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# Addressing Workers' Rights in the Engineering and Construction Sector

## Opportunities for Collaboration



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The Business of a Better World

## About This Report

This report was written by Jean-Baptiste Andrieu, Aude Ucla, and Michaela Lee from BSR with input from many colleagues including Peter Nestor, Salah Hussein, and Angie Farrag-Thibault. Any errors that remain are those of the authors. Please direct comments or questions to Jean-Baptiste Andrieu at [jbandrieu@bsr.org](mailto:jbandrieu@bsr.org)

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# Executive Summary and Key Recommendations

From January to April 2016, Humanity United contracted BSR to conduct research to assess the feasibility of setting up a collaborative initiative to address some of the challenges engineering and construction companies face to uphold workers' rights in their operations. This research is based on a review of recent literature as well as a series of interviews with representatives from engineering and construction companies and their clients, international organizations, and civil society organizations.

## GENERAL CONTEXT

The construction industry relies on large numbers of low-skilled workers and, as such, is a major provider of formal employment opportunities around the world. In the Gulf States in particular, the construction boom has attracted millions of migrant workers, primarily from South and Southeast Asia, to work on large infrastructure projects. The nature of the industry and the scale of the projects in this region have generated specific challenges to workers' rights and led to growing expectations from international stakeholders that large engineering and construction companies are keen to tackle.

Over the past year, U.S. engineering firm CH2M and the Institute for Human Rights and Business co-organized a series of industry roundtables in London at which representatives from over 15 major engineering and construction companies, international civil society organizations, and high-level government officials discussed issues of workers' rights in the sector, as well as the potential for increased industry collaboration. Building on the momentum from these events, BSR's research included interviews with select roundtable participants to investigate companies' readiness for more formalized collaboration.

The award of World Cup 2022 to Qatar and World Expo 2020 to Dubai have put the Gulf States' engineering and construction sector in the spotlight. In addition to intense media scrutiny, civil society organizations and other external stakeholders have set strong expectations on the different actors involved in building the infrastructure needed in the coming years. Many civil society organizations have highlighted the challenging conditions migrant construction workers face, particularly in the Gulf States. Recruitment practices in countries of origin place a heavy financial burden on workers, and debt incurred during the recruitment process and deception about the nature and remuneration of the work promised are often associated with forced labor and exploitation. Poor working conditions, long working hours, and delays in payment of wages frequently remain unreported because workers are too scared of losing their jobs to raise any grievances. Restrictive legislations on freedom of association and the right to collective bargaining further limit the possibility of workers to raise grievances and promote their collective interests. High temperatures and humidity levels in the Gulf States also expose migrant workers to heat stress, which constitutes a very serious health hazard. Finally, workers generally have no other choice than to live in the accommodations provided by their employer. Although this is slowly improving, there have been a number of reports highlighting the unsafe and squalid conditions in which migrant workers are housed.

In a highly competitive environment, efforts by companies to implement commitments on workers' rights in their operations can be undermined, particularly when construction tenders focus primarily on costs

with little or no mention of workers' rights. In addition, companies operating in the Gulf States face a very restrictive legal environment. The short-term nature of construction projects also creates challenges by limiting the financial means to dedicate resources to managing workers' rights issues or monitoring subcontractors' practices. In addition, these management structures and subsidiaries generally enjoy a high degree of autonomy in the management of their projects and subsidiaries will likely not seek or receive much support or guidance on workers' rights. Over the past 25 years, subcontracting has increased significantly to allow large engineering and construction companies at the top of the construction chain to concentrate on project management, rather than on physical work. As a result, large international companies' level of oversight on working conditions across a wide range of project scales and types is often limited, while subcontractors seek to minimize their costs, often at the expense of workers' pay or living and working conditions.

## **THE BUSINESS CASE FOR COLLECTIVE ACTION IN THE ENGINEERING AND CONSTRUCTION SECTOR**

Growing scrutiny from external stakeholders goes hand-in-hand with an expressed interest from some engineering and construction companies to further develop and implement responsible business practices in their supply chains that a collaborative initiative could effectively support.

### **1. Responding to growing expectations from external stakeholders and regulators**

Some engineering and construction companies have already started developing and implementing more robust workers' rights standards and practices. However, many are still feeling overwhelmed, wondering how they can best identify and address growing expectations from external stakeholders, including sometimes their clients such as public institutions in charge of infrastructure programs or major oil and gas companies. This is particularly true when expectations involve significantly amending some of their core business practices. Beyond increasing expectations from civil society organizations and clients, engineering and construction companies also have to take into account tightening regulatory frameworks such as the 2015 U.K. Modern Slavery Act. In this context, collaboration among companies could enable them to share challenges, learn from each other, and collectively develop solutions to address these growing expectations while reducing individual exposure.

### **2. Responding to companies' expressed interest in collaborating**

Engineering and construction companies have limited experience with collaboration. This is probably due to the highly competitive nature of the construction market, lack of trust among companies, and lack of a "safe space" for companies to discuss their key challenges, as well as lack of a mechanism to help them move forward together. Companies that were interviewed about their workers' rights and welfare policies and practices for this project generally identified a need for collaboration and confirmed that they would be interested in participating in a collaborative initiative that would give them the opportunity to learn from their peers, share best practices on managing workers' rights and welfare, effectively address some of the challenges they are facing, and bring more legitimacy to their approach.

### 3. Clarifying the community of interest among engineering and construction companies and overcoming overlapping challenges

Many engineering and construction companies are committed to improving workers' conditions in their operations and to working with partners that share their values. However, given the complexity of contractual requirements, scale of abuse, and overlapping challenges faced by engineering and construction companies, their commitments have had limited impact on workers' rights. While a company alone does not have enough leverage to make a shift in its supply chain, working collectively companies committed to high labor standards could set clear business expectations, agree on joint approaches to improve workers' rights, and gain leverage in their overlapping supply chains.

**“There are no sustainable individual solutions to tackling workers' rights challenges.”**

*A representative from an engineering company*

## PROPOSED OPTIONS FOR COLLABORATION IN THE ENGINEERING AND CONSTRUCTION SECTOR ON WORKERS' RIGHTS

On the basis of the identified challenges and needs of engineering and construction companies, expectations outlined by their stakeholders, and key lessons drawn from in-depth analysis of good practices and challenges faced by five collaborative initiatives (Bettercoal, EICC, IPIECA, ICMM, and MACN),<sup>1</sup> BSR proposes a series of recommendations that provide a baseline for discussion between stakeholders and engineering and construction companies interested in setting up a collaborative initiative in the construction sector.

BSR suggests setting up an initiative that clearly focuses on promoting workers' rights and welfare through developing, sharing, and promoting guidance, best practices, and tools on recruitment and working and living conditions of construction workers, and by supporting the improvement of suppliers' practices in these areas. In the absence of strict compliance requirements in the operating context of construction and engineering companies, BSR suggests that participating companies should uphold basic membership requirements at the start of the initiative, which will be progressively strengthened over the course of the project. In addition, BSR has built into the recommendations the importance of stakeholder representation, whether it is to improve the quality of the initiative's outputs or enhance its credibility. Finally, BSR proposes beginning with informal collaboration before formalizing the group's governance structure and legal status to allow for making adjustments that will guarantee long-term viability and relevant evolution.

Below is an overview of the immediate recommendations organized against each key component of a functioning collaborative initiative.

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<sup>1</sup> Links to the relevant initiatives: [Bettercoal](#), [EICC](#), [IPIECA](#), [ICMM](#), and [MACN](#)

## Key recommendations for engineering and construction companies on setting up a collaborative initiative

Dimension	Aspects	BSR recommendations
Vision	-	» An engineering and construction industry that upholds and promotes the rights and welfare of workers.
Mission	-	» The initiative seeks to uphold and promote the rights and welfare of workers by developing, sharing, and promoting guidance, best practices, and tools on the recruitment and working and living conditions of construction workers, both within their companies and through their supply chains.
Scope	Sector	» Start the initiative with a leading group of U.S./U.K./European based companies that are directly involved in large construction projects.
	Geography	» Keep the initiative global in its reach, but focus on issues that are particularly relevant to construction projects in the Gulf.
	Focus Areas	» Focus on the three priority areas identified by both companies and stakeholders as key for collaboration, namely recruitment practices, working and living conditions, and supply chain practices.
Modus operandi	Operational model	<p>» At the outset, determine an operational model for the initiative that promotes peer learning, the development of guidance, and the implementation of good practices and tools in the areas of focus of the initiative. Ensure in its design a flexibility to evolve as the initiative matures and trust is built between members and stakeholders.</p> <p>» Recruit an individual or an organization to manage the work of the initiative in the next couple of years including: organization and facilitation of working groups; member engagement; stakeholder outreach; recruitment of experts/expert organizations needed to progress the work of the initiative in some areas (background research, benchmark reports, etc.).</p>
	Financial model	» Develop a mixed financial model that reflects the needed membership contributions from companies (recommended: US\$10,000-US\$15,000) to ensure the basic functioning of the initiative. In addition, seek funding from other organizations to further the work of the initiative on specific research or projects implemented by the working groups and where learning can be shared with a broader audience.
Governance	Legal status	» Start the collaborative initiative as an informal group of companies, managed by a hired-in secretariat function.
	Leadership	<p>» The leadership group (i.e., Steering Committee) is made up of senior company representatives who are elected by the members of the initiative.</p> <p>» The leadership group meets on a quarterly basis to discuss strategy, budgets, working groups, and membership expectations.</p>
	Working groups	» Working groups are set up to manage the different work streams of the initiative including the key areas of focus (recruitment practices, subcontractor/supply chain management, and living and working conditions).



