visa may say driver, but he is an electrician, but the salary is the same. If they request a driver, but are only allowed an electrician, they will put down electrician and give him the job as a driver. This is explained to the worker.

In fact the salaries are not always the same and the worker may find he is paid less for a lower position than what is on his visa. It also means that the worker has to accept a fraudulent occupation on his ID card for which he is liable. The Ministry of Labour issues block visas for the recruitment of different nationalities, according to occupation. Employers complain that the lack of transparency in this process with the ministry can become frustrating. On the one hand, employers may have preferences for a worker of a particular nationality, who are seen from past experiences to be particularly skilled in certain tasks. Or, perhaps they prefer a larger pool of workers of the same nationality so they are more likely to cooperate and communicate with each other on construction sites. On the other hand, there is no guarantee that the Ministry of Labour will approve visa requests for particular skills from particular nationalities. They may instead provide approval for certain occupational skills from a country other than that requested. It is assumed that the ministry has an ethnic quota system for the workforce, but the quota details are

²³¹ Usually for 1–3 years and a maximum of 5 years, renewable.

²³² This is an important provision, although ambiguous, for who is legally responsible in cases where the residency has not been renewed.

²³³ Note that the Indian Emigration Act of 1983 has the provision: “In cases where the profession indicated in visa does not tally with the profession indicated in the Employment contract, an affidavit may be obtained from the Recruiting Agent.” Among other statements, the agent’s affidavit must include that “that the worker will be deployed with the same foreign employer for whom he is being recruited and that he will be received by the foreign employer on reaching the country of employer”. See Ministry of Overseas Indian Affairs (2008) “Emigration & You” Handbook, Emigration Policy Division, New Delhi, 7 February 2008.

not revealed. During the period of this research, the highest rejection rate from the ministry was from requests for labour from India. Rejections were not accompanied by explanations.

Further, some companies in Qatar do not want to lose their workers to another company. Thus, when the worker returns home after the completion of his contract, the company places a ban that does not allow him a visa to return to Qatar for 2 years, unless to the same employer. This also occurs in the UAE, but the ban is only for 6 months. Saudi Arabia had the same ban of 2 years, but it has now been eliminated entirely. This is another reason why some Nepalese, for example, prefer to work in other Gulf States. When they apply for a visa to return, some innocent workers are rejected because their names match with what effectively is a black list for Qatar. That is embarrassing for the workers affected because of the false connotations of previous misbehaviour.²³⁴

“Free Visas”

As the migration industry has matured, procuring labour through individual migrant networks has also increased, in order to bypass recruitment and placement agencies. However, the development of “visa trading”,²³⁵ particularly for low-skilled workers to the Gulf States has led to the commercialization of network-assisted recruitment and increased competition between recruitment agencies. In Bangladesh, for example, personal connections have accounted for 62% (2.88 million) of migrant worker deployment between 1976–2008. Personal connections are “brokers” (*dalal*) or “human traders” (*adam babshahi*) who were former migrants themselves and connected through social ties.²³⁶

Visa trading includes the unofficial, or black-market notion of a “free visa”, not because it is free (far from it), but because the visa is procured by a sponsor/*kafil* who will not in fact employ the migrant. The free visa is popular in Bangladesh, Pakistan and India where it is referred to as ‘*azad*’ (free) visa.

A migrant on ‘free visa’ is free to find his own job in any sector of the economy although it is illegal to work in other sectors or with a sponsor-employer other than one’s own. In other words, a ‘free visa’ is legal but, paradoxically, when a free-visa holder starts working for others, he becomes illegal by law and vulnerable to deportation.²³⁷

Some companies in Qatar may have unused visas that they sell to other private individuals, contractors, agencies or labour supply companies who have been

²³⁴ Bal Tamang, Nepal Association for Foreign Employment Agencies, Interview 13 February 2013.

²³⁵ Shah, Nasra (2005) “Restrictive Labour Immigration Policies in the Oil-rich Gulf: Effectiveness and Implications for sending Asian Countries,” United Nations Expert Group Meeting On Social And Economic Implications of Changing Population Age Structure Population Division, Department of Economic and Social Affairs, United Nations Secretariat, Mexico City, 31 August - 2 September 2005. http://www.un.org/esa/population/migration/turin/Symposium_Turin_files/P03_Shah.pdf

²³⁶ Rahman, Md Mizanur (2011) “Recruitment of Labour Migrants for the Gulf States: The Bangladeshi Case”, Institute of South Asian Studies (National University of Singapore) ISAS Working Paper, No. 132 - 6 September 2011.

²³⁷ Rahman, Md Mizanur (2011) “Recruitment of Labour Migrants for the Gulf States: The Bangladeshi Case”, Institute of South Asian Studies (National University of Singapore) ISAS Working Paper, No. 132 - 6 September 2011.

unable to secure visas because of the quota system instituted by the Ministry of Labour. This is also a “free visa” practice, common in the construction industry, and results in workers having occupations other than those listed in their visa/ residence permit and where workers must pay the sponsor an annual or monthly fee.

Both recruitment and placement agencies may be involved in trading ‘free visas’. It is cheaper than a normal visa because there is no guarantee of a job. Indeed, many became destitute when they were unable to find employment and face deportation if discovered. Of course there are “kick-back” fees that go to the sponsors for providing (and renewing) these visas. The use of ‘free visas’ is well known in Qatar and throughout the Gulf where governments have promised to crack down on them.²³⁸

Working visas for Bangladesh can also be arranged by individual brokers through social networks are called *urro*, or “flying (work) visas” because it “flies” from migrant broker and his or her *kafeel* or through the *kafeel*’s network of friends and relatives in the Gulf countries to a prospective migrant, bypassing local recruitment agencies and their sub-agents. This process circumvents bureaucratic procedures and the (rising) costs of migration to the Gulf countries.²³⁹

In the many cases where the so-called “free visa” is involved, no employer is identified and the migrant worker is at the mercy of the sponsor, placement agency or labour supply agency to find an employer. Further, the debt bondage that arises from these practices is cause for concern. Their vulnerability is enhanced because their sponsors can also extort money from them under threat of cancelling their contract and deportation. Or, more importantly, they may be forced to work because they cannot leave the country without the express permission of their sponsor who must sign their exit visa.

The free visa looks perfectly legal. The worker’s paperwork and ID card can indicate that they are working under X company with Y position. In reality, the worker may be doing multiple jobs and may work under different employers. This can provide him with additional sources of income to his benefit. The nominal employer usually charges an annual or monthly fee to allow the worker this freedom. If the police arrest such a worker for not having his ID card, the nominal sponsor will vouch for him confirming that he is the employer, when in reality it isn’t the case.

Termination of Contracts

As shown in the previous chapter, QF Standards 11.4.6 states,

The Employer shall ensure that the Recruitment Agency Local or Recruitment Agency Abroad it engaged for the recruitment of Workers from abroad returns Workers back to their country of origin at its own expenses if the Worker upon arrival refuses to accept the work because the agency has

²³⁸ On Saudi Arabia, see AME Info.com, 28 August 2012 at <http://www.ameinfo.com/saudi-labour-ministry-crack-visa-sales-309876>

²³⁹ Rahman (2011) op. cit.

misled him at the time of entering into contract as to the terms and conditions of the employment.

This provision seems ambiguous as to whose responsibility it is to return the worker home “at its own expense”. It is not actually clear whether this is to be at the employer’s expense or the agency’s expense. From interviews with agencies in the sending countries and with employers in Qatar, it is the case that many agreements between employers and their agencies include the agency’s responsibility to pay for the return airfare if the worker is not deemed suitable within the probation period of 6 months. In this case, according to the Labour Law, the employer is only required to give notice of 3 days if the worker is deemed unsuitable within the probationary period (Article 39).²⁴⁰ However, Selco International in Sri Lanka made it quite clear that, for their arrangements, if the employer chooses the candidates, with full knowledge of their skills, medical tests, etc., then if anything goes wrong it is the employer’s responsibility to pay for their repatriation.

Most contracts between employee and employer do not (nor does the Labour Law) stipulate that the agency must pay the return airfare if the worker terminates the contract due to breaches of the terms and conditions by the employer.²⁴¹ The Labour Law (Article 51: 1 & 3) states a worker can terminate the contract if the employer breaches the contract or any provisions of the labour law, or for misleading the employee as to the terms and conditions of the work, but it does not specify who should pay. Under these circumstances, the employee also retains his full right to obtain the end of service gratuity that must be no less than three week’s wage for each year of employment or *pro rata* for fractions of a year (Article 54). But it is not always clear who is the culpable party. For example, substitute contracts on arrival are most likely to have been arranged in collusion between the recruitment agency and the employer (and/or placement agency, and/or labour supply company in Qatar).

On the other hand, Article (57) of the Labour Law states, “Upon termination of the service of the worker the employer shall at his cost return him to the place from where he has recruited him at the commencement of the engagement or to any place agreed upon between the parties.” This provision probably assumes that the worker has completed the period of service under the contract, although it is not clear. The term “termination” here does not specify whether the employer or employee has forced the termination, or whether prior to completion of the contract, or probationary period.²⁴²

²⁴⁰ Note that the Labour Law distinguishes between contracts that have a specified period and contracts that are indefinite. This probably coincides with the distinction between “workers” and “expats”. In the case of termination of an indefinite contract, whether by the employee or employer, at least one month’s notice is required after one year’s service, but reasons for the termination do not have to be given. There are other notification period stipulations, but one seems contradictory – see Article 49.

²⁴¹ An exception perhaps is in the Philippines where the law of joint liability backs the labour contract (see discussion of this above).

²⁴² Unless there is something lost in the translation to English. Note also, that the employer cannot terminate the contract or give notice of termination while the employee is on leave, even if the notice period expires during that time – Article 85. Similarly, the contract of a female employee cannot be terminated while on Maternity Leave (50 days) (Article 96) or if she gets married (Article 98).

The contract of one construction company in Qatar does specify:

The contract may not be cancelled before its termination without the consent of the two parties and the second party [employee] will have to pay all his debts to the first party before he finally leaves the work. The First Party [employer] shall be exempted from payment of repatriation expenses of the worker in the following two cases:

1. In case of resignation before the expiry of the contract
2. In the event he commits a violation resulting to his dismissal without notice and service gratuity..."

As discussed previously, the financial debt that workers enter into is a strong binding force to the employer, but it comes at the cost of their labour rights. It is a fundamental principle that people have the right to withdraw their labour. That is the principle of "free labour." Otherwise, it is forced labour of one kind or another. It is therefore important to ascertain what are "legitimate" and "non-legitimate", "acceptable" or "not-acceptable", "legal" and "illegal" reasons for an employee or employer to terminate a labour contract, as well as the respective rights and responsibilities that are attached to them. These must be clearly detailed in the labour contracts.

Exit Visa

The nuances of the termination provisions have important implications and must also be linked with the exit permit requirements. There have been a number of cases where workers have been left stranded in Qatar because they may have made a complaint against their employer, or have had their contracts terminated, their residency permits not renewed by their sponsor, the company has gone into liquidation, or left the country, etc. They may be stuck without an exit visa or their passports or valid IDs – and no money to return home because they had not been paid their full salaries. A recent ongoing case taken up by Amnesty International involves more than 80 workers, including 60 Nepalese workers and others from Sri Lanka, the Philippines, Nigeria, China and Bangladesh, who have not been paid their salaries for up to a year. "The project was completed in October 2013, and since then the workers have been stranded in their camp, without pay and facing severe shortages of food."²⁴³ It is still unclear in this case what the termination provisions were, but not having had their salaries paid is a clear breach of the law and the company, Lee Trading and Contracting (LTC) will at some stage be required to answer the allegations.

In another case, six Nepalese workers were left abandoned and were variously sleeping in the street and on the roof of a labour camp in the industrial area, sharing the food of other workers. They were unable to contact their sponsor, despite many attempts.²⁴⁴ When the Human Rights Committee and other activists

²⁴³ Amnesty International (2013) "Qatar: Unpaid migrant construction workers left to go hungry", 18 December 2013, <https://www.amnesty.org/en/news/qatar-unpaid-migrant-construction-workers-left-go-hungry-2013-12-18> Retrieved 18 December 2013.

²⁴⁴ This case received media publicity in Nepal, but not in Qatar.

began agitating on their behalf, in September 2012, the sponsor finally delivered them their exit visas and air tickets home. They left quickly, but were never paid the more than 6 months wages they were owed.

