

Promoting the Rights of Migrant Workers Building Sports Arenas

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Building and Woodworkers' International (BWI)

Mid-term external evaluation report for LO-Norway

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ACRONYMS

BMKQ	Bayanihan ng Manggagawa sa Konstruksyon ng Qatar
BNKMU	Bhavan Nirman Karmkar Mazdoor Union
BWI	Building and Wood Workers' International
GOQ	Government of Qatar
ILO	International Labour Organization
ITUC	International Trade Union Confederation
FIFA	International Federation of Football Associations
FNV	The Netherlands Trade Union Confederation
MOADLSA	Ministry of Administrative Development, Labour and Social Affairs
MoU	Memorandum of Understanding
MOI	Ministry of Interior
NHRC	National Human Rights Committee
LO-Norway	Norwegian Confederation of Trade Unions
OECD	Organisation for Economic Cooperation and Development
QDVC	Qatar Diar Vinci Construction
QAR	Qatari Rial
SC	Supreme Committee for Delivery and Legacy
WWC	Workers' Welfare Committee
WWF	Workers' Welfare Forum
WWS	Workers' Welfare Standards, 2014 of the Supreme Committee

EXECUTIVE SUMMARY

Building and Woodworkers' International (BWI) is implementing a three-year project, partially funded by the Norwegian Confederation of Trade Unions for greater recognition of the rights of migrant workers building the infrastructure of mega sporting events. This report presents the findings of an independent mid-term evaluation.

Since the inception of the project in 2015, about 200 affiliates of BWI have been actively involved at national level in campaigning with football associations that are members of the International Federation of Football Associations for the recognition of the rights of workers building the infrastructure in Qatar for the 2022 Football World Cup. International pressure was built up through BWI's complaint against FIFA at the Organisation for Economic Cooperation and Development that resulted in the establishment by FIFA of a Human Rights Advisory Board of which the General Secretary of BWI is a member. In 2016, the Supreme Committee for Delivery and Legacy that represents FIFA in Qatar signed an agreement with BWI that included joint inspections of stadiums and living quarters of the workers building them. Six joint inspections were carried out in 2017 the outcome of which has been improved occupational safety and living conditions for thousands of migrant construction workers.

BWI also concluded an agreement with Qatar Diar Vinci Construction, a French construction company engaged in building the metro in Doha. It covers human rights at work, accommodations, and fair recruitment of all workers employed by the company. Part of the follow-up to the agreement was the creation of Worker Welfare Committees that allow worker representatives to negotiate with the employer. The outcome has been increased wages for blue collar workers, improved safety measures and better living conditions.

The complaint against Qatar made to the International Labour Organization in 2014 by a group of delegates to the International Labour Conference was closed in November 2017 following important changes in Qatari labour legislation that end the *kafala* system of sponsorship and the need for migrant workers to obtain exit visas to leave the country. Following this, BWI's work in Qatar enters a new phase, one in which much advocacy is required for the implementation of the changes in Qatari law and for strict controls of recruitment agents in the countries of origin.

Given the absence of Freedom of Association for migrant workers in Qatar, the outreach of the community coordinators to Filipino and South Asian workers is impressive. The strategy of working through the cultural associations of various communities to reach out to workers is effective. BWI affiliates in India and Nepal are raising awareness in migration-prone areas about migrant workers' rights. The database for South Asia indicates that the target of the project for new membership from South Asia is well within reach.

Problems of unpaid wages, lack of safety and sub-standard accommodation persist in smaller companies and with labour suppliers. Conditions in the Industrial Area where thousands of workers are housed are in urgent need of improvement. Access to grievance redress and protection from retaliation by employers is still lacking.

The Charter of demands of BWI is relevant both to the needs expressed by workers and the Qatari context. Efficiency can be increased if the status of community coordinators in Qatar is made more secure. The agreements negotiated with Qatari authorities and construction companies have resulted in important improvements in working and living conditions for migrant workers.

1. BACKGROUND

Building and Wood Workers' International (BWI) is breaking new ground in the recognition of workers' rights, particularly those of migrant workers, by using mega sporting events as a lever for change. It is demonstrating the power of global unions in contributing towards a key goal of the international community "Decent Work for All" that is an essential element of Sustainable Development Goal 8. BWI's strategy consists of working at both ends of the spectrum – confrontation and negotiation at the international level in the glare of the media and discreet organization of construction workers on the ground.

Its work with the International Federation of Football Associations (FIFA) began in 2006 prior to the championship in South Africa, followed by sporting events in Poland-Ukraine and Brazil. The challenge in Qatar is much greater than in the previous countries. As with many countries of the Gulf Cooperation Council, workers are tied down by the *kafala* system of sponsorship and unions of migrant workers are prohibited. This renders the status of BWI community coordinators precarious.

There was an international outcry against the selection of Qatar as the venue for the 2022 Football World Cup, the International Trade Union Confederation (ITUC) calling Qatar 'a country without a conscience'.

"Foreign workers are enslaved – owned by employers who hold the power of recruitment, total control over wages and conditions of employment, the authority to issue ID cards (not having an ID card can lead to prison) and the ability to refuse a change of employment or an exit visa to leave the country. This is known as the kafala system." (ITUC 2014, The Case against Qatar)

BWI's World Board endorsed the "No World Cup in Qatar without Workers Rights" Campaign through which national football associations and sponsors were pressurised. It culminated in a protest staged outside the FIFA head office in Zurich on May 29, 2015 with participants carrying crosses representing workers who had died.

