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MIGRANT WORKERS' RIGHTS ON SAADIYAT ISLAND IN THE UNITED ARAB EMIRATES

2015 Progress Report

SUMMARY AND RECOMMENDATIONS

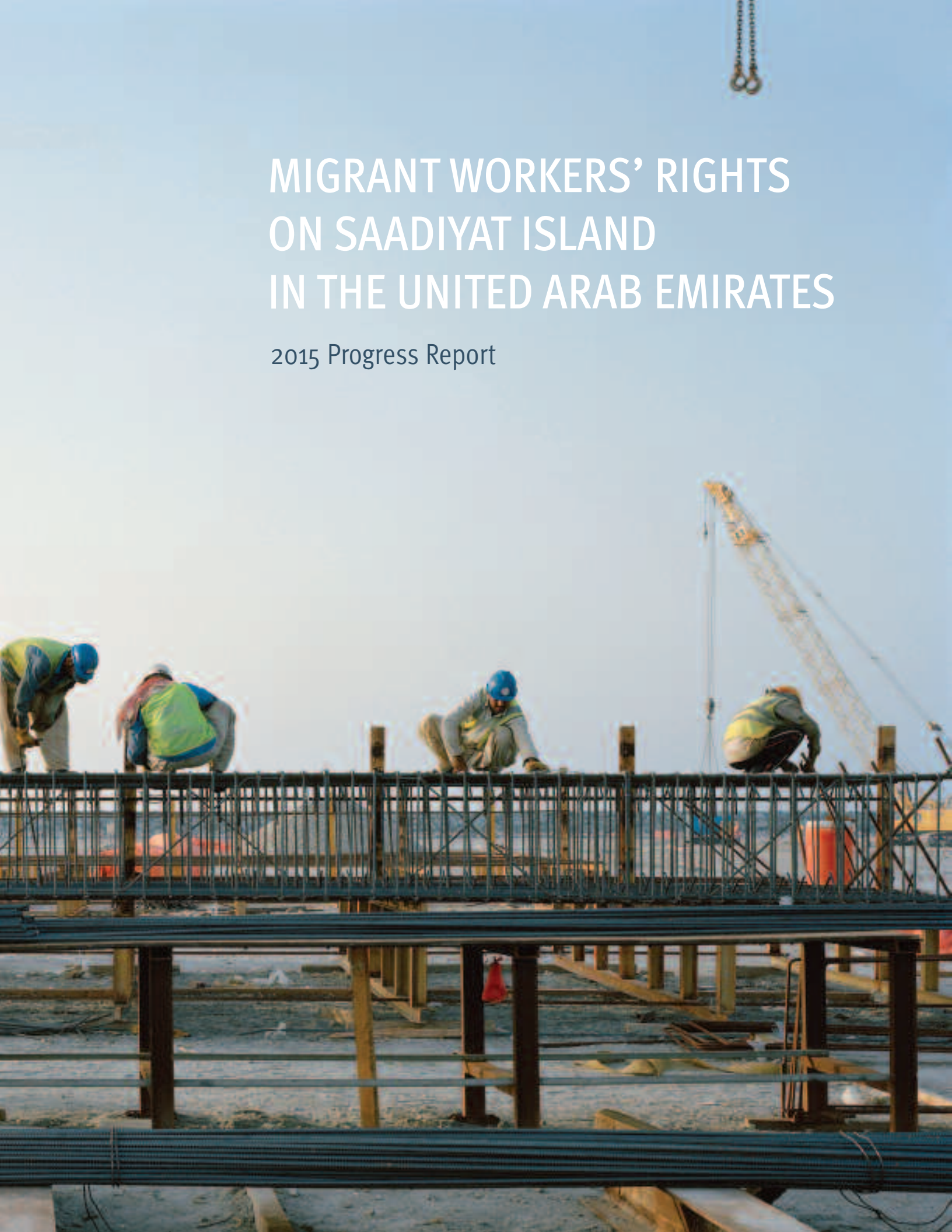


Site of the Guggenheim Abu Dhabi Museum.
Construction is expected to resume in 2015.

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Migrant workers from Bangladesh share a room in an apartment where they live with other workers in Abu Dhabi, United Arab Emirates, April 2014.