Complementary to the conditions of termination is the ability or inability of workers to change employers in Qatar. The current requirement of a No Objection Certificate (NOC) that must be signed by the sponsor does not take into consideration the many possible reasons that an employee may want to leave their sponsor, but to remain in Qatar working for another employer without having to leave the country. Again, it would seem reasonable that if there is a conflict over the issuing of an NOC, there should be some appeal mechanism that determines whether an employee's reason for terminating the contract and going to work for someone else is acceptable – that is, in the case where the sponsor refuses to sign and the employee wants to appeal the sponsor's decision.²⁴⁵

What is most critical is that the conditions of termination by either the worker or employer be clearly articulated in the contract. In this regard, QF Standards state:

- 12.1.7 Employment contracts shall clearly specify the circumstances in which a Worker can terminate his contract without penalty, given reasonable notice, and in accordance with the Law.

The contract should also specify the penalties for other termination reasons. Similar explanations of the sponsorship law pertaining to the exit visa need to be provided in the contract as well as the pre-departure orientation programs for prospective migrant workers. The exit visa, or permit, is a part of the contractual conditions of work and residency in Qatar. It may be assumed that in the future, following the high profile case of the footballer, Zahir Belounis, who had to remain in Qatar against his will for 17 months because of a financial dispute with his sponsor, cases other than prominent persons may also get mass media attention. Denial of an exit visa is often seen as a form of imprisonment, house arrest, or against international law pertaining to the right of freedom of movement.

It has been suggested that one of the reasons for the maintenance of the exit visa requirement is that Qatar does not have extensive extradition treaties with other countries where it can request the return of a person who has committed an offense in Qatar and has left the country.²⁴⁶ As of July 2006, Qatar had extradition treaties with only eight countries: the Kingdom of Saudi Arabia, United Arab Emirates, Yemen, Jordan, Tunisia, Iran, Turkey and France. The Qatari *Code of Criminal Procedures* (Book 5, Articles 407 to 426) details the policies for extradition requests from foreign countries. Legal extraditions are based upon international, regional or bilateral agreements, because there is no obligation

²⁴⁵ Lebanon, for example, allows sponsored foreign workers to change employers three times before they must leave the country (*tenazul*). Each sponsor, however, must agree to the transfer and, informally, money often changes hands between the sponsors to cover the recruitment costs. When this happens, unfortunately, it looks very much like indentured labour.

²⁴⁶ Dorsey, James (2013) "Qatar: Perfecting the art of scoring own goals", *Daily News, Egypt*, October 10, 2013, <http://www.dailynewsegypt.com/2013/10/10/qatar-perfecting-the-art-of-scoring-own-goals/> Retrieved 11 October 2013.

under international law to “surrender a ‘wanted’ individual to another country.”²⁴⁷ However, nation states are traditionally most reluctant to extradite their own nationals. Thus, if a foreign resident who is wanted by the Qatari authorities absconds to his own country, it is unlikely that his government will return him, even if there is an extradition agreement with that country. Indeed, the Criminal Procedure Code makes it clear that, if there is a request by another country, Qatar will not extradite one of its own citizens.²⁴⁸

While many in Qatar are critical of, but despairing about the possibility of reform of the sponsorship and exit-visa system there have been increasing statements by Qatar authorities that changes are being seriously considered. The recent report from the UN Special Rapporteur on the human rights of migrants highlights these reform promises, with special praise for the QF Standards.²⁴⁹

Judicial procedures for the fast resolution of disputes to prevent lengthy exit denials without adequate justification should be legislated, and provided for in the QF Standards. The UN Special Rapporteur on the Human Rights of Migrants has suggested:

The exit permit should be replaced by a system where creditors can apply to a court for a travel ban that can only be awarded upon consideration of individualised circumstances, if strictly necessary for the adequate conclusion of judicial proceedings, with the burden of proof on the creditor.²⁵⁰

In summary, the study found that most migrant workers do not sign a contract before their departure to Qatar. Those who do are more often given the contract to sign just before their departure, often at the airport when the impetus to leave has already been established. It is also common for companies to ignore these contracts and issue a substitute contract with wages and conditions that are less than originally promised. Workers are either not given a copy of their contract or told to destroy the first contract when they arrive in Qatar. When workers complain of the discrepancies between the promised and actual wages, food allowances, hours of work and overtime arrangements, they are routinely told that if they do not accept it, they can return home. The employing contractor knows that they are unable to do so because of the debts they have incurred to reach Qatar. This is debt bondage and forced labour under ILO conventions and Trafficking under the anti-trafficking Palermo Protocol of the UN Convention Against Transnational Organized Crime, that Qatar has ratified and introduced local legislation.

²⁴⁷ Lassoued, Btisseem & Mostafa, Mahmoud (2012) “Extradition requests and available defences”, Al Tamimi and Co., <http://www.tamimi.com/en/magazine/law-update/section-6/january-february-1/extradition-requests-and-available-defences.html> Retrieved 20 December 2013.

²⁴⁸ Law No. (23) of 2004 *Criminal Procedure Code*, Article 410, <http://www.qfiu.gov.qa/files/Law%2023%20for%20the%20year2004-E.pdf>, Retrieved 19 December 2013.

²⁴⁹ Francois Crepeau (2013) “UN Special Rapporteur on the human rights of migrants concludes country visit to Qatar”, Doha, 10 November 2013 <https://mail.google.com/mail/u/0/?tab=wm#inbox> retrieved 15 December 2013.

²⁵⁰ Francois Crepeau (2013) “UN Special Rapporteur on the human rights of migrants concludes country visit to Qatar”, Doha, 10 November 2013 <https://mail.google.com/mail/u/0/?tab=wm#inbox> retrieved 15 December 2013.

Qatari law makes it illegal to sell or trade visas, but the practice of this is widespread. Companies complain about the difficulty in securing enough visas for a particular job category. For example, if there are not enough electrician visas available for a company, they will use a driver visa and have him perform the electrician duties. This means that the worker has to accept a fraudulent occupation on his ID card for which he is liable. The Ministry of Labour issues block visas for the recruitment of different nationalities, according to occupation. Some companies may have unused visas that they sell to other private individuals or companies who have been unable to secure visas for their employment needs. This “free visa” practice, common in the construction industry, results in workers having occupations other than those listed in their visa/residence permit and where workers may have to pay the sponsor an annual or monthly fee.

An independent complaints department would provide workers with a non-biased service in which workers can make a complaint and have their rights reviewed. Migrant workers feel an intimidation because of the vulnerability of their circumstances. Many cases of abandonment by the sponsoring company and violations resulting in complaints to the Ministry of Labour have not been very successful on behalf of the workers. They are disadvantaged in many ways in gaining access to redress, partly because of the lack of access to legal representation that is affordable. In the case of 15 Victims of trafficking from Togo in Africa, the plaintiffs were told there was nothing that could be done because they had signed a contract. These signatures, according to the workers, were signed under duress and intimidation.

CHAPTER 6

WAGES AND CONDITIONS OF WORK

Recommendation 7: *An assigned minimum wage for all occupations in the construction sector in Qatar, regardless of nationality, would help to prevent the exploitation of workers from particular countries and conform to QF Standards on equal pay for equal work. Cost of food should not be linked to wages and specified clearly in the contract that employers will provide sufficient, decent and culturally appropriate food.*

Recommendation 8: *The Qatari authorities should protect workers by ensuring proper and timely payment for their work in accordance with Qatari law. Arrangements should be established that allow workers to have bank accounts in Qatar and require all contractors and subcontractors to pay salaries directly into the bank account. Bank accounts may be set-up in sending countries with arrangements with Qatari banks, or Qatari banks with arrangements with banks of sending countries, prior to departure. Depositing wages into a bank account will provide proof of payment, the time and amount of payment that can be crosschecked with the contract.*

Recommendation 9: *The Qatar authorities and its clients could establish a policy that guarantees workers an exit visa or a No Objection Certificate (NOC) for transferring from one employer to another in instances where their rights have been violated and verified, such as wages less than originally promised, non-payment of wages, excessive working hours, various forms of abuse, etc.*

The issue of how to set minimum wages according to occupation or a general minimum wage in Qatar does not come within the scope of this report. However, it is important to raise a number of issues, such as wage differences according to nationality and wage rates in Qatar in so far as they are becoming less competitive. In Western countries, benchmarking the cost of living wage levels have been established by governments, but which have been developed over a century of collective bargaining with trade unions, waxing and waning in their coverage and leverage, but with the lowest levels of coverage today with the gradual deregulation of labour markets in many of the developed countries around the world. Migrant workers and especially females have traditionally had

low union membership.²⁵¹ If Qatar wishes to have wage rates of migrant workers set by supply and demand in a local labour market, then it will need to lift the current *kafala* sponsorship system, allow workers to change employers without sponsor approval (as is now the case in Bahrain) allow collective bargaining to take place that will establish wage rates, terms and conditions of all occupations filled by non-Qataris in the country. Indeed, this was one of the recommendations in the recent report on Qatar by the UN Special Rapporteur for human rights of migrants.²⁵² In June 2014, at the 26th Session of the UN Human Rights Council in Geneva, Qatar announced that the abolition of the *kafala* system was under serious “consideration”. The government would act as the sponsor “as is normal in other countries”; migrant workers would be able to change jobs without leaving the country and without approval of their employers, but only at the end of their contracts (or 5 years where the contract period is indeterminate); and all wages will be paid into bank accounts. It remains to be seen if the Shura Council will approve the proposed reforms.

Financial Incentive

In some migrant labour sending countries, the Middle East is not the preferred destination because other countries are seen to pay higher wages. Wage rates in the Gulf States have stagnated and so recruitment fees are generally lower than for other regions such as Europe and some Asian countries such as Japan, Hong Kong, Malaysia, Singapore and Korea. Those who are still prepared to work in Qatar may be the less informed, deceived, poorest who are willing to accept the jobs available and affordable. Indeed, some migrant workers may not even know which country they are going to until the last minute. Some accept that the recruitment agency will decide their destination.²⁵³

In discussion with a labour supply company in Doha, it was confirmed that, “from Nepal, people are not interested to come to Qatar because of low wage levels. They are now more interested in Malaysia, Singapore.” With regard to the Philippines, it was said, “It is not worth to bring low-skilled Filipino because of the costs the company has to pay. You bring skilled workers from the Philippines.” When asked about the observation that different nationalities might receive different salaries even though they are performing the same jobs, the answer was

²⁵¹ It should be noted, however that there have been some successful attempts to organize domestic workers, both nationally and internationally. In Italy, for example, the *Federazione Italiana Lavoratori Commercio Alberghi Mense e Servizi - Confederazione Generale Italiana* (Union of commerce, tourism & services) have had a collective agreement for privately employed domestic workers since 1974. In Peru, the *Instituto para la Promocion y Formacion de Trabajos en el Hogar* (Institute for the Promotion and Formation of Workers in the Home) became a trade union in 2006. There is an Indonesian Migrant Domestic Workers' Union; the Domestic, Service and Allied Workers' Union in South Africa; the North East Domestic Workers Movement of India; the regional based Asian Domestic Workers' Network (2004); the *Confederacion Latinamericana y del Caribe de Trabajadores del Hogar* (Latin American and Caribbean Confederation of Household Workers) covers 13 South American countries; the National Domestic Worker Alliance and the Domestic Workers United of New York in North America. As global organizations, there is Women in the Informal Economy, Globalizing & Organizing (WEIGO); and the Irene Network, organizing & protecting domestic workers in Europe. Jureidini, Ray (forthcoming) “Changing the Culture of Abuse in Lebanese Families: advocacy and migrant domestic workers”.

²⁵² Francois Crepeau (2013) “UN Special Rapporteur on the human rights of migrants concludes country visit to Qatar”, Doha, 10 November 2013 <https://mail.google.com/mail/u/0/?tab=wm#inbox> retrieved 15 December 2013.

²⁵³ see Frantz, Elizabeth (2011) *Exporting Subservience: Sri Lankan Women's Migration for Domestic Work in Jordan*, PhD thesis, The London School of Economics and Political Science.

merely “It is a market practice”. When asked about the salary hierarchy, it was explained that, “Filipinos are the highest, followed by Indian and Sri Lankan. Then Nepali and Bengali on the same level.”²⁵⁴

In Sri Lanka, it was pointed out by a recruitment agent that there are difficulties in finding skilled and low-skilled workers to deploy in the construction sector because of the large infrastructural development following the cessation of war between the Tamils and Sinhalese. Many roads and large building construction development is taking place, including hotels as the tourism industry is increasing.

