



GUIDELINES FOR A BETTER CONSTRUCTION INDUSTRY IN THE GCC:

A CODE OF CONDUCT FOR CONSTRUCTION COMPANIES

December 2015

HUMAN
RIGHTS
WATCH

OBJECTIVE

International and local construction firms should adopt internal standards, including for contractual requirements with contractors, to ensure that the basic human rights of construction workers, almost all of whom are migrants, are protected in the Gulf Cooperation Council. Effective monitoring and enforcement mechanisms should accompany these standards to guarantee compliance.

A. BACKGROUND

Migrant construction workers play a crucial role in developing the economies of the Gulf Cooperation Council (GCC) countries. Human rights organizations and the media have shone a spotlight for many years on the appalling living and working conditions of low-wage migrant workers in the construction sector.

Nonetheless, abuses in the construction sector persist in Bahrain, Kuwait, Saudi Arabia, Qatar, Oman, and the United Arab Emirates (UAE). Many workers incur large debts to pay recruiters in their home countries to obtain their jobs in the GCC. They are forced to work under the highly exploitative kafala system of sponsorship-based employment, which restricts them from changing employers without their employer's consent, and employers often confiscate the workers' passports. Access to legal and judicial remedies is extremely limited and employers are rarely, if ever, prosecuted for violations of labor law. As a result, migrant workers in the GCC frequently experience hazardous, sometimes deadly, working conditions, long hours, unpaid wages, and cramped and unsanitary housing.

Major gaps in protection leave migrant workers at risk of serious abuses without redress, and in the worst cases can lead to forced labor and trafficking. Migrants often have limited information about their rights and channels to seek help. They are not allowed to form trade unions, bargain collectively or strike, and attempts to exercise these rights have resulted in mass deportations, notably in the UAE and Saudi Arabia.

In labor-sending countries, recruiters often deceive workers over the terms of their future employment and charge them exorbitant recruitment fees. Recruitment costs can be as high as US\$3,000, and it can take workers as long as three years simply to repay the sums they have borrowed to pay these fees. While GCC legislation requires employers to pay all

recruiting fees associated with importing labor, there is no enforcement of this requirement, and the cross-border nature of the recruitment operation allows employers to avoid paying all of the associated fees.

B. THE ROLE OF COMPANIES IN PROTECTING WORKERS' RIGHTS

Governments have the primary responsibility for protecting human rights, but businesses also have human rights responsibilities. This basic principle has achieved widespread international recognition and is reflected in various norms and guidelines such as the United Nations Guiding Principles on Business and Human Rights, the Dhaka Principles for Migration with Dignity, and the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises. Many corporations in various industries, from oil extraction to garment manufacturing to electronics, have adopted codes of conduct to improve the treatment of their workers.

Governments in the GCC have largely failed to reform abusive laws and practices, and to enforce protective labor laws, but businesses do not need to wait for new laws or rules to act since they have a responsibility to avoid violating the rights of worker, and to create safe working environments for their employees. Companies should ensure that they and their affiliates pay all recruiting fees associated with their workers, including reimbursing workers found to have paid such fees; provide workers with safe facilities to maintain possession of their passports; pay workers on time and in full; implement requirements for maximum working hours with overtime pay; and provide workers with decent accommodations.

The GCC is not only a magnet for lucrative real estate development, but also a region where major cultural, educational and scientific institutions have chosen to establish branches. Renowned universities such as New York University and Carnegie Mellon have built campuses in the UAE and Qatar, and museums like the Louvre and the Guggenheim are establishing branches in the UAE.

Major government agencies, including the Abu Dhabi Executive Affairs Authority and the Tourism Development and Investment Company, in the UAE as well as their associated international partners, such as New York University, have made public commitments to improve and uphold human rights standards for all workers within their purview and appointed independent monitors to ensure compliance. Follow-up research by Human

Rights Watch and subsequent reports from compliance monitors appointed by the companies themselves has noted improvements in some areas, and a lack of progress in others.

All construction companies working in the GCC should uphold human rights standards for their workers.

C. WHAT COMPANIES SHOULD DO

As a general matter, companies should publicly commit to upholding workers' rights and verifying that they have done so.

Companies should:

- Make a public commitment to meet minimum obligations and contractually require contractors working on their worksites to do the same and to undertake to require the same standards from subcontractors. The requirements should include significant penalties, including termination, for material breaches by contractors and subcontractors, and compensation for workers who have been deprived of the benefits of such obligations.
- Respect workers' fundamental rights as listed in the International Labor Organization Declaration on Fundamental Principles and Rights at Work (ILO Declaration), as defined through the eight related ILO core conventions and the relevant jurisprudence of the ILO Committee on Freedom of Association and the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts).



Employment and Contracting

Companies should:

- Ensure that workers are not made to pay recruiting or other fees in the course of securing employment. When construction companies use recruitment companies to secure workers, the recruiters should provide workers with a company-provided written contract in the a language the workers can understand identifying the terms of the person’s employment, including payment, location, working hours, and housing conditions, signed and notarized in the worker’s home country.
- Cease working with any labor supply agencies in labor-sending countries or the GCC that engage in deception regarding contracts. Seek to engage recruitment companies with established records in fair recruiting procedures.
- Ensure that, upon arrival in the GCC, all workers receive comprehensive “know-your-rights” training in their native languages provided by trainers with an expertise in workers’ rights. The training should include a verbal explanation of the workers’ employment contracts, relevant GCC national law, including labor law, and the ban on employment-related fees for migrant workers.
- Inform workers of the means available in the relevant GCC country for obtaining legal redress, as well as relevant contact information, written in the workers’ native languages, for the workers’ national GCC employers, their GCC-based recruiting agencies, any available local GCC help centers or shelters, and the embassies for the workers’ countries in the GCC.
- Fully cover or reimburse employees for fees they are found to have paid associated with the recruitment process, without any deductions. The reimbursement should cover any government-imposed fees such as taxes and insurance, and fees relating to visas, medical examinations and the use of recruitment agencies. Fully cover or reimburse migrant workers for any and all travel costs from source countries to the GCC.
- Ensure that workers are informed of their rights under GCC laws, including to overtime and associated pay rates, to minimum numbers of days off and holidays, and to end of service benefits.
- Pay workers promptly after they start work, and regularly thereafter, including by complying with national legal requirements to set up and pay electronically into workers' bank accounts. Ensure that no wages are withheld in return for “security”