Dimension	Aspects	BSR recommendations
	<b>Membership</b>	» Membership is open to engineering and construction companies.
<b>Accountability</b>	<b>Membership requirements</b>	» Membership to the initiative is open to companies that have publically endorsed the vision and mission of the initiative (senior executive level), and that are committed to sharing good practices and implementing guidance and tools that are developed by the initiative as well as supporting the improvements within their supply chain.
	<b>Stakeholder engagement</b>	» Consider how stakeholders will be engaged as part of the development of the collaborative initiative and make sure they are involved early to provide meaningful input as well as alternative perspectives on the challenges and possible solutions.
	<b>Measuring impacts</b>	» Ensure that the measurement of impact is incorporated into the initiative from its inception.
	<b>Reporting to public</b>	» Consider which aspects of the work of the initiative and its participants could be used for public reporting.
<b>Benefits for companies</b>	-	» Consider developing a business case short report that details the expected benefits of joining the initiative.

# Introduction

The construction industry represents a staggering \$8.4 trillion worldwide and provides formal employment opportunities to millions of workers. This is particularly true in the Gulf, one of the busiest regions for construction in the world, where countries from the Gulf Cooperation Council (GCC)<sup>2</sup> are investing a significant amount in infrastructure development. This is driven in part by efforts to reduce the dependency on hydrocarbon exports and promote economic diversification. In this region, the construction industry has seen steady growth—above 5 percent on average—over the past five years, attracting large engineering and construction companies, a myriad of subcontractors, and millions of low-skilled migrant workers, primarily from South and Southeast Asia. The nature of the industry and its unprecedented growth comes with some challenges, particularly around workers' rights and worker welfare, that large engineering and construction companies are keen to tackle.

## CONTEXT

### 1. Issues facing migrant construction workers

Many reports from media and international civil society organizations have highlighted the conditions migrant construction workers face, particularly in the Gulf States. Recruitment practices place a heavy financial burden on workers due to recruiters and their subagents charging workers high fees to facilitate job placement and migration. Debt incurred by workers during the recruitment process and deception about the nature and remuneration of the work promised are often associated with forced labor and exploitation. This is particularly the case in most of the Gulf countries where immigration laws and regulations, referred to as the sponsorship (or *kafala*) system, make workers completely dependent upon their sponsor (usually their employer). The system gives employers a lot of control over workers, who have little negotiating power over the terms and conditions of their work, leaving them vulnerable to exploitation and rights violations. As a result, poor working conditions, long working hours, and delays in payment of wages frequently remain unreported because workers are too afraid of losing their job to raise any grievances. In addition, restrictive legislations on freedom of association and the right to collective bargaining further limit the possibility of workers to raise grievances and promote their collective interests. Workers' representatives are rare and the scope of their mandate is generally limited to discussing basic welfare issues. High temperatures and humidity levels in the Gulf States also expose migrant workers to heat stress, which constitutes a very serious health hazard. As in other countries where large numbers of migrant construction workers are under the complete control and care of their employer, workers generally have no other choice than to live in the accommodations provided by their employer. Although the conditions have recently improved, there have been a number of reports highlighting the unsafe and squalid conditions in which migrant workers are housed.

### 2. Growing stakeholder expectations

The award of World Cup 2022 to Qatar and World Expo 2020 to Dubai have put the Gulf States' construction sector in the spotlight. In addition to increasing media coverage of the conditions construction workers face, civil society actors have developed strong expectations for all companies directly or indirectly involved in building the infrastructure needed in the Gulf States in the coming years. While strong calls are now made to the Gulf States to reform their immigration and sponsorship systems and improve law enforcement to better protect migrant workers' rights, the governments of sending

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<sup>2</sup> The Gulf Cooperation Council (GCC) is the key representative economic and political alliance comprising Bahrain, Kuwait, Qatar, the Kingdom of Saudi Arabia (KSA), Oman, and the United Arab Emirates (UAE). The group was established in 1981 with the objectives of harmonizing regulation (notably on religion, finance, and trade), fostering greater scientific progress, unifying military efforts, and supporting cooperation within the private sector.

countries are expected to strengthen regulations around recruitment processes to prevent abuses from local recruitment agencies and other intermediaries. In addition, there are growing expectations directed at large engineering and construction companies to implement better recruitment practices, improve workers' freedom of movement, and ensure that wages are paid on time throughout their subcontracting chains.

### **3. Challenges for engineering and construction companies**

Most engineering and construction companies operating in the Gulf in particular are facing similar challenges. In a highly competitive environment, efforts by companies to implement commitments on workers' rights in their operations can be undermined, particularly when construction tenders focus primarily on costs with little or no mention of workers' rights. In addition, companies operating in the Gulf States face a very restrictive legal environment with which they must comply while simultaneously working to mitigate the potential negative impacts on people involved in their operations.

The short-term nature of construction projects also creates challenges for engineering and construction companies that operate with a relatively small management structure because they are unlikely to have the financial means to dedicate resources to managing workers' rights issues or monitoring subcontractors' practices. In addition, these management structures and subsidiaries generally enjoy a high degree of autonomy in the management of their projects. Beyond the strict monitoring of health and safety standards from their parent companies, subsidiaries will likely not seek or receive much support or guidance on workers' rights.

Over the past 25 years, subcontracting has also increased significantly and is no longer restricted to specialized tasks. This has allowed large engineering and construction companies at the top of the construction chain to concentrate on project management, rather than on physical work, and to become genuine professional services companies. As a result, large international companies' level of oversight of working conditions across a wide range of project scales and types is often limited. At the same time, subcontractors are generally smaller outfits and are more likely to seek to minimize their costs, often at the expense of worker conditions.

## **BACKGROUND RESEARCH OBJECTIVES AND METHODOLOGY**

### **1. Objectives**

From January to April 2016, Humanity United contracted BSR to conduct research to assess the feasibility of setting up a collaborative initiative to address some of the challenges engineering and construction companies face to uphold workers' rights in their operations.

In the context described above, a number of large engineering and construction companies—mostly from the United States, U.K., and Europe—have made strong commitments to uphold workers' rights, but they are still struggling to implement their commitments, particularly in their subcontractor chains. In 2015-2016, U.S. engineering firm CH2M and the Institute for Human Rights and Business (IHRB) co-organized a series of industry roundtables in London at which representatives from over 15 major engineering and construction companies, international civil society organizations, and high-level government officials discussed issues around workers' rights in the sector, as well as the potential for increased industry collaboration.

Building on the momentum from these events, BSR's research assesses the opportunity to set up a collaborative initiative within the construction sector focused on workers' rights.

To this end, BSR identified the primary concerns and challenges facing workers in the construction supply chain, in particular in the Gulf States, as outlined by industry bodies and human rights groups, reviewed companies' current practices to manage workers' rights, and explored engineering and construction companies' willingness to collaborate on these issues. On the basis of the information collected, BSR developed recommendations that provide a baseline for discussion between stakeholders and engineering and construction companies interested in setting up a collaborative initiative in the construction sector. The recommendations are developed against each of the main components of a functioning collaborative initiative: the vision, the mission, the scope, the modus operandi, the governance structure, and the accountability mechanisms.

## 2. Methodology

At the outset of the project, BSR participated in a series of roundtables organized by CH2M and the IHRB. These roundtables brought together 35 senior representatives from the U.K. government, the engineering and construction industry, and civil society. BSR used these opportunities to present the research and its findings and organize group exercises with all the participants to identify the main drivers and challenges for companies to participate in a collaborative initiative and contribute feedback on the proposed structure of the potential initiative.