So it becomes a shortage of workers. On the other hand, they earn almost as much as they would in a country like Qatar. Naturally, they will not be willing to go to those countries, leaving their families behind to sacrifice for what they make. From our experience, we have found that when someone wants to go overseas, he will be expecting at least 3 times what he would earn here.²⁵⁵

Mr Ravi went on to explain that men in the higher end occupations in the construction industry are more likely to seek jobs abroad because the salary differences are much higher, “We can find top people, like project managers, engineers, civil engineers and foremen, electrical, electro-magnetic occupations.” And being a tourist based country they have expertise in the hospitality trades and are more likely to deploy people such as hotel managers, supervisors, banquet managers, chefs, cooks and other personnel dealing with food and beverages, but not women such as waitresses. These occupations in Qatar are receiving much more acceptable salaries than low-skilled or semi-skilled workers in construction.

Wage Level Determination

It is interesting to note that most embassies of labour sending countries provide lists of minimum or standard wages for the various occupations of workers who come to Qatar. For example, the Nepalese Ministry of Labour and Transportation provides for salary rates that “should be followed” for Nepalese migrant workers in Qatar.²⁵⁶ However, it is not clear how these rates were calculated or what they are based on. In each embassy in Qatar and in the ministries of the 5 countries visited, the same question was asked: “How are these wages rates calculated? What are they based on?” No one was able to answer other than the Deputy Chief of Mission for Nepal who merely noted that the rates are calculated “in collaboration with other embassies.” Others have suggested that, for Qatar, minimum wages are negotiated between the embassies and the government at home, but this does not explain how the calculations were made.²⁵⁷ This is an issue that begs further investigation.

²⁵⁴ Interview 24 September, 2012.

²⁵⁵ Mr Ravi, Selco International Group of Companies, Colombo. Interview 25 March 2013.

²⁵⁶ These are set according to the Foreign Employment Act 2063 article 23 – see: <http://www.nepalicandidate.com/Salary.aspx>.

²⁵⁷ Rajan, S. Irudaya, Hrushikash, Mallick & Udaya, Shaar Mishra (2012) “Global Financial Crisis and its Consequence on Migrants in Qatar” in Irudaya S. Rajan (ed) *India Migration Report 2012: Global Financial Crisis: Migration and Remittances*, Routledge, pp. 122–130.

Of course, wage rates in Qatar must be substantially more than the minimum wage levels of the origin countries as an incentive to travel. It is interesting to note that for India, the different states are mandated to fix their own minimum monthly rates (for Delhi, 6,000 rupees, or \$95), but the central government also has a minimum wage rate of 10,000 rupees (\$160). The method of fixing this rate is interesting. Mr. J. John, Executive Director of the Center for Education and Communication in Delhi explained that one method is the “needs-based” approach that will factor in whatever it costs to live and reproduce, not only basic needs of shelter food and clothing, but also education and training. In India, however, this method “is never followed”. Another is the “notification method”:

After a dialogue with the employer and the employees, the Labor Department will notify the advised minimum wage. There is no collective bargaining. There is only one government individual who decides. And then, others can comment on it and it will be advertised, asking whether we agree or disagree.

The third wage-seeking method is collective bargaining that, in the Indian example given, does not always result in a positive outcome for workers:

This is usually tripartite, which is the employer, employee, and the government. The labor department is always involved in it. Unfortunately, in many sectors, the collective bargaining wage in most cases is fixed. This means that it can be a process of suppressing the wage. I'll give you an example of the tea sector. In a tea plantation, there is negotiating table with the tea plantation association, workers, and the government. The wages fixed is also notified as a minimum wage, and the minimum wages in tea is lower than the agricultural wage in that area. So the negotiated wage need not necessarily mean that it will come up with a higher wage than the minimum wage. This is also true in the government sector; even though they work very long hours (13-14 hours), they are given minimum wages including their overtime wages - that is, they are not paid for the overtime. ... On paper it will be written as overtime, but in reality they are only paid for 8 hours.²⁵⁸

This experience cannot be generalized. At the bottom line there must be a “living-wage”, but preferably a “prospering wage” that allows development savings for individuals and families, which is precisely why people migrate to work for higher wages abroad. This is not to say that there is no bargaining between the individual worker and recruitment agency in the sending country. In Manila, for example, one agent explained that, although there are standard rates set by the Philippines government, they make adjustments to the wage depending upon experience. The demand letter will specify the wage rate for the position they want filled, then the agency checks to see if it is commensurate with the standard rate provided by the government. The agent was asked about the different rates according to country of destination. Interestingly, the Philippines government has stopped providing these figures, arguing that it should be the employer to make the offer. The government will then evaluate whether it is high or low. “But we can tell if it is low

²⁵⁸ J. John, Executive Director, Center of Education and Communication, Delhi. Interview 13 May 2013.

or competitive or it's high. Most often it is low. That is a problem."²⁵⁹ The agency sometimes then negotiates on behalf of the worker, if the worker does not accept the wage level. They might negotiate, for example on "an additional package" including increased wages, increased overtime availability or free insurance.

Most often we would hear the applicants tell us: "It's not worth going abroad, leaving my family, enduring the loneliness for that salary, because I can receive that here." Sometimes we explain to them that if they travel, they have free transportation and no rent. But Filipinos have close family ties. They will tell us, "It's a matter of how many thousands, so I might as well stay." It's very important that the salary is competitive. And we tell our clients right away. Let's say they offer for a cleaner QAR900, food inclusive. Right away we would tell them that it is not acceptable. So you have to negotiate further.²⁶⁰

In the ministries of the sending countries, it was suggested that the personnel in their embassies in Qatar set the rates. But the labour attachés we spoke to could not explain how the figures were derived. It has been argued, however, that it is important for governments of the labour sending countries to set minimum wages, because the principles of supply and demand are not adequate here. However, it is not clear whether the minimum wages set by sending countries will be applied, with or without bilateral agreements. It is more important that minimum wages be established in Qatar.²⁶¹ At an IOM workshop in Manila in 2008, the issue was seen as particularly the case for female domestic workers because of their particular vulnerability in being exploited, but it may be applied generally.

On the issue of wages, [Mr Rene Cristobal] said it is true there are different ways of fixing the minimum wage, but when it comes to the vulnerable positions he said there really should be a minimum which needs to be mandated by the government. Otherwise, the more powerful ones can bring down the wages if it is left alone to the forces of supply and demand. He stated that in the Philippines, recruitment agencies want deregulation but that there are instances when the intervention of the government is most welcome. He cited the minimum US\$400 salary of domestic workers which the former Secretary of Labor Arturo D. Brion, now a member of the Supreme Court, mandated. He said that while there are some countries which object to that, there should be no argument against a woman worker being paid this amount. He said the countries in the Middle East may object to it but they have no alternative. They cannot get domestic helpers from Eastern Europe because Eastern Europeans are now being paid the same salaries as the Western Europeans.

Mr Cristobal in the above quote is still invoking a market mechanism when he refers to the comparison between the wage levels of Filipina domestic workers

²⁵⁹ Genoveva De Castro, Owner/Manager, Jenerick International Recruitment Agency, Interview 5 December 2012.

²⁶⁰ *ibid.*

²⁶¹ This has been insisted upon by all the international organizations commenting on Qatar, including Human Rights Watch, Amnesty International, the International Trade Union Confederation and the UN Special Rapporteur on the human rights of migrants.

and Eastern Europeans. In reality, the minimum \$400 salary for Filipina domestic workers was legislated mainly to try and reduce the demand from the Middle East because of the serious problems and complaints of abuse and exploitation. It may also be argued, that low-skilled male construction workers are also vulnerable and easily exploited, though they may not face the same kind of abuse as migrant domestic workers. In this sense, it is not made clear by Mr Cristobal²⁶² how the wage level *per se* reduces vulnerability.

Below is a table on minimum wages, adapted from the Nepalese government website.

Table 10. Nepalese Salary and Wages – Qatar and UAE

Classification	Minimum Salary		Allowances	Remarks
	Qatar (QAR)	UAE (AED)		
Unskilled	900	800	Allowance for food, accommodation, medical treatment, insurance against accident, transportation from and to the work and other expenses to be borne by the Employer Pursuant to the labour law of Qatar.	Free food or minimum 300 QR per month for food.
Semi-Skilled	1,100	1,000	Allowance for food, accommodation, medical treatment, insurance against accident, transportation from and to the work and other expenses to be borne by the Employer Pursuant to the labour law of Qatar.	Free food or minimum 300 QR per month for food.
Skilled	1,500	1,200	Allowance for food, accommodation, medical treatment, insurance against accident, transportation from and to the work and other expenses to be borne by the Employer Pursuant to the labour law of Qatar.	Free food or minimum 300 QR per month for food.
Professional	4,200	5,000	Allowance for food, accommodation, medical treatment, insurance against accident, transportation from and to the work and other expenses to be borne by the Employer Pursuant to the labour law of Qatar.	Free food or minimum 500 QR per month for food.

Source: Nepal Ministry of Labour and Transportation

²⁶² President of Manpower Resources Asia.

Table 10 shows the broad categories of low-skilled, semi-skilled, skilled and professional. At another site there are more detailed occupational categories, such as heavy driver, camp boss, pipe fitter, mason, carpenter, electrician, scaffolding labour, construction labourer, etc. A comparison is made in this table between the salary scales for both Qatar and UAE. The exchange rates are almost identical, so there are some significant differences between the wage rates. The “allowances” are the same for all categories in the two countries, where food, accommodation, medical treatment, insurance against accident, transportation from and to the work are to be “borne” by the employer. In the remarks column, there is provision that if food is not provided by the employer, then a minimum cash allowance of QAR300 per month should be given to the low-skilled, semi-skilled and skilled workers. Professionals, however, should receive a minimum of QAR500. It is also interesting that for the low-skilled, semi-skilled and skilled workers, the minimum wages rates are lower in the UAE compared to Qatar. However, the rate for professionals in UAE is higher than Qatar. It is not entirely certain how the comparative wage differences have been derived, or why. The QF Standards state clearly a universal principle in the world of work, namely:

12.6.2 Workers shall receive equal pay for equal work irrespective of their nationality, gender, ethnic origin, race, religion or legal status.

Food Allowances

The provision of food or food allowances is one of the most common sources of complaint and confusion. In one contract, for example, QAR150 is stated as a food allowance, but in reality, the company supplies the food. Thus the contract is misleading, because the company does pay it and does not deduct it from their wages. The workers explained that they had the expectation that they would also receive this QR150. The contract was not properly understood or explained.

Food and other arrangements are required by the QF Standards to be communicated to workers in their home countries:

11.5.1 Workers shall receive, in their own language, clear and accurate information regarding the position, conditions of work, safety and health risks of the work to be performed, accommodation, salary details, leave entitlement, uniform, food provisions and all other necessary terms of employment before deployment to Qatar.

Despite the Nepalese requirement of QAR300 for food allowance, it was rare to find anyone paying more than QAR150 per month food allowance, or taking more than QAR150 for the food that they provided. Qatar Labour Law (2004) specifies in Article 69: “The worker shall not be obligated to purchase foodstuff or other commodities from certain places or from the products of the employer.” In essence, therefore, if an employer provides food for employees, but charges them for it – even in the form of a “food allowance” – then it may be argued that they are breaching the law. Further, workers who are given a food allowance, but not food, may be obliged to buy their provisions from a limited (sometimes only one) number of outlets in the area. This would also breach the legal code as stated above. Indeed, most of the labour accommodation sites in Qatar are quite remote

from shopping areas, making them impossible to reach without transport that is not usually provided by the employers, government or municipalities. Breaking Article 69 of the labour law in these ways has not hitherto been acknowledged, and has therefore become the norm.

Details of food arrangements are of critical importance and must be specified clearly in the contract and/or made explicit in any pre-departure orientation program. A sufficient, decent, healthy and culturally appropriate food supply is a major requirement and a primary source of dissatisfaction if not handled properly. This of course is universally applicable and is detailed in the Communal Service Facilities (14.4) and Food Safety (15) Sections of QF Standards.