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Nearly five years after Human Rights Watch first revealed systematic human rights violations of migrant workers on Abu Dhabi's Saadiyat Island, a development project which will host branches of the Louvre and Guggenheim museums and New York University, there remain serious concerns about violations of workers' rights on the island.

As detailed in this report, some employers continue to withhold wages and benefits from workers, fail to reimburse recruiting fees, confiscate worker passports, and house workers in substandard accommodations. The government has also summarily deported Saadiyat workers who have gone on strike in protest at low pay after their employers contacted the police.

While UAE authorities have recently made significant reforms to Emirati labor law and policy, their failure to rigorously investigate violations and enforce the new laws are contributing to continuing violation of workers' rights.

More than five million low-paid migrant workers are employed in the United Arab Emirates. Although fewer than one in a thousand of these men and women work on Saadiyat Island, the project has become the focal point of scrutiny of the UAE's treatment of migrant workers. The island already hosts a campus of NYU, though facilities are still partly under construction, and, once completed, it will host branches of the Louvre and Guggenheim museums.

After a 2009 Human Rights Watch report found that migrant workers employed in connection with the island's projects faced serious rights violations, including forced labor, the two governmental agencies behind high-profile projects there, the Abu Dhabi Executive Affairs Authority (EAA) and the Tourism Development & Investment Company (TDIC), instituted guidelines and contractual requirements for contractors and subcontractors to curb labor abuses, and appointed third-party compliance monitors.

The EAA drew up what it called "The 14 Points," based on a "Statement of Labor Values," requiring contractors to adhere to more rights-protective standards on recruitment fees, passport confiscation, working hours, wage



Migrant workers from Bangladesh share a room in an apartment where they live with other workers in Abu Dhabi, United Arab Emirates, April 2014.

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payment, and worker accommodations, among others issues. It appointed engineering, management, and development consultant Mott McDonald to monitor contractor compliance. TDIC similarly developed its “Employment Practice Policy” (EPP), which applies to all contractors and subcontractors on projects under the TDIC’s purview, requiring them to adhere to standards on many of the same issues covered by “The 14 Points.” The TDIC appointed PricewaterhouseCoopers (PwC) as its compliance monitor.

The UAE has also enacted important legislative reforms in recent years. In 2010, the government amended the laws and regulations regulating the *kafala* system, which ties workers’

visas to particular employers and severely restricts their right to change employers. According to the new law, workers can change employers when the latter fail to comply with “legal or contractual obligations.” A ministerial resolution issued in 2010 regarding recruitment agencies empowers the authorities to force domestically-based recruitment agencies to reimburse workers found to have paid recruiting fees and to revoke or suspend their licenses if they pass fees onto workers. The authorities also passed laws requiring firms to submit bank guarantees to the Ministry of Labour and pay workers via an electronic wage payment system, allowing the Ministry of Labour to refer violators to the responsible “judicial entities.” The UAE also appears to have significantly increased the number of labor inspectors it employs. In 2009 the Ministry of Labour only employed 48 inspectors, but according to more recent figures the ministry carried out 77,197 routine inspections in the fourth quarter of 2012, an average of 1187 routine inspections per day.



Despite these positive steps, however, Human Rights Watch research for this report shows that some of the same abuses we documented in our previous reports continue. UAE government authorities prevented us from conducting research openly or from conducting interviews at the Saadiyat Island site, and as a result, we cannot say how widespread the abuses continue to be. Nonetheless, we were able to make contact with seven groups of workers who had recently been deported or worked on the site and lived elsewhere in the UAE—in the Mussafah industrial zone in Abu Dhabi or in Jebel Ali, south of Dubai.

Workers employed on Saadiyat Island in 2013 and 2014 told us of a range of abuses. Some said their employers failed to pay their wages for months at a time, and that they faced arrest and summary deportation when they went on strike. Some said their employers had failed to renew work permits and residence visas and refused to pay the end-of-service benefits to which they were entitled, leaving them

Migrant workers sell goods at a market outside of a workers' camp in Abu Dhabi, United Arab Emirates, April 2014.

