



BWI Report on Qatar

Analysis and Recommendations



BWI
Building and Wood
Workers' International
www.bwint.org



BWI is the Global Union Federation grouping free and democratic unions with members in the Building, Building Materials, Wood, Forestry and Allied sectors.

BWI brings together around 334 trade unions representing around 12 million members in 130 countries. The Headquarters is in Geneva, Switzerland while the Regional Offices are in Panama, Malaysia, and South Africa.

Our mission is to defend and advance workers' rights, and to improve working and living conditions in our sectors. The BWI, above all, has a rights-based approach. We believe that trade union rights are human rights and are based on equality, solidarity and democracy, and that trade unions are indispensable to good governance.

BWI goals include 1) to promote and defend human and trade union rights; 2) to increase trade union strength; 3) to promote a stable and high level of employment in our sectors; and 4) to influence policy and strengthen the capacity of institutions and tripartite structures in our sectors.

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Introduction

The Building and Wood Workers' International (BWI), a global union federation representing construction, building materials, wood, forestry, and allied workers, have been campaigning to ensure decent working and living conditions for migrant workers in Qatar since 2010, when FIFA announced the country would host the 2022 FIFA World Cup Tournament. **At the time, the BWI viewed it as an opportunity to integrate and implement two of its strategic global campaigns: the global sports campaign for decent work and beyond which focuses on stadiums, sports facilities and infrastructure projects related to mega-sporting events; and the global campaign for migrant workers' rights which was relevant as more than 90 percent of the work force in the construction sector in Qatar are migrant workers.**

The BWI's campaign was multi-faceted, targeting various elements linked to the 2022 FIFA World Cup Tournament such as FIFA, football fan clubs, national football clubs, corporate sponsors, the Ministry of Administrative, Development, Labour and Social Affairs (MADLSA), and the Supreme Committee for Delivery and Legacy (SC). At the same time, the BWI targeted government authorities both in Qatar and in countries of origin specifically India, Nepal, and the Philippines to promote the rights and welfare of migrant workers working in Qatar. In addition, given BWI's expertise in the construction industry and its relationship with multinational construction companies, the BWI actively engaged Multinational Construction Companies (MNCs) operating in Qatar.

BWI's Groundwork in Qatar

The global advocacy campaign was supplemented by BWI's on the ground approach with migrant workers in Qatar to develop a worker organizational base despite the fact that Qatar does not yet authorise the establishment of trade unions for migrant workers. Beginning in 2014, the BWI conducted a series of awareness workshops, legal and safety and health training sessions, and community outreach activities to inform migrant workers of their rights and, more importantly, assist migrant workers in distress.

BWI's work on the ground in Qatar has been coordinated by community officers who have been seconded by BWI affiliates from the Philippines and India. To date, the BWI has been in contact with **nearly 5,000 migrant workers and conducted nearly one hundred activities.** Currently, the BWI in cooperation with its affiliates in the countries of origin have supported the establishment of construction migrant associations for Filipino and Indian migrant workers. Both associations have institutional relationships with their relevant national missions, functioning leadership who are elected by the members at an annual General Assembly and a standing membership of close to 400 members for each

The Big 10 Achievements

- 1 BWI has conducted close to 100 activities on labour laws, occupational safety and health, leadership development covering more than 25,000 workers.
- 2 Currently there are 35 active "paralegals" trained by BWI who assist migrant workers in filing complaints over employment violations.
- 3 BWI has settled more than 73 workers complaints' cases. The total amount of the settlements of workers who have resolved their cases with the assistance of BWI in the past three years is about 2.5 million QAR.
- 4 BWI has conducted leadership development and capacity building training for representatives of the SC's Workers Welfare Forums and QDVC/VINCI's Workers Welfare Committees.
- 5 BWI has International Framework Agreements with three multinational companies (Besix, Salini Impregilio, and QDVC/VINCI) currently operating in Qatar.
- 6 In cooperation with MADLSA, BWI has conducted 8 Community Leaders Forums, which is a platform for direct social dialogue.
- 7 BWI has conducted 16 joint safety and health inspections with the SC and 1 joint audit with QDVC/VINCI.
- 8 BWI co-hosted annual April 28th International Workers Memorial Day Events in 2018 and 2019.
- 9 BWI has conducted 23 pre-departure trainings for migrant workers leaving for Qatar in India and Nepal in the past three years.
- 10 BWI has an official staff based in Qatar working regularly with the ILO and MADLSA.

organization. The BWI is currently working with migrant workers from Bangladesh and Nepal to establish similar organizational structures.