BSR also conducted extensive desktop research to identify key workers' rights challenges and expectations from stakeholders. Given the number of reports available, BSR selected and analyzed 20 key resources<sup>3</sup> from different groups of stakeholders who are particularly active, including civil society organizations (Engineers against Poverty, Amnesty International, Human Rights Watch, and Verité), relevant UN bodies (International Labour Organization and the UN Special Rapporteur on the Human Rights of Migrants), and workers organizations (International Trade Union Confederation, Building and Wood Worker's International, and the Organisation for Economic Co-operation and Development Trade Union Advisory Committee). The research also benefited from the analysis of articles and reports from media groups and consulting and auditing firms (Guardian, DLA Piper, and Nardello & Co).

Finally, BSR conducted a series of semi-structured interviews with representatives from engineering and construction companies and their clients, high profile civil society organizations, and international organizations. In total, BSR reached out to nearly 40 organizations and conducted interviews with 27 of them, including:

- » 9 representatives of engineering and construction companies
- » 3 representatives of engineering and construction companies' clients
- » 8 representatives from civil society organizations (international NGOs, academics, unions)
- » 2 representatives from international organizations
- » 5 representatives from collaborative initiatives

Although BSR reached out to a range of global companies, all the companies interviewed have headquarters in the United States, U.K., or Europe.

This report reflects their input.

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<sup>3</sup> See Annex 3 for the full list of resources analyzed.

## State of Play

### OVERVIEW OF THE CONSTRUCTION INDUSTRY IN THE GULF STATES

The construction sector is a multibillion-dollar industry worldwide. In the Gulf States, where the industry is steadily growing, the number of high-profile construction projects and the sheer number of migrant workers involved have put the industry in the spotlight.

#### 1. Introduction to the construction industry

In 2015, the construction sector output represented about \$8.4 trillion worldwide—comparable to China's GDP—and this number is expected to expand by 85 percent to \$15.5 trillion in 2030, with China, India, and the United States accounting for up to 57 percent of this growth. Today 52 percent of construction activity is already in emerging markets.<sup>4</sup> Despite globalization and concentration in the industry, the majority of activities (design, planning, construction, and maintenance) still involve small and local firms, and remain labor-intensive. Although it is difficult to get an accurate count of the number of workers involved in the construction sector, Building and Wood Workers' International (BWI) estimated that the industry already represented 180 million workers in 2006. The union also insisted that the construction sector provides employment for many of the world's poorest and most vulnerable people, including the landless poor and a large number of rural-to-urban migrants<sup>5</sup>.

#### 2. The specificities of the construction industry in the Gulf States

The Gulf is one of the busiest regions in the world for construction. The total value of infrastructure and capital projects planned and underway in the region in 2015 was valued at \$172 billion.<sup>6</sup> The construction industry has seen steady growth—above 5 percent per year on average—over the past five years, in part due to efforts to reduce the dependency on hydrocarbon exports and promote economic diversification in the Gulf States (see chart below). Activity in sectors across transport infrastructure, residential, commercial, hospitality, and retail has attracted large engineering and construction companies.

The Gulf States also have one of the fastest growing populations in the world. According to the population estimates from the World Bank,<sup>7</sup> the total population in the Gulf States in 2013 was 60.4 million, and it was expected to surge to 68.7 million by 2020 and to 88.2 million by 2050, representing an expected increase of 13 percent and 46 percent, respectively. This will translate into higher demand for housing, healthcare, education, and transport infrastructure.

International events such as the upcoming World Expo Dubai 2020—which is expected to attract 25 million visitors—and World Cup 2022 are also boosting the construction sector in the United Arab Emirates (UAE) and in Qatar specifically, with new development of hotels, retail centers, and transport infrastructure. In Saudi Arabia, the increasing number of pilgrims visiting Mecca (about 2 million Muslims from around the world during the hajj) also contributes to the boom in infrastructure development.

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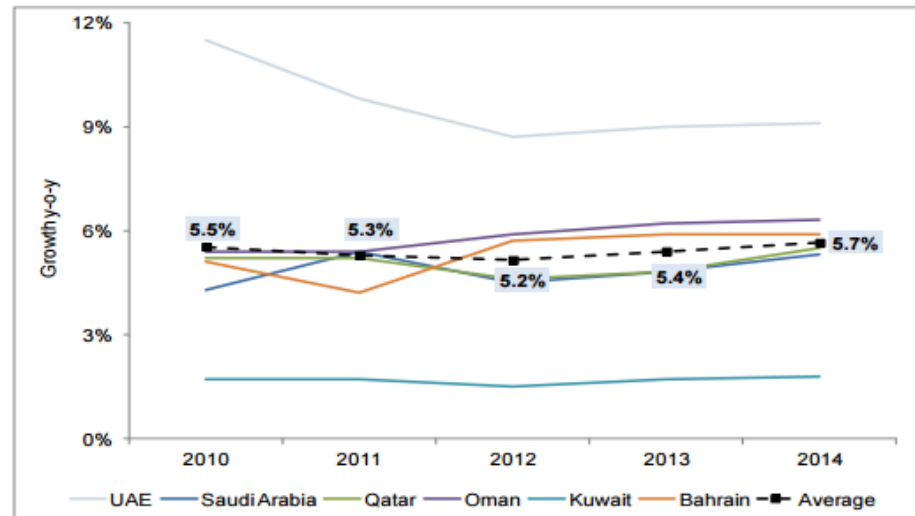
<sup>4</sup> Global Construction Perspectives and Oxford Economicus, *Global Construction 2025* (2013).

<sup>5</sup> BWI, *Defending Workers' Rights in Construction* (2006).

<sup>6</sup> Deloitte, *GCC Powers of Construction 2015 | Construction – The economic barometer for the region* (2015).

<sup>7</sup> Statistics retrieved from World Bank Data Bank <http://data.worldbank.org/>.

### Contribution of the Construction Sector to the GDP in the GCC<sup>8</sup>



The construction boom in Gulf States is also driving a steady influx of both skilled and low-skilled migrant workers in the region. In the past decade, wage discrepancies between South and Southeast Asian countries and Middle Eastern countries have fueled a constant flow of low-skilled migrant workers to the region, as employers in the Gulf are likely offering higher salaries than what the workers could obtain in their countries of origin, as well as more stable contracts. In 2013, Gulf countries hosted a staggering 22 million migrant workers, an increase of 5 million compared to 2010 (see table below). Construction workers represent the largest component of this workforce.

### Migrant workers in Gulf countries from selected Asian countries of origin (2013)<sup>9</sup>

	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	UAE	Total
<b>Bangladesh</b>	100 444	279 169	148 314	220 403	1 309 004	1 089 917	3 147 251
<b>India</b>	262 855	730 558	644 704	576 776	1 761 857	2 852 207	6 828 957
<b>Indonesia</b>	29 553	82 139	35 027	64 849	379 632	320 684	911 884
<b>Nepal</b>	722	2 006	-	1 583	17 918	7 828	30 057
<b>Pakistan</b>	87 892	2 44 281	1 17 208	1 92 860	1 319 607	953 708	2 915 556
<b>Philippines</b>	43 971	1 22 214	21 669	96 487	1 028 802	477 139	1 790 282
<b>Sri Lanka</b>	9 804	27 251	14 091	21 516	147 032	1 06 394	326 088
<b>Other</b>	194 116	540 435	131 019	426 481	3 096 581	2 019 104	6 407 736
<b>Total</b>	729 357	2 028 053	1 112 032	1 600 955	9 060 433	7 826 981	22 357 811

This rapid expansion of the construction industry also comes with increased pressure on international and local players driven by a surge in the cost of raw materials used for construction activities (cement, steel, and wood, among others), decreasing oil prices, and slow payments. In the Gulf States, the collection cycle—the period between completing work and collecting payments—can typically take around 225 days for a company in the construction sector.<sup>10</sup> This context contributes to overall deterioration of low-skilled

<sup>8</sup> Alpen Capital, GCC Construction Industry, June 23 (2015).

<sup>9</sup> ILO, Realizing a Fair Migration Agenda: Labour flows between Asia and the Arab States Experts' Meeting, background paper for discussion (2014).

<sup>10</sup> Deloitte, GCC Powers of Construction 2015: Construction – the Economic Barometer for the Region (2015).

migrant workers' conditions. Despite detailed regulations on workers' rights, the level of enforcement is generally low, and countries in the Gulf are facing a lot of criticism from civil society organizations, including allegations of labor exploitation and forced labor in the construction sector.

There is an opportunity for large engineering and construction companies to stand out from the competition by further improving migrant workers' conditions throughout their subcontracting chain. Under increasing scrutiny, clients—including private companies and public authorities—are likely to raise their expectations with respect to construction workers' working and living conditions and seek companies that are able to demonstrate their commitments and the implementation of good practices in the future.