Another problem in not providing food, but giving a food allowance in cash is that workers are likely to use the food allowance as part of their salary and remit it home to their families. Indeed, one of the labour supply companies in Qatar pointed out that they now do the catering for their workers. Initially, they were paying them QAR200 per month food allowance. "But all of a sudden we realized that they save the money and starve themselves to death. At one particular moment, we had 100 workers in the hospital because they did not eat for six days." The QF Standards have made it unacceptable to have food costs deducted from wages:

- 12.7.3 The Employer may not make any wage deductions for visa costs, relocation, accommodation, bedding, clothing, food or health care.

Wages and Strike Action

Despite anti-union and anti-strike legislation in Qatar and other GCC countries, workers do collaborate to take action against their employers when they believe their circumstances are intolerable. In May 2012, it was reported that worker riots in Sharjah were primarily over "low and unpaid wages".

The latest major labor strike in the Gulf tore through Sharjah on March 18, 2008. At a maintenance company 1,500 migrant workers burned buses and cars, and smashed up the company's administration office. Some of the workers told Gulf News they were rioting over low and unpaid wages. Riot police were called in, and the unrest eventually quelled.²⁶³

Similar actions of strikes and serious damage caused by rioting workers were reported at the same time in Dubai and Bahrain. In Dubai, thousands were deported back to their home countries.

In Qatar, in September 2012, a strike by Nepalese workers at the PCSI Specialties was documented by Amnesty International that included demands for "one month's wages which were outstanding, overtime pay, their end of service benefit payments, tickets home, compensation for the annual leave which they had worked through

²⁶³ "GCC - Migrant Labor", *Executive*, Sun May 13, 2012 <http://www.executive-magazine.com/getissue.php?issue=105> Retrieved 30 December 2012.

and reimbursement for medical costs.”²⁶⁴ Those who went on strike were deported. In an earlier case, in September 2010, there was a strike by workers in Qatar against their employer, Albadar, for refusing to abide by an agreed annual 10 per cent wage increase. The case resulted in 90 workers who went on strike being arrested and deported.²⁶⁵ More recently, in December 2013, 400 Nepalese workers actually asked to be repatriated home after they were surrounded by police during their demonstration against their employer, Exblowra, claiming they were being underpaid what they has been promised and were not being given food, or a food allowance.²⁶⁶

One Qatari labour supply firm explained that they try to diversify their workforce as much as they can, “otherwise they tend to create mafias.”

We try to take good care of workers, but every now and then we come across cases where workers form groups and do not want to work...The thing is, there is always one person who initiates it and tells others not to go to work. We try to find that person and send him back.

The same company uses disciplinary measures when workers are “misbehaving”:

It depends on the damage he has caused. If he causes a problem, we might shift him to another site. We do not deduct from their salaries. Workers always complain, usually to the camp boss. But it is really difficult to manage these workers. If one complains, the others will join him too. Then it becomes bigger. We’ve got one guy here who is tough. Without him, it would have been very difficult – tough in the sense, “sit there and do not move”. Otherwise they are so big in number that they would jump on us.

When asked if they had a code of conduct, bylaws or ethics policy, he replied, “Yes, we’ve got everything.” A copy was requested, but not provided.

Most grievances by migrant workers are usually related to late or non-payment of wages, including overtime, food allowances and other financial entitlements – the primary reason they are working in Qatar. In the absence of legislation that provides the right for migrant workers to withdraw their labour that is consistent with international labour conventions, it is incumbent on the Qatari authorities to establish objective grievance and industrial relations arbitration mechanisms to prevent the need for strike action by settling disputes in accordance with Qatari labour law. Strike action is usually a “last straw” demonstration of grievances that are not being addressed.

²⁶⁴ Amnesty International, *The Dark Side of Migration: Spotlight on Qatar’s Construction Sector Ahead of the World Cup*, 18 November 2013. <http://www.amnesty.org/en/library/asset/MDE22/010/2013/en/ca15040d-290e-4292-8616-d7f845beed7e/mde220102013en.pdf>, retrieved 18 November 2013. Page 77: See pages 71–85.

²⁶⁵ *Migrant Rights* “Nepali Workers Deported from Qatar for Daring to Strike”, at: <http://www.migrant-rights.org/research/nepali-workers-deported-from-qatar-for-daring-to-strike/> retrieved 25 November 2013.

²⁶⁶ “Our basic salary is 450 riyals and there is no food allowance. The company does not provide at the new camp and there is no shop nearby.” “We demanded to provide a basic salary of 900 riyals and additional 300 riyals for food as fixed by the government. We decided to return home as the company failed to address our demand,” see “400 Nepali migrants await repatriation” *Kantipur.com*, 10 December 2013, <http://www.ekantipur.com/2013/12/10/top-story/400-nepali-migrants-await-repatriation/382102.html> retrieved 11 December 2013.

Late Wage Payments

In discussions with a number of contractors, the question of late payment of workers' wages was raised. Those who admitted that this had indeed happened were quick to explain that it was because they had not been paid at the scheduled time period, so they were unable to pay their workforce. The same story was reiterated in the recent Amnesty International report on Qatar and included the additional restriction of leave or resignation.

The majority, though not all, of the abuses documented by Amnesty International researchers, involved workers employed by small subcontractors, employing between 50 and 200 people. Subcontractors speaking to researchers have generally explained their treatment of workers by blaming those above them in the supply chain, claiming that they have not been paid on time and that their deadlines are too tight, meaning that they cannot allow workers to go home for leave or at the end of their contracts.²⁶⁷

The Nepal Association of Foreign Employment Agencies raised the same issue. One of the preferences for the UAE over Qatar was that the UAE "have bank guarantees in case the company does not pay their wages, which is not the case in Qatar."²⁶⁸

The QF Mandatory standards on wages make it quite clear that workers must be paid on time:

12.6.3 The Employer shall pay Workers' wages in full, monthly in arrears, without delay and from the first month of their employment.

12.6.4 The Employer shall strictly prohibit deferral, delay or withholding of wage payments.

12.6.5 The Employer shall not use in-kind payments.

Qatar's Labour Law also states:

The wages of the workers employed on an annual or monthly wages shall be paid at least once in every month.

The wages of all other workers shall be paid once at least every two weeks.²⁶⁹

In discussions within the Migrant Worker Welfare Initiative, this excuse was deemed unacceptable. Companies must be able to sustain the payment of wages of their employees, regardless of delays further up the supply chain. To this end, contractors and subcontractors must be able to show sufficient financial solvency to sustain wage payments throughout the life of a contract. From the other perspective, it is also incumbent upon the clients of Qatar to also honour debts

²⁶⁷ Amnesty International (2013) op. cit. Page 65.

²⁶⁸ Bal Tamang, Nepal Association of Foreign Employment Agencies. Interview 13 February 2013.

²⁶⁹ State of Qatar Labour Law No. 14, 2004, Article 66.

to their contractors and own direct employees, on time and in accordance with contractual obligations and the law. This must apply to all firms and organisations in the country, particularly to counter the perception within the construction industry that Qatar has the worst payment culture in the world.²⁷⁰

In an interview with a Qatar labour supply company, it was noted that the labour supply business was difficult, particularly when their corporate clients did not pay “because they are not paid by their own clients (government). We have payments outstanding since a year, and I am talking about millions.” When asked if that meant delaying salaries to workers, he replied:

If it is a labour category, then we don't delay it because it is not a big amount and we have capital to take care of that. Whereas, with other higher professionals, we might put their work on hold until we are paid. Oftentimes, when we go to our client after 6 months of delay and ask for payment, our client might offer us half of the amount owed and says, “take it, or leave it”. Since fighting in the court would absorb even more money and time – up to three or four years – we have no other choice but to accept it.²⁷¹

Equal Pay

The large majority of migrant workers in Qatar are married with dependent children. Most, and for many all, of their wages are sent to their families for their everyday expenses and their children's education. It is perhaps for this reason that the minimum wages or wage guidelines are set according to the cost of living in the countries of origin. Is it based on the living wage levels in their countries, with an extra percentage to make it worthwhile? In the past, they would earn up to four or five times the salary they would be earning their home countries, if they could find employment. Or should the wage be based on the cost of living in Qatar? This is unlikely, as Qatari citizens have the highest GDP in the world. And besides, migrant workers do not spend a large proportion of their wages in Qatar. They are supposed to have their accommodation, food and work clothes provided for them and be able to remit most of their wages to their families. Again the problem arises on how to ensure that the standard of equal pay for equal work is obtained. It should be based upon occupational skill category and individual merit, not nationality, religion, gender, or other demographic characteristics. When the issue of differential wage levels according to nationality was raised with returnee workers in Nepal, one misled respondent thought it was fine because there are different exchange rates for the different currencies and that equaled it out.

On the other hand, is it reasonable that wage rates be based upon the standard of living, or the minimum wages in the country of origin? Given that wages are largely spent in the sending countries, should that be the basis of wage rates, regardless of occupation? If this is the current situation (which is not clear), then it will not be possible to abide by the international labour principle (and QF Standards) of equal

²⁷⁰ Amnesty International (2013) op. cit. Page 67.

²⁷¹ Interview with Matrix International, 3 January 2013.

pay for equal work. This is made more complex with attitudes that generalize the skills and capacities of certain nationalities – in the form of racial stereotypes, such as “Bangladeshis are lazy”, or “Filipinos are too demanding”.

Differential wages according to nationality in Qatar are due to the vagaries of international labour markets where countries of origin compete against one another and where labour demand by employing companies in Qatar can vary in terms of preference for certain skills for particular occupations from different countries.

During a pilot audit of a number of QF contractors by the Migrant Workers’ Welfare team, interviews were conducted with 22 employees, some at the worksites and others in one of the labour camps. In one company, four masons from India were receiving different salaries, one QAR750, one QAR890 and three QAR900 (app. \$202, \$240 and \$243) per month that were not accounted for by qualification, experience or length of service. However, masons from Turkey in another company were receiving QAR4,200 (\$1135) per month. (Whether a mason, painter or plasterer, the Turkish workers were receiving the same amount.) Two carpenters from India who had arrived only a few months apart were receiving QAR800 (\$216) and QAR600 (\$162). Similarly, two labourers from Nepal were receiving QAR600 (\$162) and QAR650 (\$176). Of the Nepalese interviewed, two labourers received QAR600 (\$162) and QAR 650 (\$176) and a scaffolder received QAR650 (\$176).²⁷²

Table 11. Wage differences by nationality and occupation

Nationality	Occupation	Monthly Wage US\$
Turkey	Masons, painters plasterers	1,135
India	Mason	202
	Mason	240
	Mason (3)	243
	Carpenter	162
	Carpenter	216
Nepal	Labourer	162
	Labourer	176
	Scaffolder	176

²⁷² A bill was passed and gazetted in Nepal that stated the minimum salary of a Nepali worker to be 900 QAR if going to Qatar. However, as our data shows, this is rarely respected and the average Nepali worker makes only about 600 QAR a month. See Legal Brief (2013) *Rights and Responsibilities of Nepali Migrant Workers in Qatar*, Centre for the Study of Labour and Mobility (CESLAM), Kathmandu, Nepal. http://ceslam.org/mediastorage/files/Legal%20Brief_Qatar_1%20Aug%202013.pdf, retrieved 12 December 2013.

Apart from the significantly higher salaries of the Turkish workers, there is no accounting for the differences between workers in the same occupations of the same nationality or different nationality. The workers themselves seemed resigned to these discrepancies but they were acutely aware of them. It is unclear if the Indian and Nepalese workers are familiar with the international rights principle of “equal pay for equal work”, but it is a commonsense understanding of the workplace.

We can discern that low-skilled workers from countries such as Nepal, India, Sri Lanka and Bangladesh receive around QAR600–900 (\$162–\$243) per month. It is interesting to note that one of the labour supply companies interviewed in Qatar pays a fixed basic salary for all nationalities of low-skilled workers, namely QAR700 (\$189). When they are hired out, they work 260 hours per month (10 hours per day). If the worker works every day during the month he is given an extra QAR100. If he works more than 260 hours, he will be paid for the overtime worked, up to a maximum of 12 hours per day. From the companies that hire these workers, the labour supply company earns QAR 2,600 (\$703) per worker, per month.

It is interesting to note that one construction company in Qatar includes a clause in its contract, forbidding employees to discuss their wages, presumably so they do not become aware of the differences between them. “The Employee shall...not divulge any information concerning the company’s business, including information regarding his or other employees’ remuneration and bonuses”. Penalties were not mentioned, perhaps because it would be impossible to enforce. It is only natural that fellow workers discuss and compare their wages and benefits. When there is a perception that discriminatory practices are occurring, it naturally breeds resentment that can be avoided through policies and practices of equality and fairness.