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penniless and vulnerable to arrest and deportation. All of the workers said that employers continue to retain their passports and fail to reimburse the recruitment fees they had to pay to secure employment on the island. Some Saadiyat workers continue to be housed in cramped and unsanitary housing. Despite the fact that these abuses violate UAE laws and the TDIC and EAA guidelines, workers said they were unable to effectively access grievance mechanisms.

In researching this report, Human Rights Watch met with a total of 113 workers who were or had been employed by seven different contractors or subcontractors, some of them

Workers on Saadiyat Island waiting for a bus after their day shift.
Some workers who did not live in the Saadiyat Island Workers'
Village, lived in overcrowded and unhygienic housing conditions.
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in person in the UAE and Bangladesh, and others by telephone.

We spoke with 13 former employees of a contractor on the NYU site on Saadiyat Island and two former employees of the main contractor on the Louvre site whom authorities had deported from the UAE in October 2013 and May 2013 respectively. All 15 workers said that their employers acted in concert with the authorities, who arbitrarily detained and deported scores of workers. Two workers on the NYU site described how police officers mistreated them in interrogations where they were asked to name the protest leaders. A worker living on the Saadiyat Construction Village at the time of one of the strikes said that approximately 500 men living there were either deported or had their work visas cancelled after the strike.

Another employee of a contractor on the Louvre site told Human Rights Watch that he fears arrest and deportation because his employer has failed to renew his work and residence permits and that he is owed over US\$1900 in unpaid wages and end-of-service benefits, dating back to 2005. UAE law does not require employers to escrow funds designated to pay employees' statutory end-of-service benefits, meaning that they must pay departing employees a sizeable lump sum from the company's working capital. One of his colleagues reported being in a similar situation. Neither of the men has filed a labor complaint, as their employer told them they would "not see a single penny" if they did. Human Rights Watch spoke to a group of 12 men working for the same company on the Louvre site on Saadiyat who have filed a complaint against the company in a Dubai labor court for unpaid wages.

The men filed their complaint in February 2014, but the Dubai labor court adjourned the case in April and again in August. The case remained unresolved at time of writing.

Three workers from Bangladesh, working for a contractor on the New York University site on Saadiyat but living two hours' drive away in Dubai, told Human Rights Watch in January 2014 that they were on a basic salary of \$190 per month—half of what recruitment agents in Bangladesh promised them—and that the company did not give them promised annual pay increases. They said they had paid



approximately \$2570 in recruitment fees and that, while they were unhappy with their pay and working hours and had complained to their employers, they could not go home until they had repaid their debts.

All of the workers we spoke with said they had paid recruitment fees to secure employment in the UAE and none had been reimbursed.

Not all Saadiyat workers are housed in the Saadiyat Construction Village on the island. In researching this report, Human Rights Watch also met with 27 workers, employed as painters on the NYU site on Saadiyat Island. All 27 men were living in a two-room apartment in Abu Dhabi city. Insects were crawling around the kitchen, and there were exposed



Mohammad Wali Ulla (second from left) and his family stand outside their home in the Comilla region of Bangladesh. Since his deportation from the UAE in October 2013, Mohammad earns money selling fish he catches in a small river close to his home.

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electrical wires wrapped around a shower head. Some of the men slept on makeshift beds on the floor underneath bunk beds, and there was a hole punched in the fire escape door, which was locked.

The abuses and difficulties obtaining remedies workers described are more serious than those that compliance monitors Mott McDonald and PwC have reported. While Mott McDonald, hired to monitor the NYU Abu Dhabi (NYUAD) project, has consistently found that employers retain passports, in violation of The 14 Points, it has reported that workers prefer their employers to retain their passports for safekeeping. It has found occasional instances of non-payment of wages, and isolated cases where workers have paid recruitment fees, but in general Mott McDonald reports indicate that compliance with The 14 Points is the norm, and that violations of the code are exceptional, and swiftly rectified.

PwC's most recent report in December 2014 found many positive

developments, including that TDIC had "enhanced levels of governance over [Employment Practice Policy] activities" and "strengthened the framework to promote EPP implementation activities." However, it found serious problems with TDIC's enforcement of the policy. The report includes analysis of TDIC's policies and procedures with regard to the EPP based on interviews with TDIC staff and a review of relevant documentation, and findings from interviews with 1,050 workers employed by four of the seven main contractors and six of the 46 subcontractors working at the site during the reporting period.