With the active participation of member organisations, the campaign actively promotes a "Migrant Workers' Rights Compact" with FIFA, with construction companies building the infrastructure for the World Cup in Qatar and with the Government of Qatar (GOQ). Discussions with the Supreme Committee for Legacy and Delivery (SC), the local body responsible for delivering the World Cup infrastructure, resulted in the adoption of "Workers' Welfare Standards" (WWS) in 2014 that incorporate many of the demands contained in the "Migrant Workers' Rights Compact".

Together with the ITUC, BWI took the Qatar case to the International Labour Organization (ILO) filing a complaint in 2012 for breach of Freedom of Association standards for migrant workers. Furthermore, in May 2015, BWI filed a complaint against FIFA at the OECD concerning violations of the human rights of migrant construction workers engaged in building the stadiums and infrastructure in Qatar for the 2022 World Cup. The outcome of the mediation process between FIFA and BWI that followed was FIFA's acceptance of responsibility to use its leverage to ensure decent and safe working conditions in relation to the 2022 FIFA World Cup. It established a Human Rights Advisory Board which makes recommendations to FIFA in the areas of business and human rights. BWI General Secretary, Mr. Ambet Yuson, is an active member of this board.

This is the foundation on which the project under consideration was built. The development goal of the project is to create better working and living conditions by organizing migrant workers engaged in construction for sports events. The project objectives are:

- Increased union membership of migrant workers; and
- Improved working and living conditions of migrant workers in host countries.

The four results expected by the end of 2018 are

1. an increase in trade union membership of affiliates globally by at least 5,000 workers;
2. strengthened capacity of BWI affiliates to organize workers;
3. agreements negotiated to improve working and living conditions of migrant workers; and
4. policy action at local, national, regional and global levels for recognition of their rights.

Much has been achieved since the project's inception in January 2015. BWI's success in negotiating agreements with the SC and with construction companies has paved the way for dialogue with the ILO on technical cooperation. The GOQ has adopted legislation that aims to end the *kafala* system and the need for exit visas. The closure of the complaint against Qatar by the Governing Body of the ILO on November 8, 2017 was welcomed by the international unions as 'signalling a new era for workers' rights in the country' with hopes that other Gulf countries would follow suit. However, as feedback from workers and foreign officials during the evaluation reveals, much still needs to be done to implement these legislative changes.

2. THE EVALUATION PROCESS

This external mid-term evaluation was conducted by the author of this report over a period of 20 days in October – November 2017 to cover work done from January 2015 onwards.

The project pertains to four major sporting events – the 2018 World Cup in Russia, the 2018 Winter Olympics in South Korea, the 2020 Summer Olympics in Tokyo and the 2022 World Cup in Qatar. This evaluation is restricted to Qatar and the employment of migrant construction workers from India and Nepal in Qatar. It assesses the relevance, efficiency, effectiveness and sustainability of the project based on the project objectives and indicators of achievement mentioned in the project document.

The evaluator was briefed by the staff of the BWI South Asia office in Delhi and met with leaders of two Indian affiliates of BWI from Uttar Pradesh and Tamil Nadu. A desk review of the project proposal and progress reports, campaign updates, the WWS of the SC, submissions to the ILO Committee of Experts and reports of investigation of labour conditions in Qatar by other Human Rights Organisations was conducted.

The evaluator spent four days in Doha from November 25 to 28, 2017 with the Philippine and Indian Community Coordinators interviewing South Asian and Filipino workers and community leaders. She did not have access to work sites and worker accommodation facilities. Meetings with small groups of workers were conducted after working hours in restaurants. She had the opportunity to gather information from the Philippine Labour Attaché, two Filipina and one Nepali recruitment agents and from Dr. Nizar Kochery, the advocate who provides pro bono services to BWI.

The Global Campaign Coordinator, Ms. Jin Sook Lee who has been managing the project from the BWI headquarters in Geneva spoke at length with the evaluator over Skype before and after her mission. A Skype call with Mrs. Corinne Vargha, Director of Normes at the ILO, responsible for the Qatar dossier, revealed the importance of BWI's past work in Qatar in advancing preparations for ILO's technical cooperation programme there.

Finally, the draft evaluation report was reviewed at two meetings in Geneva with Tos Anonuevo and Jin Sook Lee in January and March and additional information provided. Their comments were integrated into the report submitted to LO at the end of March. A month later, another set of comments was received via the South Asia Office in Delhi calling for a third revision of the report.

A major difficulty in conducting the evaluation was that information was provided late and in bits and pieces as the staff were occupied with the World Congress and other events. The Nepali liaison officer had returned to Nepal before the evaluator's visit to Doha. Attempts to reach him on the phone were unsuccessful as he was busy with the elections in Nepal.

3. FINDINGS

3.1 RELEVANCE

The need for collective action to improve the working and living conditions of migrant construction workers in Qatar cannot be disputed. The charter of eleven demands put forward by BWI corresponds with the needs expressed by the workers.

The *kafala* system often responsible for forced labour had its legal basis in Law no. 4 (2009) regarding Regulation of Expatriates' Entry, Departure, Residence and Sponsorship.

Article 18 provides that each expatriate granted an entry visa to Qatar shall have a sponsor. Apart from women sponsored by the head of the family, minors and visitors staying 30 days or less, all expatriates may only leave the country temporarily or permanently on submission of an exit permit granted by the residence sponsor.

Under this law, employment relationships of expatriates are skewed in favour of the sponsor. The first demand of BWI is the abolition of the *kafala* and exit permit system.