In summary, Qatari market forces are not determining wage rates because there is no labour market operating in Qatar. Rather, it is an international labour market with competing nation states that has resulted in a breach of the principle of “equal pay for equal work” that is required under the QF Mandatory Standards. A larger and more systematic research program needs to be conducted to obtain a clearer picture of wage discrepancies in QF’s construction sector and in Qatar generally. Workers of different nationalities in the same company are doing the same jobs but receiving different salaries. This creates discomfort, resentment and jealousy. Wages should be based on experience and skill, rather than nationality.

Migrant worker complaints about delayed or non-payment of wages are widespread. Bank accounts may be set-up in sending countries with arrangements with Qatari banks, or Qatari banks with arrangements with banks of sending countries. This measure will provide proof of payment, the time and amount of payment that can be crosschecked with the contract. It will also presumably reduce transaction costs for worker remittances, as well as the time currently required to send money through private financial intermediaries.

CHAPTER 7

ORIENTATION AND AWARENESS-RAISING

Recommendation 10: *The Qatari government and its clients should standardize better pre-departure orientation seminars and/or post-arrival orientation seminars. Migrant workers need to be better-prepared regarding rights and responsibilities as well as finance, health and family issues.*

As for ensuring workers are aware of their rights and obligations, agreements signed by Qatar with labour sending countries state that the country of nationality should provide workers with information on working conditions in Qatar. Accordingly, the Qatar Ministry of Labour has issued a workers guide in Arabic and English and sent it to embassies of labour-exporting countries to be translated into the national languages.²⁷³ The guide basically summarizes the labour law, but information, skills training and orientation are critical in the pre-departure phase of the migration cycle. Understanding the culture and context of the motivations of prospective migrant workers and how they are viewed and treated before deployment are also important.

Pre-departure orientation and training for prospective migrants requires an understanding of the motivations for migration in order to best tailor programs to their needs and desires. These are not always evident in pre-departure orientation programs. Apart from the usual structural explanations of migration motivation (such as population pressures, unemployment, poverty, environmental displacement, etc.) perhaps of equal relevance are individual motivations that lead male construction workers to Doha. Motivations are important in the understanding of why individuals take the kind of risks they do.²⁷⁴ Certainly the issue of money is both a push and a pull factor – unemployment, underemployment, or poor wages in their home countries and the prospect of higher wages abroad to assist in the support and development of their families. However, it has been argued that, “decisions about migration are often motivated not strictly by the inability to meet basic subsistence expenses but the desire to make investments in family projects; buy land, build a house and educate children.”²⁷⁵ This means there is

²⁷³ see *Manual of Expatriate Employees in the State of Qatar*, Ministry of Labour, http://www.mol.gov.qa/arabic/bulletins_and_publications/Guid/Documents/English.pdf

²⁷⁴ Gardner, Andrew (2012) “Why do They Keep Coming? Labor Migrants in the Persian Gulf States” in Mehran Kamrava And Zahra Babar (Eds) (2012) *Migrant Labour In The Persian Gulf*, Hurst & Company, London, pp 41-58.

²⁷⁵ Frantz, Elizabeth (2011) *Exporting Subservience: Sri Lankan Women’s Migration for Domestic Work in Jordan*, PhD Thesis, London School of Economics and Political Science. Page 50.

a link to development issues for the countries of origin. And the so-called “new economics” of migration argues that, particularly with large or extended families, labour migration for at least one member of the household is deemed necessary as a hedge against future risks of disaster or misfortune. The number of children they have and where they allocate their labour constitute part of their calculations for family security; thus, one may go into the military, another to the Middle East, which offers an external labour market unaffected by what happens at home.

It is important, therefore, that families of prospective migrants be brought into the orientation of migrant workers going abroad, that might also include marriage counseling. Many of the men in the construction industry in Qatar have married young (18–24 years) and have young children to support with higher education ambitions for them than they have experienced. Others are in Qatar to raise enough money to afford marriage and to begin a family. Some have married and had children after a few years in Qatar. They were able to do this during their vacation periods, typically for 6–12 weeks after 2 years service.²⁷⁶

It is also important to note that many migrants decide they want to find employment in another country, but are not sure where they would prefer to go or where positions are available. In perhaps half of the cases, recruitment agencies decide where an individual is going to go. This is some indication of the level of passivity and lack of knowledge of prospective migrant workers regarding their future destinations and circumstances.²⁷⁷

The interaction of different social, economic and environmental factors is expected to continue to drive international labour migration in the coming decades, including:

- the “pull” of changing demographics, such as ageing populations, and demand for labour in high-income countries;
- the “push” of low wages and limited opportunities in less developed countries;
- established networks in other countries, based on family, culture and history.²⁷⁸

Most labour sending countries mandate pre-departure training and orientation programs for migrant workers.²⁷⁹ They also offer support and welfare services through their embassies in Qatar. There are not, however, any independent evaluations of the quality or effectiveness of these services.

²⁷⁶ From interviews with construction workers in Qatar, April–May 2012.

²⁷⁷ Frantz, Elizabeth (2011) *op. cit.*

²⁷⁸ International Labour Office and International Organization for Migration (2006) *Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination*; Organization for Security and Cooperation in Europe, Geneva. Page 18.

²⁷⁹ The Indian Emigration Act, however, does not make provisions for pre-departure orientation but it has been suggested that the reform of the Act, which is still in progress, may include it. Dr Ellina Samantroy, V.V. Giri Labour Institute (Ministry of Labour & Employment). Interview 14 May 2013.

There are mandatory government sponsored or government run pre-departure orientation and training programs in Bangladesh (BMET), Philippines (OWWA) and Sri Lanka (SLBFE) and Nepal (FEB). These range from a half-day or one-day to three or four week programs for a small fee, often paid by the worker, but are not always well-organized and informative about rights, responsibilities and the precise conditions in Qatar. Sometimes they are conducted by recruitment agencies on their premises but are not always conducted or taken seriously. Others try to take more care in explaining the cultural adjustments that they will need to make, but again, it is not always clear how well these are understood and internalized.

In India, the Indian Emigration Act makes no provision for pre-departure orientation seminars. In a number of interviews, there were references to this as a serious problem, where low-skilled Indian migrant workers were deployed without being given proper information about the destination countries. “They are not told what would the nature of their job be, how would they be treated there, whom to report to if they find something wrong is happening to them.”²⁸⁰

The Philippines is exceptional with regard to the extent of coverage, time and resources towards information dissemination and orientation.

This success is in large part due to the country’s long experience with labour migration, better-developed media infrastructure (including greater media coverage of migration issues) and higher literacy levels. Frequent references in the news suggest that migration is an integral part of life in the Philippines.²⁸¹

The Philippines Pre-departure Orientation Seminars (PDOS) are provided by government instrumentalities (OWWA, POEA), NGOs, recruitment agencies, as well as industry associations. The standard program is around 6 hours, covering the following:

- Migration realities – code of conduct for OFWs, possible challenges when working abroad, “Buhay OFW” (life as an OFW)
- Country profile – laws, culture and customs of the host country
- Employment contract – rights and responsibilities of OFWs per contract, what to do in case of contract violations
- Health and safety – HIV and AIDS education
- Financial literacy – managing earnings
- OWWA programmes and services and other government programmes, such as the Social Security System (SSS) and PhilHealth
- Travel procedures and tips.

The Philippines government also issues small booklets and pamphlets (in English and Tagalog) for each of the main destination countries such the *Pinoy Care*

²⁸⁰ Dr Ellina Samantroy, V.V. Giri Labour Institute (Ministry of Labour & Employment). Interview 14 May 2013.

²⁸¹ Asis, Maruja and Agunias, Dovelyn Rannveig (2012) *Strengthening Pre-Departure Orientation Programmes in the Philippines, Indonesia and Nepal*, Issue in Brief, Migration Policy Institute & International Organization for Migration.

Handbook for Qatar as well as for the other Gulf States.²⁸² These handbooks provide cursory information on the destination countries, including system of government, currency, population, ethnicity, time differences with Manila, key Arabic phrases, typical food,²⁸³ public holidays, tourist places of interest, means of transportation, Filipino supermarkets, schools and other organizations, emergency phone numbers for hospitals and clinics and, of course, Western Union outlets for remittances. On “The OFW Code of Discipline” it covers duty to family (financial and moral support), to the Philippines (enhancing national ideals and goals), to the employer (honesty, fulfilling contractual obligations and high productivity) and to the host country (respect for customs, traditions and laws). A section on “Understanding the Employment contract” the pamphlet reiterates the minimum provisions that should be specified in any contract, set by the POEA (Philippines Overseas Employment Administration). The contract should include:

- Worksite or place of work
- Contract Duration
- Position
- Monthly salary
- Regular work schedule of 8 hours per day and 6 days per week
- Overtime pay
- Benefits which includes vacation leave, sick leave medical and dental and workmen’s compensation in cases of work-related sickness, injury or death
- Free food and accommodation or offsetting benefit
- In the event of death of the employee, his remains and personal belongings shall be repatriated to the Philippines at the expense of the employer.²⁸⁴

By contrast, the pamphlet, “Do’s and Don’ts for Indian Emigrants” produced by the Office of the Protector General of Emigrants in the Ministry of Overseas Indian Affairs²⁸⁵ is more oriented towards workers’ rights and protection. For example, among other requirements, it recommends that prospective emigrants should “insist on seeing the registration certificate [of the recruiting agent] issued by the Protector-General of Emigrants at Delhi.” They urge that workers ensure that they have a copy of the “employment agreement signed between you and your foreign employer or his agent” and that a copy of their passport is retained both by them and their families back home. In the “Don’ts” section, they warn against paying money to the recruitment agent without getting a receipt; to make sure the agent explains the terms and conditions of the contract thoroughly; and not to sign any blank paper on arrival or allow the employer to execute any agreement other than the one signed in India. In addition:

- Do not indulge in any collective industrial action like strikes, go-slow and mass demonstrations etc. ... as they are illegal and strictly banned. Your involvement

²⁸² With this set of pamphlets, which were collected in the offices of the Philippines Overseas Employment Administration, it is not entirely clear whether they were published by the government or Western Union, or perhaps financed by Western Union, given the prominence of Western Union advertising within them.

²⁸³ For Qatar, it is “Humus, Kibbe, Tabbuleh, Shawarma, Felfel, Baba Ghanush, Kussa Mahshi, Warak Enab and Biryani”.

²⁸⁴ *Pinoy Care Handbook for Qatar*, pages 14–15.

²⁸⁵ See Ministry of Overseas Indian Affairs (2007), *Emigration and You*, Emigration Policy Division, New Delhi. <http://moia.gov.in/services.aspx?id1=21&idp=21&mainid=17>, Retrieved 1 December 2013.

in any such activities may result in your imprisonment or deportation back to India.

- Do not change your sponsor/employer ... during the period of agreement. Otherwise you are liable to a fine and other action under the local labour laws.
- Do not indulge in non-Islamic religious practices, like eating drinking or smoking in public places during the month of Ramadan.
- Do not part with your passport and other documents.
- Do not fall prey to touts/sub-agents who may exploit you.

In Bangladesh, on the wall of the major migrant worker training center in Dhaka there is a large sign, also listing the “Dos and Don’ts” of migrating. Identifying what the individual should be sure about is the following:

Which country are you going to?
 What is the name of your sponsor?
 What is the telephone number of your sponsor?
 What is your job?
 What is your salary?
 How many hours do you have to work?
 Do you get any leave (weekend, yearly)?
 Is insurance provided by your employer?
 Are there medical facilities?
 Who will provide your airfare?
 Don't send your money through an illegal channel.
 Your money must be sent through a bank.
 Sending money through channels other than banking is a punishable offense.
 Sending money through a bank is the safest way.