## ISSUES FACING MIGRANT CONSTRUCTION WORKERS

The working conditions of migrant construction workers are often difficult. In addition to performing jobs that are by nature physically demanding, they sometimes face challenges related to their migration status and level of skills and education. This is particularly true in the Gulf countries that rely heavily on low-skilled migrant workers from South and Southeast Asia.

### 1. Beyond the “Dirty, Difficult, and Dangerous” cliché, challenges faced by workers in the construction sector

In a 2001 ILO report,<sup>11</sup> the construction industry was described as “*dirty, difficult and dangerous*,” qualifications stemming as much from the conditions in which workers are recruited as from the nature of the work itself. This image of the industry is primarily due to the rates of accidents and fatalities and the adoption of flexible labor practices and increased reliance on subcontractors. Though multinational construction companies are large providers of employment opportunities, the work has become temporary and precarious. As a result, workers generally enjoy lower economic and training opportunities and social security benefits. The ILO also notes that subcontracting negatively affects occupational health and safety conditions and undermines collective bargaining agreements.

### 2. Specific issues faced by construction workers in the Gulf States

Many recent media headlines and reports from international civil society organizations have highlighted some of the abuses associated with the employment of migrant workers in the construction sector.

Based on these articles and reports, as well as interviews with key actors in the sector, BSR has reviewed and mapped the key issues faced by migrant workers in the Gulf States<sup>12</sup>, and have categorized these key issues across five themes:

- » **Migration and recruitment:** The construction industry makes use of large numbers of low-skilled workers, and as such is a major employer worldwide. In the Gulf, the number and size of construction projects and relatively limited local workforce have resulted in large-scale labor migration. The engineering and construction industry relies on millions of migrant workers, primarily from South and Southeast Asia, to come to the Gulf region. Migrant workers usually have limited financial resources and education as well as no alternative employment opportunities in their countries of origin. This makes them vulnerable to exploitation.

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<sup>11</sup> ILO, [The construction industry in the twenty-first century: Its image, employment prospects and skill requirements \(2001\)](#).

<sup>12</sup> See Annex 3 for the full list of articles and reports reviewed.

This vulnerability is particularly apparent during the recruitment process. Employers regularly underpay or do not pay for the recruitment of lower-skilled workers, so recruitment agencies or intermediaries charge high fees to workers to cover the cost of their recruitment. Over time this has become a norm in countries of origin, where workers in urgent need of employment almost always end up paying intermediaries to secure a job. As a result, debts incurred by workers during the recruitment process and/or deception about the nature and remuneration of the work promised are often associated with forced labor when workers are paid late, little or nothing at all, or experience physical violence or simply threats, and cannot leave their jobs or the country, or simply seek help because they need to repay their debts or their passports are withheld. This is more likely to take place in the Gulf States where labor markets and immigration regulations make workers completely dependent upon their sponsor (usually their employer) for their work visa and immigration status. As noted by the International Labour Organization (ILO) Committee of Experts in its 2015 Observations on Qatar,<sup>13</sup> such laws place restrictions on the ability of workers to leave the country or to change employers before the end of their contract without their employers' permission. Workers who fall victim to abusive practices cannot leave their jobs or they run the risk of becoming irregular and can face immediate deportation back to their countries of origin. These systems have been widely criticized for the abuses they induce and many stakeholders (including civil society organizations and multilateral institutions) are advocating for reforms.

- » **Working conditions:** Construction remains among the most hazardous industries in the world. As a result, health and safety continues to be the number one priority for the sector. In addition, high temperatures and humidity levels in the Gulf States expose migrant workers to heat stress that is sometimes fatal. Long working hours are also reported as a factor of accidents, in particular when deadlines tighten schedules and overtime is required. Some commentators also stressed that the withholding of wages or delays in payment can occur. Poor working conditions, long working hours, and delays in payment of wages frequently remain unreported because workers are too afraid of losing their job to raise any grievances. Finally, freedom of association and the right to collective bargaining is also limited in some countries in the region. Where workers' representative are in place, the scope of their mandate is generally limited to discussing basic welfare issues.
- » **Living conditions:** Where workers migrate for work, their employers are generally responsible for their accommodation. In some countries, this requires building and using dedicated facilities. In the Gulf States in particular, migrant construction workers have no other choice than to live in the accommodations provided by their employer. Although the conditions are generally improving, a number of reports from mainstream media and civil society groups in recent years have highlighted the unsafe and squalid conditions in which migrant workers sometimes live and emphasized the restrictions of workers' freedom of movement inherent to life in closed camps.
- » **Subcontractors' practices:** Subcontracting has always been important in the construction industry because projects are divided into various sequences and require multiple areas of expertise. Engineering companies and main contractors at the top of the chain generally already have well-developed policies addressing workers' rights and needs, but expectations for, and oversight of, their subcontractors' practices can be limited. Subcontractors are generally smaller outfits with few incentives to improve working conditions, and are more likely to seek to minimize their costs and uphold lower workers' standards. François Crépeau, the UN Special Rapporteur on the Human Rights of Migrants, notes in the report on his mission to Qatar that the "most serious abuse of

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<sup>13</sup> ILO Committee of Expert Observations Qatar, 2015.



migrants is not committed by large transnational companies, but rather by small companies which act as subcontractors.”<sup>14</sup>

- » **Access to remedy:** Migrant construction workers generally lack effective access to justice and remedies. Multiple factors come into play, including the fact that workers' immigration status is tied to their employers as well as the complexities of the judicial process. When workers end up in exploitative situations with their employer-sponsor, it is very difficult to raise labor-related grievances because workers are generally afraid to speak for fear of losing their job and being detained or deported. Even where complaint mechanisms are available for migrants (through the Ministries of Labor, the Ministries of Interior, or directly at the National Labor Courts), migrants have difficulty accessing these mechanisms. They lack information, legal aid, and interpreters, as noted by UN Rapporteur Crépeau.<sup>15</sup> Where translation services are not available, filing a simple complaint to the Labor Ministry is impossible for illiterate migrant workers who do not speak Arabic. Hidden fees to register cases before the Labor Courts can also act as strong deterrents for workers. In a report from the Middle East Center of the London School of Economics and Political Science,<sup>16</sup> the authors also noted that Labor Courts generally have a low level of understanding of the issues migrant workers face in the justice system. Other factors cited by the authors that further restrict workers' access to justice include the long time it takes for courts to make a determination in a case, the inability of workers to seek other remunerative work during active cases, and the lack of punitive measures and penalties for employers who are not attending hearings or are withholding wages. In a recent report,<sup>17</sup> Amnesty International added that the embassies of sending countries are not doing much to help their citizens. As a result, migrant workers try to access justice mechanisms only as a last resort or not at all. Workers often rely on informal advice given by fellow workers on potential ways to successfully confront their employers.

## CURRENT PRACTICES AND CHALLENGES FACED BY ENGINEERING AND CONSTRUCTION COMPANIES TO UPHOLD WORKERS' RIGHTS

In this section, BSR briefly reviews how engineering and construction companies currently manage the issues workers face in the Gulf. BSR then reviews the various challenges to upholding high labor and human rights standards for workers.

### 1. Companies' current good practices

All the companies reviewed and interviewed for this research are implementing robust health and safety standards throughout their operations and generally have fully developed HSE management systems in their operations. They are also keen to improve workers' rights in their operations. This is usually reflected in their human rights statements, workers' welfare policies, and other supply chain codes of practice.

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<sup>14</sup> UN Special Rapporteur on the Human Rights of Migrants, *Mission to Qatar* (2014).

<sup>15</sup> *Ibid.*

<sup>16</sup> LSE, *Labour Migrants and Access to Justice in Contemporary Qatar* (2009).

<sup>17</sup> Amnesty International, *Exploited Dreams: Dispatches from Indian Migrant Workers in Saudi Arabia* (2014).