At the same time, the BWI has provided support for the creation of broad community networks and, through these networks, migrant community leaders have developed direct and regular dialogue with the MADLSA. The BWI, in cooperation with MADLSA, has convened the Community Leaders Forums (CLFs) on Workers' Welfare since 2018. **This has evolved into a platform for direct social dialogue between the MADLSA and leaders of migrant workers organizations and workers representatives from several establishments.** It enables sectoral issues to be discussed that go beyond individual enterprises. These forums have been instrumental in building trust between migrant communities and MADLSA. They also provide an entry point for migrant communities to communicate directly with representatives of the Qatari government. The discussions are remarkably frank and direct from both sides, so the dialogues are real and, therefore valuable. We have conducted eight CLFs in the last two years.

Close to 50 migrant workers have been trained as "paralegals" and of these, 35 are actively providing assistance to migrant workers and, in particular, filing complaints to the MADLSA over employment violations. These complaints are entered and compiled into a BWI database system that has been the basis for the ILO Project Office Qatar's workers' complaint system. The complaints are regularly monitored for follow-up and are often referred to MADLSA.

Migrant Workers' Complaints

Hundreds of migrant workers have sought BWI assistance for cases ranging from back wages, violations of employment contracts, and redress from injuries due to workplace accidents. Currently, the BWI has 52 open and on-going cases. We have settled and closed 73 cases. **The total amount of the settlements of workers who have resolved their cases with the assistance of BWI in the past three years is about 2.5 million QAR.**

Some significant cases follow:

- ▶ **Alumco:** Forty-five were essentially stranded when the company went bankrupt in 2017. They had no food and were not paid for six months. With the support of BWI, their case was settled, and they returned to the Philippines and were able to find new employment in Hamilton, New Zealand as construction workers and fabricators. Recently, they have developed links with First Union, BWI's affiliate in New Zealand.
- ▶ **Mahira Engineering:** is a labour supply company. The BWI provided legal assistance as well as grocery packs and food to fifty-two Filipino and 150 South Asian workers from August 2018 to February 2019. Through the intervention of MADLSA many workers returned home or changed employers. In February 2019, the last group of twenty Filipino and five South Asian workers returned home.
- ▶ **Golden Trading and Contracting company:** Fifty workers, who were employed across the country, were not paid for six months and they sought the assistance of BWI project organizers who facilitated the filing of a complaint to the Labour court with the assistance of the Indian Embassy. Eventually, the workers received their back wages and forty chose to return home. The remaining ten workers chose to stay in Qatar.
- ▶ **Mercury MENA:** a bankruptcy case that has dragged out for a long time. We are assisting forty-six workers out of which, forty-two received judgments in their favour. The other four cases continue. Although some of these workers have won their cases, unfortunately they have yet to receive their settlements

BWI agreements with SC, QDVC/VINCI, and MADLSA

In addition to working with migrant communities in Qatar, the BWI has signed formal cooperation agreements with the Supreme Committee for Delivery and Legacy in 2016; with construction company QDVC/VINCI in 2017, and with the Ministry of Administrative Development Labour and Social Affairs (MADLSA) and the ILO Project Office Qatar in 2018.

These agreements have enabled BWI to engage with these organizations on issues of safety and health, grievance mechanism systems, workers' representation through the election of representatives of Workers Welfare Committees and Workers Welfare Forums in a democratic and transparent manner, as well as leadership and capacity development of workers' representatives.

Need for strong implementation of Governments Reforms

Recently, the Government of Qatar has announced several significant reforms, the most far-reaching and fundamental has been the effective repeal of the kafala system, establishment of a minimum wage, creation of a worker's fund, development of a workers' dispute settlement system, and review of the Wage Protection system. These developments in the period following the signature of a three-year technical cooperation agreement with the ILO in 2017. This agreement made it possible for the ILO to open its technical cooperation office in 2018.