In Nepal, only private, licensed recruitment agencies administer the pre-departure orientation seminars. The Nepal Foreign Employment Bureau (FEB) mandates pre-departure orientation to cover:

- Foreign employment law of Nepal
- Geographical situation, culture, life style, economic, social and political situation of the country where the worker goes for foreign employment
- Language of the country where the worker goes for foreign employment
- Labor, immigration laws and traffic rules of the country where the worker goes for foreign employment
- H.I.V/AIDS, communicable diseases, sexual and reproductive health
- Occupational safety and health
- Easy and safe travel
- Conduct, treatment and security of workers
- Repatriation of earning made abroad to Nepal in a simple, easy and safe manner.²⁸⁶

²⁸⁶ Nepal Foreign Employment Promotion Board: *Foreign Employment Rules 2008* Chapter 6 <http://fepb.gov.np/noticedetail.php?id=22> Retrieved 22 December 2013.

Almost all of these seminars are conducted in urban centers where the main offices of the agencies reside. It is quite difficult to target remote regions because of Nepal's geography. Criticism from NGOs in Nepal as to the quality and effectiveness of the orientation seminars prompted some discussion with suggestions to target the mass media, social media and community-based information programs. These were questioned because they are less participatory and interactive, something which the IOM considers important in pre-departure programs.²⁸⁷

Although not formally part of the pre-orientation program, a supplementary service was established by the NGO, Pravasi Nepali Coordination Committee (PNCC) with support from International Organization for Migration (IOM) and the Open Society Foundation (OSF). They set up 7 Migrant Resource Centers, one in Kathmandu and others in rural areas. At the Kathmandu center there are two counselors that help and inform prospective migrant workers. They generally use a flipchart that the IOM has developed that outlines the process from pre-recruitment to repatriation. They have also developed information videos that are broadcast at the airport. Leaflets in Nepalese are also disseminated that show the conditions in the country they are about to venture into. The main objectives of these Migrant Resource Centers is to provide counseling and education on safe migration at local regional levels and to monitor migrant returnees, assisting in their reintegration.²⁸⁸ In mid-2011, these Migrant Resource Centers were handed over to the government of Nepal.

Sending country governments are inevitably caught up in two elements when it comes to the labour migration of their nationals. On the one hand, they are concerned to protect the welfare of their citizens abroad and to prepare them for what lies ahead. On the other hand, they are also concerned to foster migration and improve the conditions for the money that is earned abroad and remitted home.

In Bangladesh, for example, one recruitment agent was particularly vocal in expressing his desire to improve the "quality" of Bangladeshi workers through training and education and orientation. He saw his business very much in market terms and the people he recruited and deployed as his "product" and was urging the government to invest more in specialized training for Bangladeshi workers to go abroad. It is worth quoting him at length as he complained about a government training and orientation center we were visiting in Dhaka.

I said [to the government], "Don't go for the number, go for the quality." When I have the good product, the employers will rush on me. ... If you can make your product better than the other countries, the people will run after you. So first you prepare yourself. Then you go for the market. What we are

²⁸⁷ Asis, Maruja and Agunias, Dovelyn Rannveig (2012) *Strengthening Pre-Departure Orientation Programmes in the Philippines, Indonesia and Nepal*, Issue in Brief, Migration Policy Institute & International Organization for Migration.

²⁸⁸ Migrant Resource Centers, Nepal, Project 61. <http://www.migration4development.org/content/migrant-resource-centers-nepal>.

doing is a wrong thing. You have seen it. It's like a market, cattle market. You are calling everyone, "come and sit, a, b, c..." When that's finished, we give them jobs. And I'm tired now, saying all these things. They are trying their best, but not in the right way. Every Saturday they come here because Saturday is a holiday and they come and give lectures to the classes. So I told them, "What are you telling them? What type of class is this? This should be a visual thing. There should be a projector." These people have no basic education. If you tell them orally, they will not listen, but if you show them visually, they will understand. If you make three classrooms, I will even volunteer, because it is for me in the end. I don't want somebody else to give the training. I'll do it. ...

Here he complained that the government was focusing too much on trying to increase the quantity of workers migrating abroad, rather than thinking about their abilities and reputation that would make them more attractive to employers in the destination countries – in the international labour market. As most of the workers were coming from poor rural villages, they are illiterate and much more care needs to be taken in their training before they are deployed. Otherwise, he argued, Bangladeshis will have a reputation as a poor product with little demand for them. At his own expense, the agent installed a hallway of two types of toilets for the trainees to use while at the center,²⁸⁹ where they also slept together in very large rooms on floor mattresses (females were separated from males).

If we receive 200 or 300 people, let's see. You have seen that I have made the bathrooms especially for them – for cleanliness. This is part of the training, because they have never used this type before. ... They did not have anything. It is detached from the house. So we have made everything here so they can get acquainted with the system, to keep themselves clean, which is the most important thing. ...

If you want to make your market, you have to put a little bit of facilities. Like you have to take your people, give them skills. You have to make your product good for the employer. Now the time has come not to set numbers. Concentrate about the manner of the people, to prepare your product as per the requirements of the employer. If you can satisfy the employer, then you have more of a demand from the receiving country – because we are in a competition. ...

We should have internal competition between the sending countries. So I have to look for how is the standard of the other nations. So I have to raise my workers' physical ability, their communication skills, their working ability, their mannerism. Then we can beat all these people. ...

In a more far-reaching policy plan, he argued for more localized, regional training centers around the country. Going even further, he suggested that the training as migrant workers should be incorporated early and into the formal

²⁸⁹ One for squatting and one for sitting.

education curriculum. This would mean a much more sophisticated “product” that would have years in “production”, rather than a few days or weeks as is currently the case.

You have to build, in every place, a technical training center. And in the education I said that what is the use of the general education? What you can do? Most of the kids are coming out after the 10th standard or the 8th standard. So, make a technical training subject from classes to up to 10th grade. Put electrical subject. Carpenter. These little things because of the age. If you could include these subjects in the national curriculum, boys and girls will learn for at least 4-5 years. They will have the basics, and it will be easy for them to pick it up. Time has come now to think about that. Build your own people, build your own product. The people are outside ready to take us. The other industry that is coming up now is for the housemaids. Now, there is a good shortage of the people. Philippines are no longer sending people. Indonesia, Sri Lanka, Thailand are not sending. So we have an opening.

This is the policy perspective of a country desperately trying to improve its export earnings and develop its economy. It is a discourse of quality management. Here, the product is migrant labour. The return to the country is the foreign currency earnings from the migrant worker remittances and, in a liberalized labour market, the private recruitment agents take their facilitation commissions in between. Improve the quality of the product and you can increase the price (wages) and quantity of products sold and thereby increase the return (increased remittances) – and decrease unemployment. All five of the sending country governments and recruitment agency associations, particularly in the Philippines, articulated more or less the same sentiments. The Philippines government had gone even further and established training centers in the destination countries for upgrading the skills of their nationals already working abroad. Notwithstanding the Colombo Process collaborations, with the high levels of labour supply in these countries and the competition between them, it is a “buyer’s market”.

There are other cultural traits that pre-departure orientation and training must take into consideration. Again in Bangladesh, for example, a representative of the Ministry explained that an important element in the orientation program is to have prospective migrant workers experience a separation from their families:

We Bangladeshis are too much emotional, too emotionally attached. We are a family where we have to live with our grandparents, uncles, aunts – the whole extended family – in the same room, even in the city, though it is getting difficult in the city because of the lack of space and high-rise living. So there is some development of people living separately, but not in the rural areas. There, they live in the same room with all their relatives – so there is a strong emotional attachment. So it is very difficult for an individual to leave those emotions and to stay alone. And the distances to the sending countries are huge. This is the number one training that we have not been giving.

So, the first priority in the residential training is the separation of family. So, no cell-phone contact, nor any other means of contact with their families for the 3- or 4-week training period.

Another important area of adaptation for migrant workers is food. As noted above, food is a major source of complaint by many workers, even if they are in the better accommodation sites where professionals provide the menus and ethnic cuisines. Certain types of food – even the type of bread – can create digestion difficulties. For example:

The second problem is food habits. We are used to having rice and we are not getting enough rice in the workplace. We have to take the *khobz* and the heavy food. So if we conduct a residential training of workers, and prepare for them the Arabic food for the whole 21–31 days, it is the best means to prepare them.

So the training on cooking and eating Arabic food, substituting *khobz* for rice is important. They get none of their own food for the duration of the training. Importantly, also, the training includes physical training/exercise.²⁹⁰

As has been shown, sending countries have taken a number of measures to provide prospective migrant workers with some orientation prior to their departure. Many of these programs have been considered to be somewhat inadequate and more needs to be done, perhaps taking the Philippines as a model example. It has also been argued that migrant receiving countries should cooperate more closely in these orientation programs to “strengthen and expand” them. The following recommendation goes somewhat beyond the manual for migrant workers that has been provided by the Qatar government.

Receiving countries can provide input about their laws, culture and working and living conditions; develop country-specific materials and resources to be used in pre- departure information programmes or migrant workers’ education programmes on site; involve local institutions to support migrant workers’ education and potentially conduct employer orientations. (Singapore has such a requirement for employers hiring foreign domestic workers.) Relevant government agencies responsible for workers’ education across origin and destination countries are encouraged to meet to discuss the design, content and flow of information programmes from origin to final destination. The Colombo Process provides a venue for discussing initiatives along these lines.²⁹¹

As has also been recommended, Qatar could ensure that bi-cultural trainers are used in pre-departure orientation programs – individuals who know the languages and culture of both sending and receiving countries. It is important

²⁹⁰ Kazi Abdul Kalam, Deputy Secretary, Ministry for Expatriate Welfare & Overseas Employment, Dhaka. Interview 3 March 2013.

²⁹¹ Asis, Maruja and Agunias, Dovelyn Rannveig (2012) *Strengthening Pre-Departure Orientation Programmes in the Philippines, Indonesia and Nepal*, Issue in Brief, Migration Policy Institute & International Organization for Migration.

to note, however that migrant workers in the construction sector largely work in multicultural work-sites and live largely among their own nationals in the accommodation sites. There are relatively few opportunities to visit public spaces and mix with Qatari nationals other than those who regularly attend a mosque on Fridays.

Climate conditions in Qatar may be difficult to convey. However, QF could mandate that every worker must attend a standardized pre-departure orientation and training that explains not only the contractual rights and responsibilities of workers but also the various health risks involved, such as the harsh summer conditions in Qatar. Standardization could be achieved through the development of a video shown to all workers and a brief pre-post “test” given to be sure they understood the key points. These seminars could also include financial counseling, either by recruitments agencies or by Ministries of sending countries.

In addition, pre-departure medical-examination certificates could be conducted by QF approved medical examiners, and should include a mental health status report. The recent publicity concerning large numbers of deaths of young workers from Nepal also begs the need for a future proper scientific epidemiological study to understand the physical and mental health issues in order to facilitate better medical screening of workers prior to departure. For example, warnings about the dangerous health effects of drinking eau de cologne for the alcohol content should be made clear, particularly for young workers from Nepal. Families, or at least spouses, could be included in the pre-departure orientation, so they are aware of the circumstances, particularly with financial arrangements.

CHAPTER 8

CONCLUDING DISCUSSION

Throughout this report there have been references to the implications of the various findings on recruitment to both Qatar Foundation and Qatar nationally. The current politics around the World Cup and demonization of Qatar should prompt speedy action, as Qatar Foundation has done, to reform the process of soliciting migrant labour for the massive construction projects about to begin.

The report has canvassed many issues in relation to the recruitment process in five of the main labour sending countries – sending country government laws and welfare programs and their collaborations with Qatar; the financial arrangements in the recruitment process; the various types and agencies and brokers involved in recruitment; types of contracts and visa arrangements; wage levels and conditions as they pertain to labour contracts; and the importance of pre-departure orientation programs for migrant workers.

In most of the documentation and analysis of these issues, it is clear that low-skilled migrant workers in particular are profoundly disadvantaged and cynically exploited because of their ignorance of their rights and their desperation to find work and an income that can support their families at home. The implementation of Qatar Foundation's Mandatory Standards for Migrant Workers Welfare will go a long way in correcting those violations that have revealed in this report as they are implemented and will hopefully be more pronounced when they develop into national standards for labour recruitment that is currently under discussion.

In a recent policy brief by the Migration Policy Institute (MPI) and the International Organization for Migration (IOM), four options were canvassed for reform of the recruitment process of Asian labour migration to the Middle East. The brief drew largely on the previous research of the author on the Philippines, Sri Lanka and Jordan. Recognizing the lack of transparency and abuse of an unregulated industry, the document emphasized the need for greater regulation of recruitment and placement agencies in origin and destination countries, respectively. This would require much greater cooperation between the governments of the origin and destination countries that have until now been unsuccessful in practice (e.g. the Abu Dhabi Dialogue). A cautionary note suggested, "cumbersome and rigid regulations can easily breed corruption and abuse and force agencies and migrants

out of the legal system and into the irregular channels.”²⁹² The “appropriate balance”, however, was not clarified.