## Sample of existing human and workers' rights commitments taken by engineering and construction companies

### Aecom's [Code of Conduct](#)

*As part of our commitment to our global community, we uphold individual human rights and follow employment laws in all the locations where we conduct business. In support of this commitment, we provide reasonable working hours and fair wages for those who work on our behalf. Further, AECOM has a zero tolerance policy regarding the use of forced labor or human trafficking. We will never knowingly conduct business with subcontractors, business partners, suppliers, or third parties who violate these laws.*

### Atkins' [Supply Chain Policy Statement](#)

*Under the Supply Chain Policy Statement, Atkins' partners must share Atkins' commitment to protecting the health, safety, and security of employees, clients, and others who could be affected by their activities; pay everyone a fair wage and provide good working conditions; supply good quality products and materials from sustainable, local, and ethical sources; ensure everyone has the right competency and appropriate training to undertake their job; ensure all accidents and incidents are reported and undertake investigations as appropriate; protect Atkins' assets including confidential information; comply with all relevant legislation and, where appropriate, work towards or maintain ISO 9001, ISO 14001, EMAS or BS8555, and OHSAS 18001.*

### Bechtel's [Code of Conduct](#) and [Sustainable Development Policy](#)

*Bechtel does not tolerate activities that support trafficking in persons or the use of child labor or forced labor in the performance of Bechtel contracts by our employees or our subcontractors. Bechtel also expects all to maintain a work environment that promotes respect for all employees and for the human rights of co-workers, partners, suppliers, customers, and community neighbors. Contractors are also expected to comply with all relevant national legislation, export-import compliance, regulatory requirements, and project-specific environmental and social requirements established by our customers; act with full respect to the highest standards in labor rights and fair working conditions (including the right to association, where legal, and worker safety); prohibit and eliminate all use of forced or child labor; and practice nondiscrimination in recruitment, hiring, training, and promotion.*

### Carillion's [Board Policies](#)

*Carillion supports the belief that human rights are universal and adheres to the principles of human rights in its operations. Carillion supports the United Nations Declaration on Human Rights and works hard to ensure that in all areas of interaction with its employees, clients, suppliers, third parties, interviewees, and joint venture parties that everyone is protected and treated absolutely fairly. Carillion has a Health & Safety Policy and an Equal Opportunities and Diversity Policy. Carillion respects the rule of law in all our dealings and has minimum standard compliance with all law and regulation to which its businesses are subject.*

### CH2M's and [Worker Welfare Policy](#)

*CH2M strives to lay the foundation for human progress in the face of the world's most complex challenges. Expanding upon our world-class health and safety culture, we recognize we have a role to play in improving conditions for workers on any project we touch. Thus, we are working to effect systemic change on this issue.*

### Fluor's [Business Conduct Expectations for Suppliers and Contractors](#)

*Our suppliers and contractors are expected to support and respect human rights and avoid complicity in human rights abuses; treat all their workers with dignity, respect, and fairness; and conduct all their operations in a socially responsible, nondiscriminatory manner and in accordance with applicable laws including those associated with equal opportunity, child labor, forced and compulsory labor, working hours, wages and benefits, freedom of association, data privacy, and harassment-free work environment.*

### Jacobs Supplier Code of Conduct

*Jacobs respects and protects the rights of those who work for and with us; and for the people in the communities where we do business. You must always: Treat all your workers with dignity and respect; support and respect human rights and avoid any involvement in human rights abuses; conduct all operations in a socially responsible, harassment-free, and nondiscriminatory manner; comply with applicable laws concerning equal opportunities, child labor, forced labor, human trafficking, working hours, freedom of association, and fair wages; ensure that the confidentiality of supplier and employee whistleblowers is maintained and that they are protected against retaliation.*

### Vinci's Human Rights Statement and Manifesto

*Vinci is committed to supporting and promoting respect for human rights within its sphere of influence, and to ensuring that Group companies are not complicit in human rights abuses. The Group acts on this commitment by including clauses relating to human rights in its framework agreements with suppliers.*

However, the translation of these high-level statements and supplier codes into practical and operational tools and their implementation is sometimes patchy, particularly among subcontractors.

BSR has outlined below a few good practices in areas where companies are facing significant challenges.

- » **Recruitment:** As mentioned above, there are many human rights abuses associated with the recruitment process. Even when user companies have robust zero-recruitment policies, it is not rare for workers to have to pay fees to subagents in order to secure their employment. In addition, there are many cases of contract deceptions. To mitigate these risks, Vinci's subsidiary in Qatar has started engaging its recruitment agencies to better understand the recruitment upstream process and the associated fees and costs. As a result they have increased the fees paid to the agencies and committed to cover all the associated costs (medical check, visa, transport, etc.). In addition, Vinci's subsidiary finalizes the recruitment of new workers by sending a team of human resources and recruitment specialists, together with a technical manager, so they can test their skills in-country and provide them with information about their employment contracts and conditions.
- » **Worker accommodation:** Notable improvement has been made in the standards of worker accommodations in general. It is worth noting the work of Daruna Development, which was set up in Qatar to build worker accommodations with high standards. Their accommodations are developed on a guest concept. In addition to complying with the robust Qatar Foundation's mandatory standards<sup>18</sup> and providing good housing, washing, leisure, and canteen facilities, the company is looking at ways to add value to better serve their customers (workers). This includes, for instance, developing medical facilities and improving the health surveillance of workers. To-date, Daruna has not started construction of these facilities.
- » **Subcontractor management:** As mentioned above, the use of subcontractors in the construction industry has increased and has diluted companies' sense of responsibility over working conditions. Despite some robust and/or detailed policies and procedures addressing workers' rights, companies are still struggling to implement their requirements—beyond health and safety—with subcontractors at the bottom of the supply chain. CH2M engaged a world-leading labor expert, Verité, to help develop a global Worker Welfare Policy. This policy applies to CH2M operations and suppliers. In addition, CH2M developed a workers welfare screening into their subcontractor prequalification process and a toolkit of practical resources for implementing the new policy, including detailed

<sup>18</sup>Qatar Foundation, [QF Mandatory Standards of Migrant Workers' Welfare for Contractors and Sub-Contractors \(2013\)](#).

worker accommodation standards, prequalification questionnaires, auditing checklists, and key performance indicators.

- » **Freedom of association:** Despite restrictions on workers' freedom of association, a stakeholder interviewed noted that a few companies have started implementing good practices, looking at ways to use their canteen or health and safety committee to discuss with their workers about their key working conditions, training needs, and accommodations standards.

However, despite these good practices, engineering and construction companies are facing many challenges to uphold high labor standards within their operations in the Gulf and throughout their subcontracting chain.

## 2. Companies' challenges

BSR has included below a high-level summary of the key challenges engineering and construction companies operating in the Gulf States are facing to uphold workers' rights.

- » **Clients' expectations drive competition on cost:** Most companies interviewed insisted on the importance of client requirements. They confirmed that it is much easier to uphold workers' standards when specific clauses are included in the bidding process. Such clauses not only promote a level playing field among companies that benefits the workers involved on the projects, but they also make the implementation of workers' rights much easier. However, most construction contracts are still primarily based on purely technical requirements (ability of the company to do the work) and costs. In this context, any efforts from companies to implement robust workers standards can be undermined. This is particularly true where clients are public entities with limited knowledge of the industry, poor technical evaluation capacity, and no mandate to promote social factors. In a highly competitive, cost-driven bidding process, engineering and construction companies that pay less attention to the recruitment and working and living conditions of the workers involved in their operations are likely to develop proposals that—while responding to the basic technical requirements of the tenders—are cheaper than those developed by companies upholding stronger standards for their workers and subcontracted workers.
- » **Decentralized operations and short-term nature of projects limit investments in workers and the implementation of good practices:** Construction activities are always project-based. While some projects might require only a few months to complete, large projects can take up to two years or more. Depending on the size of the projects, companies will deploy a complex management structure that is unlikely to include human resources and human rights specialists. However, in some countries where construction activities are intense, such as Qatar or the UAE, some engineering and construction companies might develop a more robust structure and set up a local subsidiary. Even in this context, the local companies might be reluctant to invest significantly in the development and implementation of specific policies and procedures to tackle workers' rights challenges, including at the subcontractor level. In addition, these management structures or subsidiaries generally enjoy a high degree of autonomy in the way they manage their projects. Beyond the strict monitoring of the implementation of robust health and safety standards from their parent companies, they will likely receive limited support and guidance.
- » **Contractors and subcontractors dilute companies' sense of responsibility:** Many stakeholders noted that over the past 25 years subcontracting has increased significantly and that this practice is now no longer restricted to specialized tasks. This has allowed large construction companies to concentrate on project management, rather than on physical work, and to become genuine professional services companies. Engineering companies and main contractors at the top of the

chain generally have well-developed policies addressing workers' rights and needs, but they have limited expectations and oversight of their subcontractors' working conditions.

In a recent report, the International Trade Union Confederation (ITUC)<sup>19</sup> particularly insisted that construction companies have a responsibility under the OECD Guidelines for Multinational Enterprises to respect the rights of workers—not only the workers they directly employ but also those of their subcontractors and other businesses. The ITUC also stressed the importance of their responsibility, noting that subcontractors are generally smaller outfits that have few incentives to improve working conditions and are more likely to seek to minimize their costs and uphold lower workers' standards.