Former BK Gulf employee Mohammed Abdulrahman, who was deported in October 2013, said that some workers had been on the same salary for five years.



Former Arabtec employee Rassul Hassan did not support the strike and said he supported the company's deportation of Bangladeshi workers: "It's easy for the company to deport 4,000 workers and recruit another 4,000 from Pakistan or India."



Anamul al-Haque said following the 2013 strike in October 2013 police detained him and during his interrogation slapped and pushed him and demanded that he name the strike leaders.

The report indicated that TDIC had not devoted sufficient resources to monitoring adherence to the EPP, which contractors and subcontractors interpreted inconsistently and in some cases to their benefit. It also stated that TDIC did not properly analyze reports on contractor and subcontractor adherence to the EPP, and failed to impose financial sanctions on half of the offending employers it identified. The report does not specify what sanctions TDIC applied, nor does it name the offending employers. Although PwC interviewed 14.4 percent of the average monthly worker population, they did not interview any workers from the 40 smallest subcontractors working on site.

Investigations by international media have also revealed serious, ongoing abuses of workers on Saadiyat Island projects. The Observer newspaper on December 22, 2013 reported that workers under the purview of TDIC continued to endure, among other things, unpaid wages, illegal recruitment fees, substandard housing, and deportation as retribution for striking for better pay and conditions. On May 18, 2014, the *New York Times* reported serious violations of workers' rights on the NYU Abu Dhabi site, specifically that authorities deported hundreds of workers from a company working on the NYU site after they went on strike to protest their low pay. On May 25, the *Independent on Sunday* published similar allegations.

The 2014 US State Department Trafficking in Persons report states that the Ministry of Labour referred 188 wage disputes for legal remedy in 2013, but added that the UAE government did not report having investigated employers who withheld wages or violated the labor law for potential forced labor offenses. The State Department report also notes that the UAE has "rarely prosecuted" potential forced labor cases under the UAE's anti-trafficking law.

As noted above, this report cannot assess overall living and working conditions for workers on the Saadiyat site or determine how widespread the abuses continue to be because government authorities there do not allow us to conduct research openly and our findings of necessity reflect the experiences of the workers with whom we were able to speak.

In early 2014, the UAE authorities denied a senior Human Rights Watch representative permission to enter the country and permanently blacklisted two other staff members as they were leaving the country. They had been in the UAE to hold a press conference, but had also been conducting research and seeking meetings with government officials. One was told he was being blacklisted from the country indefinitely. According to UAE immigration law, the blacklist includes the names of individuals prohibited from entering the country "for being dangerous to public security." The



Mohammed Milannudin had worked for BK Gulf for seven years when he was deported in October 2013, following a strike in protest at low pay. His father sold a part of his land to pay the recruitment fee of US\$2,500



Mohammed Mizanurrahman was one of a larger group of several hundred BK Gulf workers deported one month after the 2013 strike at a worker camp in Dubai.



BK Gulf employee Razul al-Haque said the police “arrested everyone they could get their hands on,” in order to break up the 2013 strike at a worker accommodation camp in Dubai.

authorities refused all requests from Human Rights Watch for meetings to discuss this report and have not responded to our letters requesting information. The authorities have made no comment on the reasons for their actions.

These limitations notwithstanding, our research indicates that even after the recent reforms, including issuance of the new EAA and TDIC policies, the problems persist, calling into question the extent to which the EAA and TDIC oversight provisions are working and whether these authorities are fully committed to protecting workers’ rights. As project developers, those entities are subject to the UN Guiding Principles on Business and Human Rights, which require corporate actors “to prevent or mitigate adverse human rights impacts that are directly linked to their operations,” and take remedial action should abuses occur. As detailed in this report, neither the EAA and TDIC nor institutions like the Guggenheim, Louvre, and NYU, have so far done enough to address abuses that have persisted at their sites for over five years now.

A key issue appears to be the inability or unwillingness of the TDIC and EAA to penalize contractors who violate the terms of their codes of conduct, including through financial penalties sufficient to deter further abuses.