The first option recommended a reduction in the number of recruitment agencies to reduce the currently damaging level of competition. This would include a more ethical licensing program with checks for criminality and “stricter regulations on bank guarantees, fees and bonds...”²⁹³ An innovative addition suggested “rewards and privileges” be granted to agencies who complied with or exceeded regulatory standards, through ranking, rating and labeling procedures. Importantly, it was recognized that employees and employers are ultimately the ones who choose which agencies to go to, whether it is based upon “the best” (honesty, efficiency, morality, etc). Rewards to agencies could include discounts on residency and work visas if they are highly ranked.

The second innovative suggestion is to formalize the sub-agents and brokers involved in recruitment. Brokers, who work for employers and sub-agents in remote areas who work for official recruitment agencies in major cities remain outside the purview and accountability of legal and ethical regulations.

The third intervention proposes the regulation of transactions among recruiters and between recruiters and employers. Here the focus suggests that legislators need to look more closely at the relationships between agencies in the origin and destination countries, as well as the relationships between these agencies and employers. Drawing upon her research in Jordan, the UAE, Philippines and Sri Lanka, the author notes, “...exploitation and abuse among agents at origin and destination increase the cost of recruitment, which is eventually passed on to the weakest chains in the link: the migrant worker.”²⁹⁴ As has been noted elsewhere, the fees charged by agents in both origin and destination countries are not properly regulated and bribery is rife in the competition for business.

Following from the above, the fourth policy recommendation is of particular relevance to Qatar. Here is the observation that banning placement fees in the destination country is no guarantee that migrants will be relieved of direct charges to them, perhaps more so. With a lack of transparency and a regulatory framework that places a ceiling on what may be charged to employees, there are often secret deals between the agencies of the different countries and employers.²⁹⁵ Agunias recommends a “harmonizing” of regulations that oversee agencies in both origin and destination countries that would establish consistencies in the critical areas of:

...allowable fees, standard contracts, minimum wages and level of recruitment agency liability for workers...The policy mismatch between origin and

²⁹² Agunias (2012) op. cit. page 5.

²⁹³ Agunias (2012) op. cit. page 6.

²⁹⁴ Agunias (2012) op. cit. page 7.

²⁹⁵ see Endo Esaku & Afram, Gabi (2011), *The Qatar-Nepal Remittance Corridor: Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process*, World Bank, Washington.

destination countries on these key policy areas has created loopholes that allow unscrupulous actors to game the system.²⁹⁶

Although a number of countries such as the Philippines, Sri Lanka, Nepal, Bangladesh and Pakistan have placed bans their nationals from going to work in Arab countries, the Gulf States in particular, it has rarely been effective. Unilateral deployment bans merely push the migration business underground from the perspective of the origin country, but entry remains legal in the destination country. The ban on workers paying for recruitment fees and the use of ethical recruitment agencies should undermine much of the corrupt practices.

Complaints by prospective migrants and returnees to government departments that handle worker welfare issues can be instructive. In the Philippines, 75 per cent of the complaint cases handled by the POEA involve excessive recruitment fees that involve “connivance with foreign placement agencies”. This has resulted in stricter penalties including the cancellation of an agency’s license. The violation of fee charging of course coincides with another violation of Philippines law, which is the non-issuance of an official receipt. “And so it is always the burden of the worker to prove that there was an excessive placement fee collected from him to be able to prove the violation.”²⁹⁷ Even when receipts are issued they are often not for the amount actually paid. It is assumed that the agency deducts commission paid to the local sub-agent.²⁹⁸

In India, the major complaints against recruitment agents made to the Ministry of Overseas Indian Affairs in 2008 included the following:

1. The contract was unilaterally modified or substituted to the disadvantage of the worker after his arrival in the host country;
2. The worker was put on a job different from the one for which he was recruited in India;
3. The worker was not given any employment at all by the sponsor. Instead he/she is required to look for a job himself/herself and in return he/she is forced to pay a part of his/her salary to the sponsor;
4. The registered Recruiting Agents charged much higher fees than prescribed by the government for the emigrant workers;
5. The employer did not pay wages in time and terminated the employment contract prematurely;
6. In some cases, workers complain of unsatisfactory living and working conditions, harassment, and denial of death and disability compensations etc, ill- treatment and physical abuse.²⁹⁹

²⁹⁶ Agunias (2012) op. cit. page 8.

²⁹⁷ Rosalinda D. Baldoz, of the Philippine Overseas Employment Administration: IOM Conference Proceedings, *Organizing the Association of Employment Agencies in Asia: Moving Forward to Action on Ethical Recruitment* April 3–4, 2008 Astoria Plaza Hotel Manila, Philippines. Page 7.

²⁹⁸ Interview with Indian worker in Doha.

²⁹⁹ Ministry of Overseas Indian Affairs (2008) “Emigration & You” Handbook, Emigration Policy Division, New Delhi, 7 February 2008.

Section 24 of the Indian Emigration Act prescribes penalties for such offences. Complaints against agents are referred to the concerned police authorities in relation to illegal agencies. Registered agencies can be put on a “watch list”, suspended or have their registration cancelled. Serious cases can result in the forfeiture of their bank guarantees. Violations by employers in the host countries are placed on a “blacklist” so that warnings can be given to workers and agencies if they are planning on doing business with them. Without any prior appointment, an aggrieved person can present their case before the Protector General of Emigrants at weekly public hearings at the Ministry’s office in Delhi.³⁰⁰

Table 12. Number and Type of Complaints Received at Embassies in Qatar

Country	Complaints
Bangladesh	42 complaints received for the year 2011. Nature of complaints: Low salary, Unpaid and delayed salary, contracts substitution.
India	Number of complaints not available. Nature of complaints: Exploitation of workers by employers, victims of fraud and extortion of recruitment agencies, non-observance of terms of contracts.
Nepal	Average of 50 complaints per day. Nature of complaints: High cost of migration, non-payment of salaries, bonus, overtime and end of service benefits, annual leave not granted, poor accommodation.
Philippines	3,697 complaints received from 1,596 complainants for the period January 2011 - September 2011 Number of complaints or cases resolved/endorsed from January 2011-September 2011 -1,394. Nature of complaints: Delayed/Non-payment of wages, Maltreatment/ Mistreatment, Psychological and Sexual Abuse, Contract Violation/ Substitution, Health and Medical Problems, Poor Working and Living Conditions.
Sri Lanka	Complaints received for the Year 2006 - 609; 2007 - 452; 2008 - 555; 2009 - 649; 2010 - 389 Nature of Complaints: Non-payment of agreed wages, sickness, Harassment (Physical & Sexual), not sent back after contract completion, Problem at home, Breach of Contract, Stranded without employment.

Source: Embassy interviews³⁰¹

³⁰⁰ Ibid.

³⁰¹ I am grateful to Afiga Heydarova for this table.

From interviews with the various embassies in Doha, Table 12 summarizes the number and kinds of complaints received by their labour attachés.

With regard to recruitment practices in country of origin, Qatar could enter into renewed bilateral arrangements with sending countries (or to maintain representative monitors there) to ensure proper regulation and policing of recruitment agencies and individual recruiters according to ethical recruitment standards. Labour sending country governments are always keen to develop bilateral relations. For example, The Ministry of Overseas Indian Affairs signed an MOU with Qatar in 2007, “to provide a framework for bilateral cooperation for promotion of overseas employment of Indian workers and their protection and welfare [through “joint committees”];³⁰² in May 1997 an agreement was signed between Qatar and the Philippines Filipino on manpower employment; a labour agreement with Nepal was signed in 2008 and revised in July 2013 on substitute contracts, forced labour, insurance and monitoring; Sri Lanka and Qatar signed a bilateral agreement in 2008 concerning the regulation of Sri Lankan manpower and “paved the way for monitoring activities of illegal recruiters involved in human trafficking, who use forged visas and other illegal means to further their activities.”³⁰³

An alternative to agencies altogether would be online, government-facilitated recruiting options. For those employers who do not recruit directly, overseas job seekers and employers in Qatar would locate each other through a government-run website that would serve as a recruiting clearinghouse. This would eliminate - or at least reduce - the need for intermediaries. It would also mean lower up-front costs to employers, and it would have the potential to individualize the recruitment process. It would make sense to synchronize this option with government recruitment processes in countries of origin as well. Countries like Bangladesh, for example, have already started using online registration processes for their nationals seeking employment abroad. This government process involves registration by SMS as well as smart cards containing basic information such as passport number, date of birth, family name, and contact phone numbers in their country of origin.³⁰⁴ The extent of large-scale success of these innovations, however, remains to be seen.

These changes that reduce the commissions of intermediaries would inevitably reduce the cost of recruitment that is borne by the employer; at the same time reducing, or eliminating, debt bondage and all the vulnerabilities that follow from it. In the example of Bangladesh, Khurshid Alam Chowdhury, Director General, Bureau of Manpower notes that female workers going from Bangladesh to work in Jordan

³⁰² Note also that India lists 174 countries that do not require emigration clearance. Those that do require clearance are mostly Arab or Islamic countries, namely, United Arab Emirates, the Kingdom Of Saudi Arabia, Qatar, Oman, Kuwait, Bahrain, Malaysia, Libya, Jordan, Yemen, Sudan, Brunei, Afghanistan, Indonesia, Syria, Lebanon and Thailand. Ministry of Overseas Indian Affairs (2008) “Emigration & You” Handbook, Emigration Policy Division, New Delhi, 7 February 2008; see also Timothy, Rakhee (2013) Social Security for International Labour Migrants: Issues and Policy Options, NLIR Research Studies Series, No. 104/2013, V.V. Giri National Labour Institute, Delhi, India.

³⁰³ K.O.D.Fernando (2012) Enhancing Integration Measures through effective Social Protection and Social Inclusion Policies, 2nd ADBI-OECD Roundtable on Labour Migration in Asia, 18-20, January, 2012, Tokyo, Japan. Page 5.

³⁰⁴ Anbarasan Ethirajan, “Technology Boosts Bangladesh Migrant Job Search,” BBC News, 1 Nov. 2011.

used to spend up to \$1,500 dollars, whereas due to government-to-government contracts the migration cost has now come down to just \$120.³⁰⁵ Ideally, it should not cost the workers anything.

Construction and service production companies in Qatar are in a position akin to companies like Nike, Marks and Spencer and Apple in that they have suppliers of products and services that require auditing and monitoring to ensure against human and labour rights violations that in turn give the organization a bad reputation that can ultimately lead to boycotts and sanctions. The lack of effective controls over labour providers in sending countries requires radical measures to bring them into line with international best practice standards and eliminate the use of corrupt labour providers as a means to reduce labour recruitment costs. In 2010, computer company Apple Inc. decided, as a result of an audit of their suppliers, to reimburse migrant workers for the recruitment fees they had paid since 2008 (the total amounted to \$2.2 million). “

The [Apple] standard for the prevention of involuntary labour limits recruitment fees to the equivalent of one month's net wages and specifies management practices regarding contract requirements, grievance procedures, agency management and the handling of workers' passports, as well as other stipulations for managing foreign contract workers.”³⁰⁶

In 2004, 23 Chinese cockle pickers drowned while working at night. Marks and Spencer collaborated with the British government and the Temporary Labour Working Group (a combination of companies, trade groups, growers, suppliers, labour providers and unions) to establish a Code of Practice for those who provided labour for the UK food industry.³⁰⁷ Again, in 2008, following an investigation into migrant workers in the Hytex Group factory in Kuala Lumpur (workers from Bangladesh, Vietnam and Myanmar) making t-shirts for the Nike Corporation, found sub-standard accommodation, withholding of passports as well as “excessive and unfair monthly wage deductions.” As a result, Nike insisted that Hytex immediately:

1. Reimburse migrant workers for fees associated with employment (e.g. recruitment and work permit fees);
2. Pay all future fees associated with employment as a cost of doing business;
3. Provide a return airfare for workers wishing to return home, irrespective of contract requirements;
4. Move workers into new Nike-inspected and approved housing;
5. Provide workers with immediate and unrestricted access to their passports;

³⁰⁵ Hamill, Kathleen (2012) *Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards an Alternative Governance Scheme in Lebanon*. Kafa (enough) Violence and Exploitation, Lebanon, <http://www.kafa.org.lb/studies-publications/27/2/policy-paper-for-reforming-the-sponsorship-system>, retrieved 12 June 2013. Fn. 56.