Based on interviews with 234 migrant workers engaged in building the infrastructure for the World Cup in Qatar, Amnesty International published a report in 2016 entitled: The Ugly side of the beautiful game – Exploitation of migrant workers on a Qatar 2022 World Cup site". It says:

"Amongst the most frequently-reported problems facing migrant workers are: deceptive recruitment practices which see migrant workers promised more favourable conditions of work by recruiters in their home country than they are given on arrival in Qatar; employers compelling workers to live in squalid conditions; employers confiscating workers' passports and denying them the exit visa they need to leave Qatar; late or non-payment of wages; and employers not giving workers proper identity documents, which leaves them exposed to arrest. In extreme, but not exceptional, cases migrants are subjected to forced labour." p. 5 of the report

The national law in Qatar has since been amended by Law No. 21 (2015) that entered into force in December 2016. According to information given to the Governing Body of the ILO concerning the complaint by ITUC and BWI regarding non-compliance by the GOQ with the ILO Forced Labour Convention, No. 29, this law replaces the *kafala* system with a system of employment contracts that allow workers to change jobs at the end of their contract or in case of violation of their rights, without leaving the country. It also imposes higher penalties for passport confiscation. Furthermore, Law no. 1 of January 2017 amends Law no. 21 to abolish exit visas. These changes are recent and have not yet been accompanied by Implementation Guidelines or the institutional structures needed to apply them.

Qatar has not ratified three of the eight fundamental conventions of the ILO:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Equal Remuneration Convention, 1951 (No. 100)

While advocating for the ratification of these conventions, BWI's strategy of working through community associations to organize workers is appropriate to the context. So is the pressure exerted by affiliates in the home countries of large construction companies engaged in building the World Cup infrastructure. Agreements with them have brought about improvements in working and living conditions of workers in Qatar. Although the WWS of the SC are applicable to all contractors engaged in building the infrastructure for the World Cup, workers interviewed by the evaluator were concerned about the differences in safety standards between the main contractor and their sub-contractors. Since all those working on one stadium are housed in the same labour camp, the joint inspections undertaken by the SC with BWI takes care of differences regarding living conditions. However, due diligence of the main contractor with respect to the safety standards applied by its sub-contractors and labour suppliers at the worksite is still lacking.

Given the existing prohibition on unions for migrant workers in Qatar, the Workers' Welfare Forums (WWFs) required by the WWS of the SC in companies engaged for the World Cup are a "parallel means" of worker representation. BWI has succeeded in rendering the election of worker representatives to these committees more democratic.

Despite the Wage Protection System introduced by the Ministry of Administrative Development, Labour and Social Affairs (MOADLSA) in November 2015 making it mandatory for employers to pay all salaries in Qatari Rial (QAR) via a bank transfer to the employee's account by the 7th day of the following month, the problem of overdue wages is rampant. The evaluator met with workers in Doha who have filed cases for unpaid wages with the help of BWI.

TKL

This Nepali worker came to Qatar through a Labour Supplier in September 2013. He was one of 60 Nepali workers who did not receive wages for four months. He filed a case with the MOADLSA in May 2014 and was directed to the High Court in 2015. The Labour Supplier owes him QAR 5,600 (USD 1,480). The High Court did not grant him compensation and, with the help of BWI, he has now appealed to the Supreme Judicial Committee. He has

no income or lodging and is dependent on Nepali friends for survival. He is determined to stay in Qatar until he gets his due. At the end of the evaluator's meeting with Nepali workers, the Camp Boss of Labour City offered to house him for a few months and help him find another job.

The Mercury MENA case

A group of five Filipino workers, some of whom are members of Bayanihan ng Manggagawa sa Konstruksyon ng Qatar (BMKQ), are fighting individual cases in the High Court for unpaid wages. One of them has worked for eight years in this company and is owed QAR 17,000 (USD 4,490) in wages and gratuity. BWI had helped several workers to get six to seven months of overdue wages in October 2016. Immediately after, the company defaulted again. The MOADLSA refused to register their complaint and advised them to go straight to the High Court. Each of them had to pay QAR 600 (USD 158) for an accountant appointed by the court to check the financial records of the company. The court has yet to deliver its verdict. Of the 24 workers with overdue wages, some have transferred to other jobs while some bought their own tickets and returned to the Philippines. One of the workers said he could not transfer to another company because he owed QAR 6,000 (USD 1,585) as a fine for an expired residency permit. These workers are staying in a camp that will close in December. They have been without food supplies for months and will soon be without shelter.

It must be noted that these workers were not engaged in World Cup projects. As the community coordinators work through community associations, the scope of BWI work on the ground has gone beyond companies that are regulated by the SC.

Dispute resolution and grievance redress are still lacking and retaliation by employers against workers who file complaints with the Labour Relations Department of the MOADLSA is common. Recently, a Filipina worker who filed a complaint concerning deduction from her salary for her residence permit was arrested on her way back from the Ministry. Very often, workers who complain are accused of absconding even though they have returned to the labour camp and are arrested there while sleeping.

The principle of equal pay for equal work is not applied in Qatar. Wages depend on what the labour sending countries have specified. The Philippines embassy does not authorise contracts in which the monthly salary is less than 400 USD, India has fixed a minimum of QAR 1,200 (USD 324) and Nepalis and Bangladeshis earn still less. The Qatar government recently announced a temporary minimum wage of 200 USD per month, an amount that would be unacceptable to most labour sending countries.

Similarly, there are wide variations in the quality of accommodation and food provided to migrant workers by the different construction companies and labour suppliers. The Industrial Area where many worker accommodation facilities are situated is what

workers call ‘the other side of Doha’, a dusty and desolate part of it with no facilities for outdoor activities. One camp boss reported that workers were housed ten to a room in violation of the standards required by the SC. By contrast, Labour City nearby adheres to the WWS of the SC.