TDIC supplied Human Rights Watch with a copy of its policy specifying the minimum and maximum financial penalties

that they can impose on contractors but the penalties for contractors and subcontractors are so small—at most 1 percent of the contract value—that they are unlikely to have a significant deterrent effect. PwC’s 2014 report revealed that TDIC issued financial penalties to six contractors in the previous year, but that it had enforced them against only three contractors and did not reveal their names, the reason for the fines, or the amount of the fines. The EAA’s The 14 Points contain no financial penalty provision at all, and there is no mention of the imposition of any financial penalty in any of the three Mott McDonald compliance reports. Mott McDonald has not responded to requests for information on whether the EAA or NYU has a penalty policy in place or details of any sanctions that they may have imposed on offending contractors. Neither the TDIC nor EAA code stipulates that contractors who violate UAE laws, including the anti-trafficking law, will be reported to the authorities.

UAE government lack of transparency about the steps it has taken also remains a serious problem. In October 2014, Human Rights Watch wrote to the Ministry of Labor to request information on, among other things, the number of recruitment agents whose licenses it has suspended, the number of companies it has suspended from obtaining new work permits for non-payment of salaries, and the number of workers who have successfully availed themselves of the



Mijanur Rahman's father borrowed US\$2,500 to pay the recruitment fee to secure his son a job in the UAE. He was deported in October 2013 after BK Gulf workers went on strike in protest at low pay.



Former BK Gulf employee Mohammed Ibrahim who was deported in October 2013 said he never saw a labor inspector during his four years working in the UAE.



Former Arabtec employee Lebu Mia who was deported in June 2013 after working in the UAE for six years still owes money to recruitment agents in Bangladesh. "I haven't found work and people are forcing me to repay them," he said.

reforms to the sponsorship law. We received no response, and this information is not publicly available.

If UAE authorities are to better ensure that the labor law reforms are achieving their aim, they should indicate what steps they have taken to inform workers of their rights to leave abusive sponsors, publish verifiable information on the numbers of workers who have successfully changed their employers without their employers' consent have been reimbursed for recruitment fees, and specify the number and identity of employers sanctioned for non-payment of wages, confinement of workers to unlawful housing conditions, and other worker abuses.

The UAE should also pass legislation that expressly criminalizes passport confiscation and prioritize enforcement of that legislation. Finally it should stop deporting striking workers, and pass legislation that expressly recognizes workers' rights to strike and bargain collectively.

In light of the ongoing abuses of workers servicing their projects, Agence France-Muséums, the Solomon R. Guggenheim Foundation, and New York University should make their continued engagement with their projects on Saadiyat Island dependent on public commitments by the UAE government authorities and the EAA and TDIC to ensure that workers are protected from abuses that contribute to forced labor—including through implementation of the recommendations below on recruitment fees, non-payment of wages, and passport confiscation—and that workers subjected to serious rights violations, including arbitrary deportation, are properly compensated.

RECOMMENDATIONS

TO THE UNITED ARAB EMIRATES GOVERNMENT

- **Pass legislation that prohibits employers from retaining their employees' passports and provides for meaningful sanctions for offenders.**
- **Pass legislation that requires employers to provide written documentation verifying their payment of recruiting fees and associated costs for each worker in their employ.**
- **Abide by the obligation under UAE Labor Law of 1980 to implement a minimum wage and cost of living index.**
- **Ensure that criminal justice authorities aggressively investigate, prosecute in good faith, and impose meaningful penalties on employers that violate relevant provisions of the labor law, penal code, and anti-trafficking law.**
- **Publish and publicize verifiable details of the sanctions that courts have imposed on firms found in violation of laws regulating migrant workers, including, but not limited to, the number of recruitment agents whose licenses the authorities have suspended or revoked and the sanctions they have imposed on firms that fail to pay their employees' salaries on time.**
- **Publish and publicize verifiable details of the number of workers who have successfully changed sponsors under the changes to the regulations of the employment sponsorship system provided for by Ministerial Decision No. 1186 of 2010.**
- **Pass legislation that requires companies to escrow funds to pay for employees' end-of-service benefits.**
- **Amend UAE labor law to guarantee workers' right to strike—including by establishing explicit voting and notification procedures for strikes—and to provide for binding arbitration of collective labor disputes only upon workers' request and only in limited circumstances.**
- **Provide funding for research into the recruitment process with a view to devising best-practice models that reduce the exploitative potential of the transnational recruitment process and ensure that recruitment costs are borne by employers not workers.**