³⁰⁶ United Nations Global Compact (n.d.) *Human Rights and Business Dilemmas Forum, Case Studies* <http://human-rights.unglobalcompact.org/dilemmas/migrant-workers/> retrieved 6 August 2013; see also Handley, Paul “Apple admits supplier abuse of workers” Jan 13, 2012 http://www.google.com/hostednews/afp/article/ALeqM5iu2G1KRpbNOVpHzm25yQZRAKq_yA?docId=CNG.f77e9d612f9c4a19533cba3c1418e5a2.351. Retrieved 6 August 2013.

³⁰⁷ Ibid

6. Provide workers with access to a 24-hour Nike hotline to report violations. Nike also committed to review its entire Malaysian contract factory base and require factories to institute these same policies. In addition, Nike has engaged with a local NGO, Tenaganita, to implement management training programmes in Nike supplier factories, targeting improved treatment of migrant workers.³⁰⁸

As we can see from these examples, it is likely that the power of the commercial incentive may be larger than that of the law. As one NGO interviewee argued,

A businessman in the Philippines can easily pay a government inspector to get away with something, but if it is his buyer that says “I am going to move all my production from you to somewhere else because of your gross violations”, then they have no way out. So it is really the commercial incentive, and it has worked in a lot of cases, even though it has not worked all the time.³⁰⁹

The Qatari state and its clients are generous donors of charities and the needy around the world. They also invest heavily in politics and property, tourism and technology, art and education. The application of funds towards the radical reform from the current system to the ethical recruitment of migrant labour would not be onerous. A serious and systematic campaign needs to make clear to all countries of origin (all governments, recruitment agencies, brokers and their associations) and those in Qatar (employing companies and organizations, labour suppliers, placement agencies and embassies) that labour to Qatar must arrive debt free and without having paid recruitment fees, costs and charges before departure or after arrival from their salaries. At the same time, in support of this campaign, there is an urgency to establish the infrastructural requirements for the sustainable implementation, monitoring and policing of the QF Mandatory Standards for Migrant Worker Welfare, countrywide and internationally. Perhaps the most urgent requirement is the establishment of an accreditation and training system for ethical recruitment agencies who will become the exclusive suppliers of labour to Qatar.

³⁰⁸ Ibid.

³⁰⁹ Verité Consulting International, Manila. Interview 29 November 2012.

APPENDIX 1

FIELDWORK INTERVIEWS

Philippines: 26 November – 5 December 2012

(1) Embassy of the Philippines in Qatar

- (1) Mr. Leopoldo De Jesus, Labor Attaché
- (2) Danilo P. Flores, Welfare Officer

(2) Recruitment Agencies:

- (1) Mirben International Recruitment Agency, Mrs. Miriam Mondragon (Proprietress)
- (2) Fair Hiring International, Marie Apostol (President), Socrates (CEO)
- (3) Excel Green Kard International Recruitment Agency, Mrs. Beth Mesona (Manager)
- (4) Jenerick International Recruitment Agency, Mrs. Genoveva De Castro (Owner & Manager)

(3) Government Agencies:

- (1) Philippines Overseas Employment Administration (POEA), Administrator Hans Cacdac
- (2) Overseas Workers' Welfare Administration (OWWA)
- (3) Commission on Filipino Workers under the President of the Philippines (CFO)
- (4) Department of Foreign Affairs, Office of Undersecretary for Migrant Workers' Affairs

(4) International Agencies

- (1) International Organization for Migration

(5) Non-Governmental Agencies:

- (1) Verité Consulting International – Enrico Bagdioni, Marie Apostol
- (2) Nepal Institute of Development Studies, Dr Ganesh Gurung

(6) Pre-Departure Training and Testing Centers:

- (1) Domestic workers
- (2) Skilled workers

(7) Workers: 3

Nepal:

07 February To 15 February 2013

(1) Embassy of Nepal in Qatar

Jaya Bahadur Rai, Second Secretary, Deputy Chief of Commission

(2) Recruitment Agencies:

- (1) FSI International, Niraj Gurung & Deo Gurung
- (2) Alamdevi Associates, Mr Giriraj Ghimire
- (3) Elite Gurkha Manpower, Mr Lok Bahadur Gurung
- (4) Nepal Association of Foreign Employment Agencies, Mr Bal Bahadur Tamang (Chairman)

(3) Government Agencies:

- (1) Department of Foreign Employment Nepal & Foreign Employment Promotion Board of Nepal, Mr Purna Chandra Bhattarai (Dir Gen) & Mrs Girija Sharma (Director)
- (2) Ministry of Labour & Employment, Mr Suresh Man Shrestha (Sec), Mr Binod K.C
- (3) Ministry of Foreign Affairs, Mrs Ambika Luitel, Asst Secretary

(4) International Agencies

- (1) UN Women, Sharu Joshi Shrestha
- (2) International Organization for Migration (IOM), Ms Pravina Gurung, Mr Maurizio Busatti
- (3) United Nations Development Program (UNDP), Ms Moon Gurung

(5) Non-Governmental Agencies:

- (1) Pravashi Nepalese Co-ordination Committee (Association for Non-residents' Rights)
- (2) Pourakhi (safe labour migration for women), Manju Gurung
- (3) National Institute for Development Studies (NIDS), Dr Ganesh Gurung
- (4) Himalayan Bank Ltd, Mr Ananta Rajbhandary
- (5) Pravashi Coordinating Committee, Mr Avimansingh Pramendra

(6) Pre-Departure Training and Testing Centers

(7) Workers: 12

Bangladesh:

24 February To 5 March 2013

(1) Embassy of Bangladesh in Qatar

Muhammad Madsuqur Rahman, First Secretary

(2) Recruitment Agencies:

- (1) Eastern Overseas Recruitment Agency, Mr Saleem Mohammed Al-Haj
- (2) BAIRA, Bangladesh Association of International Recruitment Agencies,

- (3) Bangladesh Overseas Employment and Services Ltd. (BOESL),
Mr Mohamed Zahirul Islam
- (4) Eastern Business Associate Ltd, Wali Ullah (Zahid)
- (5) Sadia International, Mr Noman Shameem
- (6) Association of Licensed Foreign Employment Agencies, Mr W. Aponso

(3) Government Agencies:

- (1) Ministry of Home Affairs, Mr Mustafa Rahman
- (2) Ministry for Expatriate Welfare & Overseas Employment,
Mr Kazi Abdul Kalam
- (3) Bureau Manpower Employment and Training, Ms Mafruha Sultana &
Md Salim Reza

(4) International Agencies

(5) Non-Governmental Agencies:

- (1) Migrant Workers Protection Society (Bahrain), Mehru Vesuvala
- (2) Diplomacy Training Institute, Training Workshop on Kafala System in GCC,
Mr Derek Mueller, Swiss Development Agency
- (3) Refugee and Migratory Movements Research Unit (RMMRU), Dr Abrar
Chowdry
- (4) International Migrants Alliance Research Foundation, Mr Anisur Rahman
Khan
- (5) Probashi Kallyan (Expatriate Welfare) Bank, C M Koyes Sami, CEO, Md.
Mamunur Rashid, GM
- (6) Bangladesh Migrants Foundation, Ms Joynal Abedin

(6) Pre-Departure Training and Testing Centers

- (1) Skills Training Center, construction industry
- (2) Pre-departure Training Center, domestic workers

(7) Workers: 8

Sri Lanka:

17 March to 28 March 2013

(1) Embassy of the Sri Lanka in Qatar

W.M.V. Wansekara, Counsellor – Employment & Welfare

(2) Recruitment Agencies:

- (1) El Reshad Enterprises, Mr Najith S. Darshena, Mrs. Fawzi
- (2) Summit Lanka, Mr. VA Daya Keerthi, CEO
- (3) Selco International Group of Companies, Mr Ravi, Mr P. S. Selvaratnam
- (4) Royal Regency Ltd., Mr. Rafiuddeen
- (5) Expo International, Mr. Nawaz
- (6) Association of Licensed Foreign Employment Agencies (ALFEA),
Mr. Aponso, General Manager

(3) Government Agencies:

- (1) Sri Lankan Bureau of Foreign Employment (SLBFE), Mr. Batagoda, General Manager

(4) International Agencies

- (1) International Organization for Migration (IOM), Mr. Shantha Kulasekara

(5) Non-Governmental Agencies:

- (1) Helvetas Swiss Intercooperation, Mr. Ranjan Kurian & Ms. Katrin Rosenberg
- (2) Center for Human Rights and Development, Ms Rahini
- (4) American Center for International Labour Solidarity, Mrs. Charito Riley
- (5) Center for Human rights and Development, Mr. Solomon and Mrs. Mangala

(6) Pre-Departure Training and Testing Centers:

(7) Workers:

- (1) 3 domestic workers
- (2) 8 construction workers

India:

April 28 to 15 May 2013

(1) Embassy of India in Qatar

(2) Recruitment Agencies:

- (1) Sreenath Associates, Mr Sameer Vakil
- (2) Charishma Recruitment Agency, Mr Ebrahim Kutty C. H
- (3) Patronus Consultants, Mr Kathinjohy, Lakshmi Harika
- (4) Kivi International, Mr B. Vivek, Managing Director
- (5) Kalka Recruitment Agency, Mr Pankaj, Managing Director
- (6) Global Hunt India, Mr Sunil Goel, Managing Director, Mr Kundan Mishra, Business Consultant
- (7) Qatar Manpower Agency, Mr Karan Sharma

(3) Government Agencies:

- (1) Overseas Development and Employment Promotion Council, Dr G. L. Muraleetharan Managing Director
- (2) NORKA – Non-Resident Keralites Association, Subash John Mathew, GM, R.M Feroze Shah, Ass Man
- (3) Indian Protectorate of Emigrants, Trivandrum, Shri Pradeep A.
- (4) India Center for Migration (Ministry of Overseas Indian Affairs), Dr T.L. S Bhaskar, Project Coordinator
- (5) Ministry of Overseas Indian Affairs, Mr T.K. Manoj Kumar, Jint Secretary
- (6) VV Giri Labour Institute (Ministry of Labour & Employment), Dr Ellina Samantroy

(4) International Agencies

- (1) International Labour Organization, Ms Seeta Sharma, National Project Coordinator
- (2) International Organization for Migration, Mr Nitin Kumar, Head of Office

(5) Non-Governmental Agencies:

- (1) TATA Institute for Social Sciences, Mumbai, Dr. Meena Gopal, Dr. Bindhulakshmi
- (2) Center for Development Research, Dr Preena Koloth, Dr S. Irudaya Rajan
- (3) Gateway House, Mumbai, Ambassador Neelam Deo, Manjeet Kilparni, Blaise Fernandes
- (4) Pravasi (Malayalee Welfare Association), Mr Vellayani Sreekumar, President
- (5) Indian Trade Union Confederation (INTUC), Mr R. Chandrasekharan, president, Kerala, All India Vice President
- (6) Center for Education and Communication, Mr J. John, Executive Director

(6) Pre-Departure Training and Testing Centers

(7) Workers: 8

APPENDIX 2

ILO CONVENTIONS RATIFIED BY QATAR

Fundamental Conventions

- C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratified 1976)
- C029 - Forced Labour Convention, 1930 (No. 29) (ratified 1998)
- C182 - Worst Forms of Child Labour Convention, 1999 (No. 182) (Ratified 2000)
- C138 - Minimum Age Convention, 1973 (No. 138) (Ratified 2006)
- C105 - Abolition of Forced Labour Convention, 1957 (No. 105) (Ratified 2007)

Governance (Priority)

- C081 - Labour Inspection Convention, 1947 (No. 81) (Ratified 1976)

ILO CONVENTIONS NOT RATIFIED BY QATAR

Fundamental Conventions

- C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- C100 - Equal Remuneration Convention, 1951 (No. 100)

Governance (Priority)

Convention

- C122 - Employment Policy Convention, 1964 (No. 122)
- C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

[ILO Database of Conventions and Ratifications for MENA States & Asian States
Retrieved 20/05/2012 from: <http://www.ilo.org/dyn/normlex/en/f?p=1000:1:1192158799781180::NO::>
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