The BWI welcomes these commitments and steps forward by the Government of Qatar. It also recognizes the important role of the ILO in providing technical support to the Government of Qatar. However, the real test of the government's announcements and initiatives will be its impact on the ground. Have the working and living conditions and welfare of migrant workers improved? That is the real test of these reforms.

Unfortunately, despite major progress and changes in the country, there are still persistent problems and the reforms are moving too slowly. This is evidenced by the stories we hear from migrant workers who we deal with on a daily basis. The success of the reforms can only be determined if migrant workers believe in its direct impact in a concrete and quick manner. **Workers are seeking "Quick Justice" but instead they are confronted with a long bureaucratic journey.**

BWI Recommendations to Ensure Reforms have Impact on the Ground

To help move the process forward, the BWI would like to contribute its analysis and recommendations in three areas: Mechanisms for addressing workers' complaints, Occupational Safety and Health, and Worker Representation.

A. Mechanisms for Worker Complaints:

The most pertinent challenge is the non-payment and delayed payment of wages and other benefits, which is further aggravated in the event of bankruptcy. Although the government has established the Dispute Settlement System to expedite workers' complaints unfortunately it falls short for many migrant workers who have yet to see their cases resolved due to issues such as the back log of cases, employer resistance, and bankruptcy of companies. In addition, even if workers have won their cases, they are still awaiting to receive their verdict.

Workers have consistently told BWI, "Don't deny the fruits of our labour," as they see a disconnect between the labour reforms and the reality on the ground. As a result, there have been many cases where workers have been forced to partake in work stoppages or "strikes" which could have easily been avoided.

BWI proposes the following with regards the labour justice system of Qatar:

- 1. Expedite enforcement of wage claims, claims for unpaid gratuity, and other money claims.**
 - ▶ The overwhelming majority of cases involve non-payment of wages, gratuity pay, leave pay, and other monetary claims, and they should be resolved quickly as there are no complicated factual issues involved. Writs of execution should be issued and enforced without delay while we cooperate to improve the labour standards enforcement system through definitive systemic reforms.
- 2. Non-payment of wages are simple monetary claims that should be resolved at the first instance, rather than being subject to a tortuous process of appeal or re-litigation.**
 - ▶ The Ministry of Administrative Development, Labour and Social Affairs (MADLSA) should be able to resolve the case at the first instance at this level, and should have the power to issue a writ of execution through which it could garnish promptly the bank account and or levy the properties of the employer and immediately pay the monetary claims of the workers. In other words, this should be no more than a contract enforcement issue at the MADLSA level, and not a court case, which is more litigious in nature.
- 3. MADLSA should provide that workers can submit collective claims (“class actions”) where the resulting decisions apply to all affected employees**
 - ▶ It is cumbersome and time-consuming for workers to file individual complaints and claims on the same issues. Many if not all employees repetitively commit the same violations. In addition, the current process is causing backlogs in mediation and industrial court hearings. Allowing submission of collective complaints and claims will make the process more effective and efficient.
- 4. MADLSA should have the power to issue a writ of execution and enforce it. A direct, regular employee (officer or enforcement personnel) should have the authority to seize assets and garnish employer bank accounts. Resources obtained in that manner could then be devoted to the full satisfaction of official judgments.**
 - ▶ The tribunal or body of the first instance at MADLSA should immediately issue the writ of execution of its decision, award, or judgment. In cases where the MADLSA has awarded money claims, it should not be necessary to refer cases to the High Court for execution.
- 5. In addition to paying wages and other claims, the employer should be made to pay a penalty.**
- 6. The MADLSA and the Higher Court should pursue corporations, related entities, parent companies, sister companies, and their owners in cases of bankruptcy, employer name change, abscondment, etc.**
 - ▶ The final decision is one thing and the enforcement of it is another, as employers may still try to evade payment by moving to another location or hiding, closing down, changing the business name or corporate name, filing for bankruptcy, hiding assets, etc. This is another reason to issue the award or decision immediately, especially in simple money claims, so that the process will be shortened considerably.
- 7. Constructive dismissal should be found in cases where the employer fails to pay for more than two (2) months, and also in all other cases where continuous employment in the company become untenable or unbearable**
 - ▶ Unpaid wages translate into extreme hardship for workers and their families. Workers have already made the sacrifice of leaving their families and home countries to work abroad in order to provide for their families. Affected workers are most often economically disadvantaged. With few exceptions, they are living without cushions or reserve funds. Under those circumstances, non-payment of wages for two (2) months should be grounds to leave jobs and find other employment in Qatar.