RECOMMENDATIONS

TO THE TOURISM DEVELOPMENT AND INVESTMENT COMPANY AND THE ABU DHABI EXECUTIVE AFFAIRS AUTHORITY

- Penalize contractors working with agents or sub-agents who are found to have charged workers recruitment fees, and terminate relationships with contractors that continue to work with agencies or sub-agencies that charge workers fees. The penalties should be severe enough to act as a deterrent.
- Ensure that all contractors can provide documentation to prove that either they, the subcontractor, the labor supplier, or another affiliated company have paid all the recruitment fees, including visa fees and travel costs, for each worker hired.
- Audit the financial health of all contractors and subcontractors to ensure they are able to pay workers' salaries and end-of-service benefits.
- Oblige all existing and future contractors to escrow funds specifically for employees' end-of-service benefits. Immediately ensure that all workers' accommodations are equipped with facilities for the safe storage of personal documents and that contractors do not retain worker passports.
- Conduct inspections to ensure that all Saadiyat contractors house workers in accommodations that meet the standards outlined in The 14 Points and the "Employment Practice Policy" as well as the UAE federal housing law. Publish and publicize the financial penalties and other sanctions that they have imposed, if any, on contractors and subcontractors found to have violated TDIC's Employment Practice Policy or the EAA's The 14 Points.
- Amend policies to ensure financial sanctions are imposed for violations in amounts sufficient to have a deterrent effect.
- In view of the continued gross inadequacy of judicial or administrative remedies for workers whose rights have been abused and the responsibilities laid out in the UN Guiding Principles on Business and Human Rights, institute a claims procedure to compensate all workers subjected to collective arbitrary expulsion or forced labor.
- Amend the Employment Practice Policy and The 14 Points to make clear that TDIC and EAA are required to report to relevant authorities all violations by contractors of the UAE labour law, penal code, and anti-trafficking law.

TO THE FRENCH GOVERNMENT, AGENCE FRANCE-MUSÉUMS, THE SOLOMON R. GUGGENHEIM FOUNDATION, AND NEW YORK UNIVERSITY

- **Make continued engagement with projects on Saadiyat Island dependent on public commitments by the UAE government authorities and the EAA and TDIC to implement the recommendations above on recruitment fees, non-payment of wages, passport confiscation, and creation of a compensation scheme.**
- **Obtain representations from TDIC and EAA that they will ensure that all project-related employers establish, in close consultation with workers, conciliation and mediation proceedings that lead, in the event of deadlock, to binding arbitration with sufficient guarantees of impartiality and rapidity to resolve labor conflicts, as recommended by the ILO Committee of Experts.**

RECOMMENDATION TO LABOR-SENDING COUNTRIES INCLUDING BANGLADESH, INDIA, NEPAL, PAKISTAN, THE PHILIPPINES, AND SRI LANKA

- **Strengthen international cooperation with the UAE to ensure that bilateral and multilateral agreements properly protect migrant worker rights, including through provisions addressing recruitment fees, passport confiscation, access to complaints mechanisms, and sanctions for employers and recruitment agents who violate worker rights and anti-trafficking laws in the UAE and in sending states.**

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Nearly five years after Human Rights Watch first revealed systematic human rights violations of migrant workers on Abu Dhabi's Saadiyat Island, a development project that will host branches of the Louvre and Guggenheim museums and New York University, there remain serious concerns about violations of workers' rights on the island. Although the institutions involved have overseen the institution of codes of conduct, some employers involved in the construction of these projects continue to confiscate passports and withhold salaries, and their workers still pay exorbitant recruitment fees to secure low-paid work in one of the wealthiest countries in the world. The report also describes how major contractors on the Saadiyat Island site conspired with the authorities to have large numbers of workers summarily deported after strikes in protest at low pay and poor conditions. It calls on the institutions involved in the project to make their continued engagement contingent on meaningful reforms, including serious penalties for partners who breach labor commitments, and compensation for workers whose rights have been violated.



Drawn by the promise of jobs, thousands of men from India, Pakistan, Bangladesh, Sri Lanka, and Nepal are working on Saadiyat Island in the United Arab Emirates.

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