to prevent workers' departure. Never use deductions from wages as a disciplinary measure, and ensure that all deductions are transparent and recorded in writing.

- Facilitate, and do not prevent or obstruct, measures to allow employees to discuss work-related matters including safer working conditions, regular payment of wages and other issues related to workers' rights. Provide workers with a regular forum to present these concerns to management either directly or via workers' representatives. Respect workers' rights to freedom of association and collective bargaining to the maximum extent permitted by national law.

Health, Safety, and Living Conditions

- Provide adequate healthcare to all workers as required by law, including opportunities to seek medical advice and treatment from medical staff not employed by the companies, and inform workers of their rights.
- Instruct workers about how to avoid heat-related ailments, such as dehydration and stroke, and provide rest and access to adequate fluids and shade commensurate with the temperature to adequately minimize these risks.
- Communicate all written and oral project-related workplace instructions and directives, in particular those related to workplace safety procedures, in languages that the workers can understand.
- Report all workplace deaths and injuries and maintain a comprehensive database of those incidents that shall be publicly accessible, with appropriate safeguards to protect workers' privacy rights. The database should include the nationalities of the workers, the nature of their injuries, and the employers' contributions to healthcare costs.
- Where workers live in isolated accommodations far from commercial centers, ensure that they have access to transport throughout their day off at regularly scheduled intervals so that they can regularly and easily access banking and other commercial facilities.
- Ensure that workers are able to keep possession of their passports, property, and other identity documents and return any confiscated passports to workers. Ensure that workers have locked storage boxes in a safe location where they can store their passports and other valuables if they wish to do so, and monitor whether workers do in fact have a safe location in which they can store their passports and other identity documents. If significant numbers of workers request to store

documents outside of their accommodation, an independent third-party depository should be arranged.

Monitoring, Enforcement, and Reporting

- To ensure the credibility of the company's efforts to safeguard human rights, there should be regular monitoring of compliance with human rights standards. Companies should:
 - Interview workers privately upon arrival about the nature of contracts they signed in their home countries and whether they paid fees; and allow workers who were deceived to obtain the terms promised them, change employers, or return home at their employer's expense, if they wish to do so.
 - Establish an anonymous internal complaints process through which workers can lodge workers' rights-related concerns and ensure that they are aware of the process.
 - Include in all contracts legally binding provisions that provide for financial sanctions for violations of workers' rights, including passport confiscation and the charging of recruitment fees. The sanctions should be significant enough to have a deterrent effect, and companies should commit to publishing in full, details of sanctions imposed. Require contractors to include similar provisions in contracts with their subcontractors.
 - Organize independent monitoring and reporting to ensure that workers receive, in practice, and not just on paper, the benefit of the labor protections. The monitoring should be carried out by an organization with demonstrated expertise in workers' rights and satisfactory to the company. That organization shall conduct regular, random, and unannounced project site visits; visits initiated in response to specific worker complaints filed through the internal complaints process; and follow-up visits to verify compliance with any initial monitoring visit report recommendations. All visits shall include:
 - I. Anonymous worker and worker representative interviews;
 - II. Meetings with management;
 - III. A tour and observation of the workplace;
 - IV. Collection and review of relevant documents;
 - V. Preparation of a monitoring visit report, which shall include:
 - a. In the case of an initial monitoring visit, findings and recommendations for remedial measures to be taken to

remedy noncompliance and a reasonable time period for complying with the recommendations before the noncompliance is considered a breach of the present contract;

b. In the case of a follow-up monitoring visits, findings regarding compliance with recommendations for remedial measures;

- Report all violations of national labor law, penal code and anti-trafficking law to the relevant authorities.
- Regularly report on the company's implementation of its human rights policies and procedures.



Solving Labor Disputes

- Ensure that workers have access to governmental grievance mechanisms, including access to the appropriate office of the GCC country Ministry of Labor and that workers are clearly instructed about their right to file complaints without fear of reprisal.
- Ensure, where possible, that workers benefit from the support of non-governmental and independent actors to realize their rights, including in getting support to access government remedies, national human rights institutions, legal aid, pro-bono lawyers, and community-based organizations. Where the law allows it, permit workers to organize and set up workers' organizations.
- Commit to setting up a worker compensation fund and institute a claims procedure, overseen by a competent body endowed with legal authority to dispense monies to workers who have endured rights violations. All financial penalties should be deposited in the fund and disbursed by the fund in a transparent manner.
- 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.

All photo credits: © 2010 Samer Muscati/Human Rights Watch. 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. © 2011 Samer Muscati/Human Rights Watch 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. © 2011 Samer Muscati/Human Rights Watch. Workers entering the Saadiyat Island Worker's Village, a facility with the capacity to house 40,000 workers upon completion. The village accommodates a maximum of six workers in each room and boasts amenities unheard of in most labor camps in the UAE including an internet café, sports and recreational facilities, entertainment programming, and laundry services.