8. **Service of summons, subpoenas, orders, decisions or any other legal document should be made by the MADLSA officer or enforcement personnel using three different means: physical service of a hard document, email, and text message (SMS).**
 - ▶ It should always be the government, whether MADLSA, the High Court, the Labour Relations Department, or the Dispute Committee which serves the letter or the summons to the employer, and not the worker. The reason is simple: the summons, subpoena, order, and other forms are official government documents issued by the authorities in relation to a pending legal claim, and they are duty-bound to serve the same to each of the parties to the case, typically through a court or government employee commonly referred to as process server or bailiff.
 - ▶ It is the government, which has the duty to ensure that the parties to the case receive its orders, subpoenas, summons, decisions, and other communication – and at the same time ensure that such receipt or non-receipt or refusal to receive is properly documented so the government and the parties may act accordingly based on official records. This would also ensure that all the parties to the case are able to verify what happened to the service of summons, when they were received, and by whom, so that they may file the necessary papers and/or act accordingly.
9. **Online updates and follow-ups, especially crucial for those who have already been dismissed from work or have had to leave the State of Qatar.**
 - ▶ There should be an online system to verify the status of the case, which system would also allow the complaining workers and the authorities to correspond with each other. Online updates and follow-ups are crucial, especially for those no longer in Qatar.
10. **Retaliation by employers against complaining workers is a serious matter that needs to be addressed.**
 - ▶ Filing a formal complaint against the employer is a daunting experience for a migrant worker. On several occasions, MADLSA officials have publicly stated that filing a complaint against employers is a right. However, employers often retaliate against workers who file complaints. Response to such complaints should be immediate due to the hardship, but also to discourage retaliation by employers.
11. **Workers' Support and Insurance Fund for the immediate payment of unpaid wages:**
 - ▶ The Workers' Support and insurance Fund should be fully operational in December of 2019. It is important that it immediately pay unpaid wages as intended and collect those sums from the offending employers. For the affected workers, justice delayed is justice denied. The long delays faced by workers should be eliminated by the fund. In addition, penalties should be levied against offending employers in an amount sufficient to deter such practices. Such penalties should be awarded to the victims and their families.
 - ▶ The fund should cushion the hardship for affected workers. However, in addition, procedures should be improved whether it is to collect funds for workers or reimburse the fund.:
12. **The expedition of pending claims particularly of workers who are forced to return home. These cases can be continued through home country regulatory policies, for example, filing complaints concerning recruitment agencies. Such complaints might, in some cases, be better handled through Qatari embassies.**
13. **The issuance of General Administrative Orders by the highest authorities to prioritize enforcement of labour standards, require employer cooperation and oblige government instrumentalities and departments to ban the award of government contractors to employers that violate labour laws.**
14. **Extensive and sustained use of media to explain Government efforts and initiatives to enforce labour standards so that workers, employers, and the public are informed of their rights and responsibilities and of access to remedy.**

B. Occupational Safety and Health

In keeping with a key global priority for BWI of Safety at Work, a major BWI activity is to ensure that safety and health standards and regulations in the construction sector are in line with international standards and policies and that enforcement is grounded in best practices elsewhere. It is with this objective that the BWI has engaged in joint safety and health inspections with the SC based on the agreement signed in 2016. To date, the BWI has conducted sixteen joint safety inspections of the 2022 FIFA World Cup Tournament projects and accommodation facilities housing project construction workers in the past three years. The specific details, findings, and recommendations of the BWI-SC Joint Inspections are released annually.