- » **Use of large pool of low-skilled migrant workers creates specific rights challenges:** The construction sector in the Gulf countries relies heavily on low-skilled migrant workers coming primarily from South and Southeast Asia, in particular India, Bangladesh, Nepal, Sri Lanka, the Philippines, and Indonesia. Risk factors for ending up in exploitative and abusive work conditions include: workers' often low levels of education, the absence of alternative employment in their countries of origin, and notoriously corrupt recruitment systems. As a result, any company recruiting workers from one of these countries has to tackle a series of challenges that are endemic to the sending countries. In addition to stories about countless kickbacks expected from recruitment agents and subagents, a workers' rights expert interviewed by BSR explained that, in some countries, potential candidates believe that paying a huge recruitment fee is a guarantee of getting a good construction job. As a result, migrant workers may find it too-good-to-be-true or not believable that agencies are implementing a fully employer-paid recruitment process.
- » **Restrictive legal frameworks further limits workers' rights:** Companies operating in Gulf countries also face a very restrictive legal environment that they need to respect while ensuring that they mitigate the potential negative impacts on various workers' rights in their operations. As mentioned above, immigration regulations (often involving the employer acting as a sponsor for the worker) in the region have primarily aimed at managing and controlling the entry and stay of foreign workers. This system requires companies to plan their operations and request work visas for each of their workers. A worker's regular status is dependent on the sponsorship of his/her employer. As a result, workers cannot change jobs or leave the country without their employer's authorization, which unduly limits their freedom of movement and freedom of work. This system has been under intense criticism for the abuses it induces, and many stakeholders (including civil society organizations and multilateral institutions) are advocating for reforms. In addition, in most of the Gulf countries, the laws strictly deny workers (and employers) freedom of association.

Against these challenges, BSR has reviewed the growing stakeholder expectations on companies' practices as well as the recent development of increasing regulatory frameworks that cover companies' behavior abroad, including in their supply chains.

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<sup>19</sup> ITUC, [Frontline Report 2015, Qatar: Profit and Loss – Counting the Cost of Modern Day Slavery in Qatar: What Price is Freedom?](#) (2015).

## GROWING CLIENTS AND CIVIL SOCIETY EXPECTATIONS AND TIGHTENING REGULATORY FRAMEWORKS

Engineering and construction companies are facing increasingly higher expectations around labor compliance and human rights issues from large-scale clients, both public and private. In addition, companies must take into account tighter regulations and international standards around nonfinancial disclosures, including forced labor and supply chain transparency. Finally, companies will continue to face growing civil society's demands to improve their practices in these areas, particularly around high-profile projects and events.

### 1. Clients expectations

Public-sector clients such as federal and local governments, as well as multilateral organizations and international institutions such as the World Bank and its private sector arm, the International Finance Corporation (IFC), have in the last decade tightened regulations and standards with regard to forced labor and human trafficking—and labor standards in general—to reflect the expectations laid down in the 2011 UN Guiding Principles on Business and Human Rights. They also reflect the numerous high-profile industrial accidents and scandals involving forced labor and human trafficking. Additionally, private-sector clients such as major extractive and energy-sector companies, as well as major event organizers such as FIFA, now expect tighter oversight of such issues, incorporating such expectations into contracts and agreements.

- » **Private sector clients:** Private clients of large-scale construction projects such as major extractive and energy-sector companies, as well as event organizers such as FIFA, tend to be public-facing entities that are highly scrutinized by the press and civil society organizations. Increasing stakeholder pressure and government regulations around supply chains, subcontractor relationships, and expanding definitions of ownership and control over human rights and labor violation issues have led these organizations to invest significantly in the development of robust codes of conduct as well as to integrate compliance requirements into contracts and agreements with their contractors and suppliers.

In response to tremendous criticism around labor conditions at construction sites for future World Cup games, FIFA announced the launch of a monitoring system to ensure decent working conditions in stadium construction. For the 2018 World Cup in Russia, the FIFA Local Organizing Committee (LOC) has appointed an independent third party to conduct evaluations of labor conditions at all event stadiums every three months.<sup>20</sup>

Energy-sector companies have also identified construction activities as representing a particular area of risk for human rights, in particular with respect to the implementation of the 2015 U.K. Modern Slavery Act. Many companies have already strengthened their suppliers and contractors' codes of conduct. Some oil and gas companies have also developed tender and contractual requirements that clearly encourage their business partners to respect human rights. A number of standard model contracts with oil and gas giant BP now include human rights clauses that require contractors and suppliers to respect internationally recognized human rights in their work for BP. In some location, BP also conducts social compliance and performance audits that include human rights aspects.

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<sup>20</sup> FIFA, [Working conditions monitoring system launched at World Cup stadiums \(2016\)](#).

### BP's work on improving working conditions in its operations in Oman<sup>21</sup>

BP has had an upstream presence in Oman since 2007 and is a major investor in the country. It was expected that at peak development in 2016 BP's Khazzan gas project would involve more than 10,000 people working in the remote desert. In preparation for this, BP developed minimum workforce welfare standards that set requirements for contractors with respect to working and living conditions and addressing workforce concerns.

BP also held workshops with contractors to discuss BP's requirements and develop a shared understanding of the importance of delivering a standard of workforce welfare that respects workers and adheres to BP's human rights policy. These workshops also act as a channel for escalating and addressing grievances raised.

Along the same line, Chevron frequently discusses workers and human rights topics with its direct contractors. In 2015, the company also sent a letter<sup>22</sup> to the senior leaders of more than 400 goods and services companies. The letter outlined Chevron's commitment to respecting human rights and the company's expectation that its business partners treat their employees and interact with communities in a manner consistent with Chevron's Human Rights Policy and the ILO's core labor principles.

At industry level, the oil and gas association for environmental and social issues (IPIECA)—together with member companies and representatives of engineering, procurement, and construction contractors (EPC) and service companies—initiated a collaborative project on human rights issues in the industry supply chain.

### IPIECA's collaborative project on human rights issues

IPIECA's project is bringing contractors and operators (IPIECA members) together to build awareness and understanding of the UNGPs, define what human rights impacts, risks, and responsibilities mean across the industry and explore good practice for engagement between contractors and operators on human rights due diligence efforts. The initiative has the goals of developing a shared understanding of the UNGPs, looking at opportunities for dialogue and good practices during the project lifecycle including:

- » Building a shared awareness of what is directly and indirectly impacting on value chain human rights
- » Strategies for collaboration for joint identification and mitigation of human rights risks and impacts between contractors and operators
- » Building clarity on definition of terms

The rise of regulations around supply chain transparency, discussed in greater detail below, also reinforces private sector clients' incentives to ensure that all their business partners respect human rights and track and share with them relevant information that can feed into their due diligence systems.

<sup>21</sup> BP, Sustainability Report (2014)

<sup>22</sup> [www.chevron.com/-/media/chevron/shared/documents/supplier-human-rights-letter-2015.pdf](http://www.chevron.com/-/media/chevron/shared/documents/supplier-human-rights-letter-2015.pdf)

- » **States and public institutions:** States and other public sector institutions are also major clients of the engineering and construction companies. Some have already established requirements around human and labor rights and human trafficking issues that they expect companies seeking business from them to respect. One of the most emblematic set of requirements sprung from the 2015 Amendment to the U.S. Federal Acquisition Regulation (FAR), which applies to all contractors of the U.S. federal government providing goods and services. The FAR prohibits a range of activities such as denying access to identity documents, using misleading or fraudulent recruitment practices during the recruitment of employees, charging recruitment fees, and providing accommodation that fails to meet host country housing standards. For contracts over US\$500,000, the regulation also requires contractors to develop a compliance plan that includes an awareness program, a process for employee reporting including a hotline, a plan to only work with recruitment companies that rely on trained employees, a housing plan, and procedures to prevent agents and subcontractors from engaging in human trafficking. It also requires contractors to monitor, detect, and terminate subcontractors and their employees who breach these requirements.

In addition to State actors, many public authorities managing the development of large-scale infrastructure have started developing and/or strengthening their expectations around human and workers' rights. For instance, as Qatar's construction sector continues to expand ahead of the 2022 FIFA World Cup, public institutions in charge of building sports infrastructure such as the Supreme Committee for Delivery & Legacy and Qatar Foundation Capital Projects have incorporated a series of detailed mandatory standards on migrant workers' welfare for contractors and subcontractors in all their contracts with engineering and construction companies.<sup>23</sup> In a similar vein, in the UAE, the Tourism Development and Investment Company in charge of developing tourism, cultural, and residential infrastructure adopted in 2009, an employment practices policy for contractors and subcontractors which since 2012 has been independently monitored by PricewaterhouseCoopers (PwC) based on interviews with randomly selected workers.