BWI work in migration-prone areas of India and Nepal helps to raise workers’ awareness of their rights before departure. Affiliates have contributed to setting up Migrant Resource Centres in Uttar Pradesh and Tamil Nadu. However, according to the leaders of these affiliates, many of these government-run centres are not functioning satisfactorily. Construction workers in India are among the few that can access social security. BWI affiliates ensure that members are registered with the Building and Other Construction Workers’ Welfare Board of the state and that they renew their membership to be eligible for long-term benefits. Several cases of reimbursement of recruitment fees to workers by their recruitment agents have also been facilitated by BWI affiliates in India. In fact, on March 15, 2018, the Qatari government announced that it has made a provision of 5 million USD to reimburse recruitment fees paid by migrant workers. To access this facility, workers will no longer have to prove that they were charged. Under the reforms, the burden of proof will instead shift onto contractors who will have to pay back workers their recruitment fees unless they can prove they made the payment to the recruitment agencies.

The Charter of demands of BWI is relevant both to the needs expressed by workers and the Qatari context. Legislation has been enacted to improve working conditions, measures are being taken to ensure that workers are not charged recruitment fees and worker representation has opened space for negotiation with employers. Problems of unequal, inadequate wages, delayed wage payments, poor living conditions, lack of safety measures by sub-contractors, retaliation by employers against workers who file grievances and precarity of those migrating with ‘free’ visas persist.

3.2 EFFICIENCY

LO’s financial support to BWI for its work in South Asia and Qatar has provided much needed support for pre-departure training in India and Nepal and organizing on the ground in Qatar. The 2016 budget shows allocations of CHF 2,500 for pre-departure training in South Asia, and a total of CHF 22,500 for the year in Qatar. The Norwegian Confederation of Trade Unions’ (LO-Norway) contribution represents about 25 per cent of the total outlay of the project, the rest being covered by BWI’s own fund for organizing and support from The Netherlands Trade Union Confederation (FNV). The South Asia office reports that funds from LO-Norway are received on time and are utilized fully in the scheduled time frame. The Global Campaign Coordinator underlines the importance of LO-Norway’s contribution for organizing and capacity building activities.

An important step in capacity building of both BWI staff and affiliates was the International Conference on the Sport-Migration Nexus held in Berlin in June 2017. It was an opportunity for BWI community coordinators from the four countries covered by the project to share experiences and for representatives of BWI affiliates to discuss and evaluate their progress with the campaign at national level. The Labour Inspectors’ Conference has also helped to build capacity for joint labour inspections in Qatar that have contributed a great deal to improved security at stadium work sites.

The work of BWI community coordinators is sometimes obstructed by their precarious status in Qatar. At present, only the Philippine organizer has a work visa, the Indian and Nepali community coordinators are there on free visas for which they pay the sponsor

who is supposed to employ them. This makes their status very precarious and hampers adequate documentation of membership as well as of grievances.

It also results in a high turnover of community coordinators. Both the Philippine and Indian community coordinators have been there for less than a year. The Indian liaison officer had not been briefed by the previous one and had no information about work done in 2015. The loss of organizational memory and experience reduces the efficiency on the ground.

Weekly labour camp meetings are held in Al-Khor, Shahaniya, Bin Omran, Wukair and the Industrial Area. Stadium committee meetings and Core Committee meetings take place every quarter. Evidence of records of these meetings was not provided.

A worker representative on a WWC indicated that there was insufficient time to prepare for election to these bodies as information about them was shared only a few days in advance.

Coordination between sporting event sites is ensured by the Global Adhoc Working Group. Some difficulty in coordination between community coordinators is due to the current reporting structure. The Philippine organizer reports to the office in Malaysia while the Indian and Nepal community coordinators report to Delhi. The Geneva office consolidates the reports and transmits them to LO-Norway. A report harmonizing template has been developed that is of great help in drafting progress reports. Some of the community coordinators had not accessed the consolidated reports although they had been mailed to them either due to lack of time or to insufficient knowledge of English. The Global Campaign Coordinator finds the system of reporting to LO-Norway adequate and values both its financial support and the provision of trainers for safety inspection.

LO-Norway's contribution to key areas of BWI work in Qatar has been efficiently used for organizing and capacity building and the staff at the BWI Head Office are satisfied with the interaction with LO-Norway. The creation of an evidence base has been hampered by the precarious status of the community coordinators and the high turnover of them.

3.3 EFFECTIVENESS

3.3.1 WORKER ORGANIZATION

Given the absence of Freedom of Association for migrant workers in Qatar, the outreach of the community coordinators to Filipino and South Asian workers is truly impressive. Community associations regrouping migrants from different regions abound in Qatar. Filipinos alone have some 200 groups and Indians have about 100 associations registered with their embassies. These groups meet regularly, organize cultural events and network through social media. The community coordinators have used these associations to raise awareness on migrant workers' rights and to assist in grievance redress. They interact with workers employed in building the four stadiums currently under construction:

- Al Bayt stadium at Al Khor being built by Salini Impreglio (Italy)
- Al Rayyan stadium being built by Larsen & Toubro (India)
- Qatar Foundation stadium being built by Joannou & Paraskevaides, (J&P) (Cyprus), and
- Al Wakrah stadium being built by Six Construct (Besix, Belgium)

as well as those engaged by companies like Qatar Diar Vinci Construction (QDVC) that are building the transport infrastructure for the World Cup. The WWS of the SC are applicable to these companies. The community coordinators have also taken up cases of workers who are not employed for the World Cup such as those of Power Line Qatar.