The BWI also conducted a joint safety audit with VINCI of QDVC/VINCI sites in Qatar as part of its Qatar-specific Framework Agreement. In addition, the BWI collaborated with MADLSA on April 28th on International Workers Memorial Day events in 2017 and 2018 and conducted several dialogue conferences and forums with safety officers working in Qatar and OSH experts of BWI affiliates.

Based on these experiences, the BWI makes the following recommendations:



1. **Implementation of Compulsory Medical Screening:** Companies should be required to provide an independent medical screening program for all workers. Employers should not discriminate against workers based on the results of the training and employers should make reasonable adjustments and modifications for workers who have medical conditions connected to varying levels of disability. This would include adjustments to working practices, types of work and flexible working. The cost of this independent medical screening would be financed by the company. The government should call on companies to ensure that their pre-contract and procurement processes include medical screening with full respect for procedures.



2. **Training of Medical Personnel on Occupational Health:** Institute regular training programs to ensure that medical professionals working at clinics at worksites and accommodation facilities are provided with continuous professional development in occupational health issues. In addition, newer staff should be rapidly brought up to speed. We suggest urgent attention to health problems caused by heat stress, noise and vibration, silica dust and skin exposure to hazardous substances.



3. **Focusing on Occupational Health Implementation:** Improve the recording and reporting of cases of occupational health by medical professionals in order to inform production managers and health and safety managers so that they can review working procedures and risk assessments to remove or mitigate the causes of occupational ill-health.



4. **Harmonization of Workers Welfare Standards:** There are separate Workers Welfare Standards implemented by the SC, ASHGHAL, and Qatar Foundation beyond the requirements set by Qatari legislation/regulations. Instead of having separate standards, BWI recommends their upward harmonization (based on the highest standards). Harmonization would also facilitate application of standards. In addition, there needs to be a robust mechanism for implementation of one harmonized set of standards to be implemented throughout the country.



5. **Heat Stress:** The BWI appreciates SC's comprehensive system for managing the health risks of heat stress, in addition to the minimum standards set out in Qatar's Labour Laws. This was highlighted in a recently **published report *Assessment of occupational health strain and mitigation strategies in Qatar***, carried out by FAME Laboratory on behalf of the ILO, Qatar MADLSA and SC. The BWI makes the following recommendations:

- ▶ The findings of the FAME report and the experience of the SC on World Cup sites should rapidly be transformed into concrete and legally binding measures for all migrant workers in Qatar including:
 - a. Assessment of heat stress conditions using the WBGT methods;
 - b. Enforcing and expanding the mandatory rest periods during the hot months;
 - c. Establishing minimum standards for rest breaks, shade, fans, clothing, hydration, health monitoring with strong enforcement of standards;
 - d. Above all – creating a shift in workplace culture that enables workers to set their own pace during hot weather.



6. **Workers' Accommodations:** The BWI has observed that accommodation facilities, linked to construction sites or companies, are often planned and constructed after the work on the sites has already started. This has led to inadequate facilities during the initial phase of construction and long delays in establishing connections to national water, sewage and electricity provision. Without sufficient planning, established standards will not always be incorporated into the initial design and construction process resulting in the need for remedial action. The BWI makes the following recommendations:

- ▶ Harmonization of existing standards pertaining to accommodation facilities and implemented in all accommodation facilities.
- ▶ The design, planning and construction of workers' accommodation facilities should be incorporated into the program timetable of the main project, rather than considered as an afterthought;
- ▶ The planning for welfare provision on the sites (dining halls, toilets, rest areas, drinking water, clinics) needs to factor in the dynamic nature of large-scale construction projects and prepare in advance for the needs of a larger workforce.

C. Workers' Representation

The right to form and join unions in Qatar is protected, with some important restrictions, to citizens. For migrant workers, Qatar's Labour Law provides a mechanism for a form of representation, specifically Chapter Thirteen: Joint Committees, Collective Negotiation and Joint Agreements of said law. That is important progress, but it still falls short of full trade union rights.