World Bank Performance Standards provide another illustrative example of a public client strengthening requirements that apply to engineering and construction companies responding to the Bank's infrastructure development tenders. The performance standards are the most developed set of standards that define the private sector companies' roles and responsibilities for managing the environmental and social risks and impacts (including human rights and labor and working conditions impacts) of their projects.<sup>24</sup>

## 2. Tightening standard requirements and regulations at international and national levels

Beyond these increasing expectations from clients, engineering and construction companies have to take into account the strengthening international standards requirements and tightening regulatory frameworks. In addition to the long-standing expectations related to the implementation of the ILO Core Conventions on forced labor,<sup>25</sup> child labor, discrimination, and freedom of association and right to

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<sup>23</sup> [Supreme Committee for Delivery & Legacy Workers' Welfare Standards; Qatar Foundation Mandatory Standards of Migrant Workers' Welfare for Contractors & Sub-contractors.](#)

<sup>24</sup> [World Bank Performance Standards For Private Sector Activities.](#)

<sup>25</sup> It is worth noting the recently adopted 2014 ILO Forced Labor Protocol that strengthens the international legal framework by creating new obligations to prevent forced labor, protect victims, and provide access to remedy, such as compensation for material and physical harm. The Protocol requires governments to take measures to better protect workers, in particular migrant laborers, from fraudulent and abusive recruitment practices and emphasizes the role of employers and workers in the fight against forced labor.



collective bargaining<sup>26</sup>, in codes of practice such as the UN Global Compact Principles<sup>27</sup> or the OECD Guidelines for Multinational Enterprises,<sup>28</sup> the 2011 UN Guiding Principles on Business and Human Rights (UNGP)<sup>29</sup> further clarified expectations for companies to respect human rights in general, defined as avoiding infringement on the rights of others and addressing adverse human rights impacts. To meet this responsibility, the Guiding Principles call on companies to carry out human rights due diligence that includes the following components:

- » Assessing actual and potential impacts on rights holders
- » Integrating and acting upon the findings
- » Tracking performance
- » Communicating how companies are addressing actual and potential impacts on rights holders

These international standards are increasingly translated into local regulations, to require more transparency and due diligence from multinational companies in order to identify, avoid, mitigate, and remedy potential negative human rights impacts from their activities or across their supply chains:

- » **The 2010 California Transparency in Supply Chains Act** requires certain companies to report on their specific actions to eradicate slavery and human trafficking in their supply chains. At the federal level, a similar bill (Business Supply Chain Transparency on Trafficking and Slavery) has recently been introduced on House floor and also requires companies to disclose whether they have taken any measures during the year to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within their supply chains.
- » **The EU Directive 2014/95/EU<sup>30</sup> on disclosure of nonfinancial and diversity information** requires certain large undertakings to prepare a nonfinancial statement containing information relating to, at a minimum, environmental, social and employee-related, respect for human rights, anti-corruption, and bribery matters.
- » **The 2015 U.K. Modern Slavery Act** requires companies with operations in the U.K. and a total turnover of £36 million or more to develop a slavery and human trafficking statement each year, setting out what steps organizations have taken to ensure modern slavery is not taking place in their business or supply chains.

In addition, there is a body of legislation on corruption that is relevant—the 1977 U.S. Foreign and Corrupt Practices Act or the 2011 U.K. Anti-Bribery Act—as it relates to the recruitment of migrant workers in particular. As highlighted by Verité in a recent report on the role of corruption in international labor migration,<sup>31</sup> corrupt activities are all too common in migrant worker recruitment. This creates potential legal risk for companies because multinationals can be held liable for the acts of their foreign subsidiaries, franchisees, joint venture entities, and even suppliers that use third-party employment agencies.

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<sup>26</sup> For more information about the application by business of ILO International Conventions, see [ILO Helpdesk for Business on International Labour Standards](#).

<sup>27</sup> [www.unglobalcompact.org/what-is-gc/mission/principles](http://www.unglobalcompact.org/what-is-gc/mission/principles).

<sup>28</sup> <http://mneguidelines.oecd.org/text/>.

<sup>29</sup> The framework has been unanimously adopted by the United Nations Human Rights Council, and has been widely endorsed by companies and international NGOs alike. For more information see [www.business-humanrights.org/SpecialRepPortal/Home](http://www.business-humanrights.org/SpecialRepPortal/Home)

<sup>30</sup> <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32014L0095>

<sup>31</sup> Verité, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016).

Finally, it is worth noting that a bill is currently being discussed in France that would require French companies employing 5,000 employees or more domestically or 10,000 employees or more internationally to develop and publish due diligence plans for human rights and environmental and social risks. Failure to do so could result in fines of up to €10 million. If such a law is passed in France, there is speculation that it could generate spillover effects within the European Union according to commentators.<sup>32</sup>

### 3. Growing civil society demands

The upcoming World Expo 2020 and World Cup 2022 are respectively drawing attention to Dubai and Qatar, and more generally to the Gulf States. In addition to intense media scrutiny, civil society organizations and other external stakeholders have set strong expectations for all the actors involved in building the infrastructure needed in the coming years.

Strong calls have been made to the Gulf States to reform their immigration laws and sponsorship systems and improve law enforcement to better protect migrant workers' rights, while origin country governments are expected to strengthen regulations around recruitment processes to prevent abuses from local recruitment agencies and other intermediaries.

Construction companies are also urged to strengthen their practices and their due diligence systems in order to avoid abuses within their supply chain. Most of the stakeholder recommendations focus on improving recruitment practices, "permissive" application of the sponsorship (*Kafala*) system—by systematically granting exit visas for instance, better contractor monitoring, and implementation of effective grievance mechanisms.

In this study BSR has reviewed expectations from different groups of stakeholders who are denouncing migrants' rights abuses in Gulf countries. BSR has analyzed the expectations from leading civil society organizations: Engineers Against Poverty (EAP), Amnesty International, and Human Rights Watch (HRW). BSR has also taken into account recommendations from relevant UN bodies: the International Labour Organization and the UN Special Rapporteur on the Human Rights of Migrants, François Crépeau. BSR has also reviewed the expectations from workers' organizations: International Trade Union Confederation (ITUC), Building and Wood Worker's International (BWI), and the OECD Trade Union Advisory Committee (TUAC). Finally, BSR has included reports from consulting and auditing firms, notably a report from the law firm DLA Piper which was commissioned by the Qatari government following the Guardian's articles on abuses of migrant workers building the World Cup 2022 infrastructure and a report from Nardello & Co. investigating allegations of abuses in the construction of New York University's Abu Dhabi Saadiyat Island Campus.

The stakeholders BSR consulted and the reports BSR reviewed raised specific expectations for companies to improve the conditions of the direct or indirect migrant workers involved in their operations:

- » **Migration and recruitment:** Stakeholder requested that multinationals work on better recruitment processes by blacklisting nonethical recruitment agencies and considering reimbursing recruitment fees paid by workers. UN organizations also specifically called for training migrant workers on their rights and for considering using the International Recruitment Integrity System (IRIS)<sup>33</sup> to promote

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<sup>32</sup> <http://oecdinsights.org/2015/04/15/legislation-on-responsible-business-conduct-must-reinforce-the-wheel-not-reinvent-it/>.

<sup>33</sup> **The International Recruitment Integrity System (IRIS)** is a voluntary and value-based accreditation and monitoring process for international labor recruitment, being developed by the International Organization for Migration (IOM) and the International

fair recruitment practices. Stakeholders also insisted that companies should contribute to improving migrant workers' freedom of movement—making sure that workers can keep their identity documents in safe storage facilities and systematically granting exit visas that will enable them to leave the country.