Power Line Qatar case

A case was made against this Thai company by 150 workers who had not received their wages for eight months. They were housed in a camp in Shahaniya without food supplies or air-conditioning and their residence permits had expired. There were Indian, Nepali, Filipino, Thai and Egyptian workers among them. They occupied the company office in Doha in protest. A high-level BWI mission intervened on behalf of the workers and protected them from arrest. The workers agreed to a 50% settlement of their overdue wages and gratuity and returned home. Some have yet to be paid.

There is a high level of commitment among the workers the evaluator met with In Doha. They are well informed about the difficulties faced by other members of their community and devote time to helping one another despite heavy work schedules. They have not yet been made aware of changes in Qatari labour laws. Recruitment into the union is done not only by the community coordinators but also by the members who spontaneously approach newcomers from their community and share their telephone numbers. There is however a time lag between the first contact, attendance of an orientation session and official registration.

The project document sets the target for increased membership of BWI for 2015-18 as at least 5,000 new members among those engaged in the four sports venues. No specific target for Qatar and further for South Asian members working or having worked in Qatar was set. One may assume a target of 2,000 new members for Qatar. The consolidated Annual reports for 2015 and 16 and the mid-year report for 2017 report a total of 1,948 new members, including some from Tajikistan and outreach to about 2,700 workers. These figures refer to three countries – India, Nepal and the Philippines.

Numbers are fewer if one considers South Asia alone. The data base at the South Asia office in Delhi does not provide information on the number of new South Asian members in 2015. In 2016, 276 Indian workers and 257 Nepali workers joined. In 2017, 130 Indian and 190 Nepali members were recruited, making a total of 853 new South Asian members over two years. Assuming that a similar number of about 500 Indian and Nepali members joined in 2015, the increase of union members in the South Asian affiliates working in Qatar comes to approximately 1, 350. These plus Filipino members brings the target well within reach by end 2018.

The BWI affiliates in Nepal signed a Memorandum of Understanding (MoU) with the Department of Foreign Employment to provide information to Nepali migrants planning to work in Qatar. In India, the two affiliates the evaluator met with are identifying migration-prone villages and providing orientation before the decision to migrate and pre-departure training to potential migrants. In Uttar Pradesh, the Bhavan Nirman

Karmkar Mazdoor Union (BNKMU) focuses on the districts of Amethi, Jaunpur, Pratapgarh and Sultanpur. Approximately 500 of their members are migrant workers. Details of membership of migrant workers from the TKTMS data base indicate that few of these workers migrate to Qatar. Saudi Arabia and Dubai absorb many more.

The Annual Reports indicate that outreach to workers has been more widespread than recruitment of members. This is justified given the many violations of workers' rights in the country and the weakness of the grievance redress system. The main instrument of communication of workers in Qatar is the internet through which they also communicate grievances.

The BWI CONNECT App which was designed with the help of FNV in 2015 has only been accessed by about 100 workers so far. Initial bugs in the programme have recently been removed and plans are underway for its translation into South Asian languages. This would be of great help to workers in reporting grievances.

Documentation of membership and of rights violations reported needs improvement. The community coordinators are afraid to keep records that may be used as evidence against them in case of an investigation. This responsibility would therefore fall on the Sub-regional and Regional offices of BWI until the status of community coordinators in Qatar is rendered more secure.

3.3.2 CAPACITY DEVELOPMENT

The community coordinators working in Qatar are appointed by the affiliates they have been trained by and worked with in their home countries. They have sound knowledge of labour rights and experience in organizing workers. This is further enhanced through strategic planning meetings with high-level BWI staff from the Head Office and from the Regional and Sub-regional offices. A new cloud-based data base is being designed that will greatly facilitate the establishment of a strong evidence base for advocacy.

Capacity building of community leaders and of worker representatives to WWFs and WWCs takes place through regular meetings of the Core Committee and of groups of workers in worker accommodation facilities. There is scope for improvement in the preparation for election of worker representatives. The data base for South Asia shows that only two BWI members from this region have been elected so far to a WWC while many more are capable of assuming this role. New members are given a two-hour orientation. Only two per year have been held in 2015 and 16 with a total of 57 South Asian participants in 2015 and 86 South Asian participants in 2016.

Since 2016, para-legal training of three to four hours is organized for leaders. The first level concerns documentation of cases, filing of complaints and their follow-up. The advanced level deals with legal research and writing opinions on cases. Two such trainings were organized in 2016 in which 56 members participated and one was held in 2017 with a participation of 22 members. These sessions are conducted pro bono by a renowned Indian lawyer in Qatar, Dr. Nizar Kochery.

One of the problems faced by the community coordinators is the high turnover of workers in Qatar. For example, BMKQ organized a para-legal training in March 2017 which was attended by 27 workers. Since then, eight of them have returned to the Philippines. Taking this factor into account, orientation and para-legal training sessions should be held at least once in every quarter. This will require increased access to funds for such training sessions, an activity that is necessary given the recent changes in legislation in Qatar.

The interaction of the Filipino Liaison Officer with the Labour Attaché of the Philippines is very good, allowing access to information and assistance in grievance redress. This is not the case at present between BWI and the Indian and Nepali embassies as the community coordinators have not renewed relations with the new officers appointed.