All establishments may establish Joint Committee. That is also progress. Under the ILO technical cooperation agreement, the Ministry of Administrative Development, Labour and Social Affairs (MADLSA) of Qatar issued guidelines on the election of workers' representatives in enterprise level Joint Committees. Joint Committees (for workplace cooperation between labour and management at the enterprise level) are platforms for worker representation.

The BWI has been working with the ILO in the implementation of this program. At the same time, the BWI is working with the SC and construction companies such as QDVC/VINCI in the establishment of Workers Welfare Forums and Workers Welfare Committees.

The SC currently has instituted 108 WWFs covering 20,000 workers. QDCV/VINCI has established WWC in all of its project sites in Qatar covering close to 1,000 workers. **The BWI has observed the election of representatives of both the WWF and WWC and can vouch that they were conducted in an independent, fair, and transparent manner.** At the same time, the BWI is working with both organizations to further develop the competencies of workers representatives in Workers Welfare Forums and Workers Welfare Committees.

In the past three years, we have seen a transformation of both the WWF and WWC where workers' representatives have discussed and negotiated with management on constructive issues such as wages, overtime, reimbursement of recruitment fees, transportation allowances, as well as negotiating, in addition, on regular complaints of food, accommodation facilities, and lack of respect by supervisors.

Building on these significant advances, the BWI makes the following recommendations for further steps:

1. **The amendment of Law No. 14 of 2004 (Labour law)** in such a manner that the **establishment of Joint Committees in all companies would be mandatory.**
2. Issuing guidelines by the Ministry of Administrative Development, Labour and Social Affairs (MADLSA) to ensure that workers and management representatives in the Joint Committees have the necessary authority to enter into legally binding agreements on matters pertaining to workers' rights and welfare as mandated in Article 127 of Law No. 14 of 2004 (Labour law) that provides: The Employers and Workers shall have the right to conduct collective negotiation and conclude common agreements on all of the matters related to the Work.
3. The MADLSA shall issue an order **setting minimum rules and procedures of collective negotiations, the method of representation of the parties and the legal status of agreements** and assuring that they include provisions dealing with interpretation and dispute resolution.

Without in any way underestimating the tremendous progress that has been made in recent years with respect to several important international labour standards of the ILO, we must also keep in mind the sincere and good-faith commitment of the Government of Qatar to be in conformity with all fundamental Conventions of the ILO. In addition to all the other areas where we been able to cooperate with Qatari authorities and companies with honesty and trust, that is also a shared ambition. The only change is that we are beginning to see the light at the end of the tunnel.

Virtually snuffing out the risks of forced labour is not only central, but also still quite exceptional if one's starting point is the kafala system. Freely elected worker representatives are great progress and that they even, in some cases, can have limited negotiations. That is important. Our joint engagement to gather and meet with workers across companies to begin to have a frank, but also sectoral perspective is also very important. These steps and more represent real movement and progress. However, that is not the same as workers having the right to set up organisations that they control (and pay for) that can be at enterprise, workplace, sectoral level or all three. When we get there, it will have benefits for everybody.

Conclusion

Since BWI's first mission to Qatar in 2013, there have been enormous changes and progress in the country. With the announcements by the government of further reforms, migrant workers have great expectations. They are looking forward to enhancing the dignity and rewards of their work, but also to making a greater contribution to the economic growth and development of the country.

Effective implementation of announced changes will ensure that those expectations are not dashed, and that confidence and satisfaction continues to grow. The "measurement" of success will be the extent to which they change worker's lives. But, in addition to decent work and all that comes with it, workers in Qatar like all other workers want to feel and know that they are making a contribution to the country in which they are living and working. That satisfaction will be another sign of success.

The ILO has spent close to two years in its cooperation agreement with Qatar in undergoing and assessing various stages of Qatar's employment and labour practices. Cooperation with governments have also given the government of Qatar the opportunity to review and understand best practices of others in occupational safety and health, labour inspections, and employment practices. The logical next step would be helping the government apply recommendations in a manner that works best in Qatar, develop the capacity of inspectors and others responsible for ensuring that laws and regulations are respected and organising reforms to ensure not only quality, but also sustainability.

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