3.3.3 AGREEMENTS NEGOTIATED

BWI's success in negotiating agreements with the SC and QDVC is an outstanding achievement and a big step forward in improving working and living conditions of workers. The MoU with the SC was signed on November 15, 2016 and is expected to benefit 32,000 workers. It is the result of discussions that began between both parties in March 2014. It covers the following:

- Access by BWI to agreed construction sites and accommodation facilities;
- Joint inspections of them;
- Review and assessment of the SC's safety and health training curriculum, its current grievance mechanisms and functioning of WWFs; and
- Training of trainers related to occupational safety and health.

It was welcomed by the FIFA Secretary General, Fatma Samoura, who said:

"Safeguarding human and labour rights is of key importance to FIFA. We are very pleased that the Supreme Committee has taken this important step in joining forces with BWI. This marks another milestone towards ensuring decent and safe working conditions at FIFA World Cup stadium construction sites in Qatar."

(<http://www.fifa.com/worldcup/news/y=2016/m=11/news=supreme-committee-for-delivery-legacy-and-bwi-sign-mou-for-joint-inspe-2850955.html>)

Pursuant to the MoU with the SC, six joint inspections of the four stadiums and accommodation of the workers employed in building them have been carried out in 2017. These inspections are preceded by interviews of workers to identify issues that the inspectors should focus on. The Indian Community Coordinator interviewed workers from J&P who are building the Qatar Foundation stadium. They said that preparations for the inspection had been going on for two to three months and that there were improvements in occupational safety for the first time in ten years. He also observed that previously there was no information about the WWF at Challenger City – the accommodation facility for L&T workers. One month before the inspection notices were put up in every gallery of the establishment with information about SC guidelines, Hotline numbers for complaints and the names and mobile numbers of WWF representatives.

Workers interviewed during the evaluation affirm that improvements in safety measures and living conditions of workers in the companies inspected have taken place. Information obtained by BWI on deaths recorded by the embassies were not available during the evaluation. Hence, trends in the fatality of workers in Qatar due to occupational injuries could not be extracted.

BWI community coordinators point out that the agreement on joint inspections is a 'foot in the door' that has allowed BWI to gain better representation on WWFs through election of workers' representatives. The Philippines community coordinator characterizes it as a 'Pathfinder' that demonstrates how changes can be brought about on the ground. The WWF has elected representatives of each nationality (one

representative for every two hundred workers) who hold meetings with management once a month.

In April 2016, the SC appointed Impactt Ltd., an award-winning consultancy specialising in human rights, labour standards and international development, as an external compliance monitor to assess contractors' and sub-contractors' compliance with the WWS. It has conducted two quarterly rounds of initial compliance audits among ten contractors and follow-up audits among five of them to assess improvements. In all, 253 independently chosen workers were interviewed. The results have been published in their Annual Compliance Report.

The strength of the BWI affiliate in the country of origin of a multi-national company has a bearing on its willingness to commit to improvements in working and living conditions. The pressure exerted by BWI affiliates in France and Belgium has resulted in two important agreements being signed – first with QDVC in 2017 and more recently with Besix in 2018. BWI has an International Framework Agreement with Salini Impreglio and recently signed an addendum to it concerning Qatar. Meetings between BWI affiliates in India and L&T management facilitate negotiations between BWI and L&T in Qatar. Similarly, its affiliate in Cyprus has good links with J&P, as some of its members hold management positions in the company.

QDVC has formed a Workers' Welfare Committee (WWC) to which two BWI Indian community leaders have been elected. Worker representatives in the WWC negotiated a 30 per cent raise in salaries of blue collar workers in April 2016. Safety measures are now being regularly monitored and, according to the WWC representative in QDVC, more strictly enforced. Besides, rest areas have been created, workers are given more frequent breaks, overtime is restricted to two hours a day and wages are now paid on time. In addition, workers report that negotiations between BWI and QDVC resulted in passports being given back to workers and in transfer to new accommodation that is compliant with the SC's WWS. Bunk beds are no longer in use and each room houses not more than four workers.

Big companies give their workers training on safety and provide safety equipment. QDVC workers had a six month "Health, safety and environment" training from the company. Small companies and labour suppliers do not provide safety equipment and don't hire enough workers to ensure safety. The due diligence of the main contractor in monitoring working and living conditions offered by their sub-contractors and labour suppliers is still lacking.

3.3.4 *ADVOCACY*

Regular engagement of trade unions with FIFA has brought about significant change from FIFA President, Sepp Blatter's tame declaration in 2013:

"FIFA cannot interfere with the labour rights of any country, but we cannot ignore them."

to the adoption of this new provision in FIFA statutes by its Congress in 2016:

"FIFA is committed to respecting all internationally recognised human rights and shall strive to promote the protection of these rights."

The Global Campaign Coordinator reports that about 200 affiliates of BWI actively participated in the campaign by advocating for construction worker rights with their national football associations. The pressure exerted by these associations together with

the complaint filed by BWI with the OECD in May 2015 that resulted in the establishment of a Human Rights Advisory Board has certainly heightened FIFA's commitment to labour rights. The bidding requirements for the 2026 Men's World Cup are expected to include human rights criteria for the first time, broadly in line with the UN Guiding Principles on Business and Human Rights, 2011.

International pressure from the ILO and its member unions has resulted in ground breaking changes in Qatari legislation. However, most of these changes are yet to be implemented and workers say that the *kafala* system is still in place. Exit permits are still required for leaving the country. According to the BMKQ President, the amendment in January 2017 gave back to the sponsor/employer the power to refuse an exit permit. The worker can now have recourse to the "Exit Permit Grievance Committee" but, according to the Philippines Labour Attaché, this committee does not have the power to force a company to give an exit permit. The Workers' Dispute Resolution Committee has not yet been appointed and there is no provision for workers' representation on it.

In the absence of unions, the WWCs that big companies have set up allow workers to voice their concerns to the management. This has so far proved effective in advocating workers' rights although these are not an adequate substitute for independent unions. Only a few companies undertake due diligence with their sub-contractors. Most problems arise with small companies and labour suppliers, particularly those that are not covered by the SC.

Delayed wage payments are a primary concern of workers. If mediation by the MOADLSA with the employer fails, they must file cases in court to recover their dues. Survival in Qatar for the long duration of the case is extremely difficult. An investigation by Migrant-rights.org reveals how employers circumvent the Wage Protection System by keeping the ATM cards of workers and withdrawing the money deposited for salaries themselves¹

Much work is still required on grievance redress. Of particular concern is the relationship between the MOADLSA and the Ministry of Interior (MOI) in Qatar. The Labour Relations Department of the MOADLSA should be protecting workers from retaliation when they file complaints. Instead, they seem to be denouncing them. There have been several cases of such workers being arrested by the police on return to the accommodation facility because the employer has accused them of absconding. Community leaders who defend workers are also targeted. A Nepali leader said it had become more difficult to talk to managers of other camps ever since they had taken up a case of 60 Nepali workers who had not been paid for six months by the Labour Supplier. These workers were gradually deported with just a ticket and QAR 200 to 400 for their journey back.

The National Human Rights Commission (NHRC) undertakes important work to enhance the protection of the human rights of migrants in Qatar, inter alia by assisting them in making complaints to the MOI and the MOADLSA. Help desks have been set up for four nationalities – Philippines, Indians, Nepalis and Nigerians. Volunteers are expected to devote 10 hours a week to man these help desks. The President of BMKQ and another Filipino BWI member are the community coordinators for the Philippines help desk. A similar arrangement could be negotiated for the Indian and Nepali help desks.

¹ Migrant-rights.org, 2017 "*Employers in Qatar hoodwinking the wage protection system*", (<https://www.migrant-rights.org/2017/06/employers-in-qatar-hoodwinking-the-wage-protection-system/>)

As mentioned in the evaluator's Field Report, conditions in the Industrial Area where thousands of workers are housed are in urgent need of improvement.

There is at present a discrepancy between recruitment rules in countries of origin that place a limit on the amount of recruitment fees to be charged to migrant workers and the prohibition on charging placement fees to workers that has always been part of Qatari labour law. Qatari law even provides for the reimbursement to workers of any fees paid in the country of origin. Most workers reported not being able to avail of such reimbursement for want of proof of payment. In fact, recruitment agents force migrants to sign a declaration stating that no fees have been charged and have even filmed them saying so. Nepali workers say they are too afraid to report such malpractices to the Bureau of Foreign Employment for fear of retaliation. The Nepali recruitment agent that the evaluator met with confirmed that supply and demand determined the fees charged to workers, not the rules. He also said that the boycott of Qatar by neighbouring countries had greatly reduced the commission that agents in Qatar charged to employers from 500 USD per worker to 100 USD. One can assume that this encourages them to extract fees from workers as well. The GOQ has recently announced measures that will remedy this situation. The onus of proof of payment of recruitment fees will now fall on the contractors employing migrant labour and workers will be reimbursed if such proof cannot be provided.²

One of the demands put forward by BWI in Qatar is that of equal pay for equal work. Differential wages according to nationality are still prevalent. This is exacerbated by each embassy having fixed a different minimum wage for employment of their citizens in Qatar. The GOQ recently declared a "temporary minimum wage" of USD 200 per month, far below the minima proposed by the embassies.

Press coverage in Qatar has highlighted the MoUs signed by BWI with the SC and more recently with QDVC. As in most of the Gulf states, any criticism of the authorities would not be tolerated and hence, the many cases of rights violations have not been publicised.

In the context of the Gulf states, the agreements forged by BWI with the SC and multinational companies have proved a big step forward in recognizing the labour rights of migrant construction workers. The strategy of working through BWI affiliates worldwide, as well as through the ILO and OECD combined with organizing of workers and building capacity for labour inspections on the ground has been very effective. The changes in Qatari legislation provide the basis for future work in campaigning for its implementation.

3.4 SUSTAINABILITY

Ideally union activities should be sustained through contributions from its members. However, the low scale of salaries in Qatar combined with the high cost of living makes such self-sufficiency, at country level, unattainable. BWI has built up a "Sustainable Projects Organizing and Campaigning Fund" to support their organizing work as well as a "Hard Hats for Education" Fund that is used for scholarships for the children of migrant workers. BWI will continue to allocate funds for its activities in Russia and Qatar until the infrastructure for the football championships is completed.

The strategy of the sports campaign in Qatar envisages the formalization of BWI's presence there:

² <https://www.thepeninsulaqatar.com/article/18/03/2018/Qatar-to-reimburse-recruitment-fees-to-30,000-workers-Global-trade-union-body-hails-decision>

“The BWI will put into place a permanent-on-the ground organizing strategy that includes the establishment of BWI office, full-time community coordinators, and mechanisms to provide support and assistance for migrant workers in Qatar.” (Qatar Campaign Update, 2015)

This would greatly increase the efficiency as well as the sustainability of the project in Qatar as community coordinators would be more secure and free to operate openly at worksites and worker accommodation facilities. It would also reduce staff turnover. Such a step will need to be backed by adequate funds.

The international pressure exercised by unions has contributed towards the adoption of more progressive labour legislation in Qatar. Facilitating its implementation is a guarantee of greater respect for workers’ rights in the long run not only in World cup-related construction but for all migrant workers in Qatar.

3.5 EXTERNAL IMPACT

Some of the most important demands of BWI have been obtained through the combined advocacy of unions and the threat of an ILO investigation of the complaints filed by unions. Among these are:

- the replacement of the *kafala* system by one based on employment contracts;
- the intended abolition of exit permits;
- stiffer penalties for passport confiscation
- MoUs with source countries to establish a minimum wage and a fund to support workers having overdue wages;
- application of the wage protection system to SMEs and manpower suppliers;
- inspection of foreign labour recruitment agents and exchange of lists of certified recruitment agents with source countries;
- enhanced safety on worksites and introduction of cooling helmets and safety vests;
- formulation of a national strategy on inspection based on protection from risks and improved communication with workers;
- on-line submission of grievances and deadlines for resolving them;
- provision of free legal aid to workers.

The MOADLSA has also announced that recruitment processing centres for migration to Qatar will be opened in India and Nepal thus reducing the risk of workers being rejected after arrival in Qatar.

3.6 STRENGTHS AND WEAKNESSES OF THE PROJECT

Conducting a global campaign through affiliates in the countries of origin of large construction companies engaged in building the World Cup infrastructure has proved an effective strategy that compensates to some extent for the lack of freedom of association for migrant workers in Qatar. BWI involved multiple stakeholders including football clubs and their sponsors who would be naturally motivated to promote fair play. The perseverance with which negotiation at high level has been carried on has yielded results in the form of MoUs with the SC and large companies, agreements that have generated improvements in working and living conditions of thousands of workers. BWI’s negotiation was characterized as ‘brilliant’ by the Director of Normes of the ILO. The joint inspections with the SC have been instrumental in improving safety and reducing mortality of workers, although precise statistics on such reduction are not available. The facilitation of election of workers’ representatives from each community

to WWFs and WWCs has given workers a means to voice their concerns, bypassing language barriers and fear of retaliation.

Problems of non-payment of wages, high recruitment fees charged to workers in source countries, contract substitution and retaliation by employers against workers who file grievances still require advocacy and outreach by BWI. The greatest weakness at present is the insecurity under which some community coordinators operate

Advocacy can only be effective if it is based on evidence. The community coordinators are insufficiently equipped to document violations of migrant workers' rights and to provide adequate legal and existential support to workers involved in court cases for long periods of time.

Despite these drawbacks, the outreach to large numbers of workers, the development of a cadre of community leaders and the recruitment of hundreds of new members of affiliates in source countries is an impressive achievement in a country where unions of migrant workers are prohibited.

4. RECOMMENDATIONS

4.1 WORKER ORGANIZATION

- Reduce the time lag between outreach to workers, their participation in an orientation session and their registration as members
- Affiliates in sending countries must inform their community coordinators in Qatar of new arrivals and offer services to returnees that encourage them to renew their membership
- Use pre-departure training to discourage workers from migrating with 'free visas' as these put them in precarious situations
- Keep records of decisions taken at core group and camp site meetings and share them with BWI regional and head offices
- Create organizations of Nepali and Indian workers like BMKQ and register them with the concerned embassies
- Expedite the translation of the BWI CONNECT App into South Asian languages and use it for awareness raising and reporting of rights violations

4.2 CAPACITY DEVELOPMENT

- Organize quarterly para-legal trainings for South Asian community leaders on changes in Qatari labour legislation and use the WWFs to promote their implementation
- Prepare BWI community leaders for election to WWFs and WWCs well in advance
- Community coordinators must renew contacts with their embassies whenever new officials are appointed and keep track of new arrivals, cases of occupational injuries/deaths and deportations registered by labour attachés
- Use the high-level contacts with the GOQ in Qatar to regularize the presence of community coordinators so that they are not at risk
- Improve the structure and ease of access to a database of membership, rights violations and their redress. The database design needs to be enhanced with analytical tools so that the reports extracted from it can be the basis for publication of policy papers and for production of IEC materials and press releases.

4.3 IMPROVEMENTS IN WORKING AND LIVING CONDITIONS

- Work with affiliates in India and Cyprus to negotiate agreements with the two remaining companies – L&T and J&P that are building the Al Rayyan and Qatar Foundation stadiums
- Create a larger group of pro bono lawyers to represent workers in court and ensure that they are compensated for loss of wages, injury, etc. and not penalized for expiry of their residence permits during court proceedings. The funds set aside by countries of origin for migrant workers in distress should be mobilized via the concerned embassies to provide food and shelter to those who must sustain themselves for the duration of their court cases.
- Provide evidence of overcrowding and the unhygienic environment of worker accommodation facilities in the Industrial Area to the MOADLSA through BWI's links with camp bosses and workers housed there
- Get Indian and Nepali BWI community leaders appointed as community coordinators for the help desks of the NHRC

4.4 ADVOCACY

- Campaign for regular monitoring by large companies of working and living conditions provided by their sub-contractors and labour suppliers, using observations made during joint inspections
- Create a solid evidence base by equipping the community coordinators in Qatar and affiliates in sending countries to document cases of infringement of workers' rights
- Advocate strongly with the MOADLSA for protection from retaliation of workers who file grievances and for worker representation on the Workers' Dispute Resolution Committee being set up
- Gather information from workers about payment of recruitment fees and use the measures announced by GOQ to obtain reimbursement for them
- Simultaneously, affiliates in Bangladesh, India and Nepal should put evidence-based pressure on their governments for more strict control of recruiting agents and an end to impunity when they contravene the rules.

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