- » **Working conditions:** Large engineering and construction companies generally have good management systems in place regarding occupational health and safety. Therefore, stakeholders focus more on wages and wage discrimination across nationalities. The TUAC recommended that all workers be paid the same wage rate per job, rather than per nationality as it is currently practiced. They also mentioned the necessity of providing a proper forum for workers and employers to discuss working and living conditions, and for workers to be able to bargain collectively. The ITUC also specified that multinational companies and their contractors have the duty to set up workers' organizations that fairly represent the workforce, and to provide workers with information needed to organize meaningful negotiations. In addition, the workers' organizations requested an increase in minimum wages.
- » **Living conditions:** This is a topic generally well covered by Gulf countries legislation, though all stakeholders noted that enforcement of the current regulations is generally poor and that multinational companies have to implement their own due diligence processes to ensure that their subcontracted workers are accommodated in adequate conditions. BWI also insisted on the importance of health aspects: proper insurance coverage needs to be provided to migrant workers by their employers and health education is key to improve living conditions. Nardello & Co. also recommended that companies require contractors to be transparent during the bidding process around line item quotes for costs associated with migrant workers' living conditions and suggests that companies appoint third-party monitors to evaluate their practices and their subcontractors' compliance.
- » **Subcontractors' practices:** Stakeholders insisted that companies should take full responsibility for their entire workforce, including subcontracted workers. They also stressed the importance of including workers' interviews as part of due diligence and monitoring processes and mentioned that penalties need to be applied when noncompliances are encountered. DLA Piper stated that lead contractors should be made responsible for disseminating guidelines and standards to their subcontractors. It also recommends the implementation of a targeted verification requirement with migrant workers, which would cover recruitment fees, employment contracts, whether the migrant worker has been properly informed of the position, the conditions, and the wage.
- » **Access to remedy:** Most stakeholders interviewed emphasized the importance of implementing safe (anonymous) and effective grievance mechanisms.

In addition to the expectations listed above, Amnesty International and Human Rights Watch also mentioned that they would like to see companies make public commitments to respect workers' rights and disclose reports detailing the actions undertaken to improve migrant workers' conditions and their results.

The multiple challenges faced by engineering and construction companies to uphold high labor standards described and the increasing stakeholders' expectations and tightening regulations should focus companies' attention on the need to collaborate and find meaningful and sustainable solutions to the issues migrant workers face in the Gulf.

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Organization of Employers (IOE), in order to increase the integrity and transparency of the international recruitment industry and maximize the gains of labor migration.

## Tackling Workers' Rights in the Construction Sector—The Case for Collective Action

Looking at the complex environment in which engineering and construction companies operate and similarities in the challenges they face, this section takes stock of the findings of BSR's research and develops a business case for collective action. In such a difficult context, the implementation of management and compliance systems by one company might be rendered ineffective to address workers' rights issues, in particular where these issues result from an intricate chain of events and structural causes.

Below, BSR highlights a series of factors that support the move towards setting up a collaborative initiative in the sector:

### REALIZING COMPANIES' EXPRESSED INTEREST IN COLLABORATING

Engineering and construction companies have limited experience with collaboration. While some interviewees explained that the construction sector is a highly competitive market that is not prone to collaboration, others pointed out the general lack of trust among companies in the sector. Companies interviewed also noted that there was little "safe space" to discuss these key issues and few formal or informal mechanisms for helping them move forward together. As one company put it, "collaboration is a far-fetched concept in the sector." This contrasts sharply with the results of BSR's research that suggest there is a strong appetite among engineering and construction companies to work together to implement responsible business practices and tackle some of the challenges identified.

#### 1. Limited forums for collaboration on workers' rights

Existing collaborative structures in the construction sector generally address commercial, management, and technical issues. In addition to professional associations representing the commercial interests of engineering and construction companies, two organizations were mentioned by interviewees: CIOB<sup>34</sup>—the world's largest professional body for construction management and leadership, and ECRI<sup>35</sup>—an international risk management consulting forum focused on the engineering and construction industry. Neither of these organizations have workers' rights in their mandate. However, it is worth noting that CIOB published an unequivocal report on the dark side of construction<sup>36</sup> that called on companies to change their business model "that consists on passing risks down the supply chain" and "start facing up to [their] responsibilities." CIOB is now looking at developing a toolkit to help organizations become more socially responsible. U.K.-based Constructing Excellence is another example of collaboration across the entire construction industry (clients, consultants, contractors, manufacturers, and suppliers) whose mandate is to promote a better industry through collaboration. Since 2011, Constructing Excellence relies on an alliance of organizations promoting collaboration at the international level. In Qatar for instance, Constructing Excellence's work aims at improving briefing, procurement, employment, integrated design and construction, productivity, sustainability, value, legacy, and more.

In addition to their occasional participation in these industry groups and collaborative initiatives that do not specifically focus on workers' rights, some companies interviewed mentioned instances of ad-hoc

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<sup>34</sup> [www.ciob.org](http://www.ciob.org)

<sup>35</sup> [www.ecrionline.org](http://www.ecrionline.org)

<sup>36</sup> CIOB 2015, *Modern Slavery: The Dark Side of Migration*.

dialogues or collaboration with peers and stakeholders, in particular through their participation in the World Economic Forum, their memberships to the UN Global Compact, their participation in other industry groups working on sustainability issues such as IPIECA, as well as discussions they have at the local level with relevant institutions or civil society organizations promoting workers' rights.

## 2. Companies' strong appetite for collaboration

Against this landscape of limited collaboration and despite strong competition, all the companies interviewed identified a need for collaboration and confirmed that they would be interested in participating in a collaborative initiative of the construction sector. Most companies mentioned that they would like to learn from their peers and share best practices on managing workers' rights. Others also affirmed that collaboration would enable the sector to effectively address some of the challenges it is facing and would bring more legitimacy to the approach.

The turnout of companies at the roundtables organized by CH2M and IHRB<sup>37</sup> in London to discuss the implications of the U.K. Modern Slavery Act and broader labor challenges faced by workers and engineering and construction companies on projects worldwide illustrates this appetite for collaboration. Despite challenging topics and the presence of numerous vocal stakeholders around the table including Amnesty International, Human Rights Watch, and Engineers Against Poverty, representatives from over 15 engineering and construction companies participated. In addition to discussing the implementation of the U.K. Modern Slavery Act, one of the roundtable discussions gave participants an opportunity to discuss the advantages of working collaboratively. Among expected advantages of collaboration, participants highlighted the following:

- » Generating ideas collectively
- » Sharing knowledge
- » Collecting more intelligence on issues on the ground
- » Saving cost
- » Avoiding wasting resources on duplicating efforts around the development of tools and frameworks
- » Harmonizing practices among contracts/projects
- » Overcoming potential reticence from clients, and government clients in particular, to work on these issues
- » Better addressing issues in the supply chain
- » Communicating more clearly on actions
- » Bringing more legitimacy to the approach

Against these benefits identified for collaboration, participants highlighted only a limited number of considerations to take into account (including time commitment, resources, and possible anti-trust breaches associated with working with competitors), demonstrating the opportunities for successfully setting up a collaborative initiative in the construction sector.

## RESPONDING TO GROWING EXPECTATIONS FROM CLIENTS, CIVIL SOCIETY ACTORS, AND REGULATORS

Although some engineering and construction companies have started developing and implementing robust workers' rights standards and practices, many are still feeling overwhelmed, wondering how they can best identify and address growing expectations from clients and external stakeholders, in particular where they involve amending significantly some of their core business practices. In this context,

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<sup>37</sup> CH2M, IHRB, Roundtable Discussions for the International Engineering/Construction Industry, London, November 10.

collaboration can enable companies to share their challenges, learn from each other, and develop collective solutions to address these growing expectations while reducing individual exposure.

## 1. Responding to expectations from clients and civil society actors

The Guardian newspaper, international trade unions including BWI and ITUC, and nongovernmental organizations such as Human Rights Watch, Amnesty International, and Engineers Against Poverty have contributed to raising the profile of issues that migrant construction workers in the Gulf States are facing. In recent years, these organizations have become more vocal and are now formulating more detailed and nuanced demands on companies to take responsibility and improve construction workers' recruitment and working and living conditions in their operations and throughout their supply chains.

Almost 20 years ago, companies from various sectors came together successfully under the umbrella of different initiatives such as the Ethical Trading Initiative,<sup>38</sup> the Fair Labor Association,<sup>39</sup> or more recently the Electronic Industry Code of Conduct (now Electronic Industry Citizenship Coalition)<sup>40</sup> in order to respond to similar pressure from external stakeholders and push workers' standards through the supply chain effectively. Despite facing many challenges, these organizations have successfully enabled their members to collectively develop their practices and sometimes agree on common standards and approaches that have become baseline requirements in their respective sectors and have led to the improvement of working conditions in their supply chains.

Engineering and construction companies also face additional pressure from some of their direct clients. Clients—including private companies from the oil and gas sector in particular and States and public institutions such as the U.S. government or the World Bank—have already developed robust human rights expectations for their contractors and are likely to continue raising them as well as strengthening their monitoring activities. In the years to come, these clients will only direct business to companies that are able to demonstrate their commitments and the implementation of best practices. One of the oil and gas companies interviewed insisted that adequately managing workers and human rights in operations and subcontracting chains will become a minimum requirement to win work in the future.

### The U.S. Federal Acquisition Regulation

The Regulation applies to all federal U.S. contractors or goods and services, and prohibits a range of activities such as denying access to identity documents, using misleading or fraudulent recruitment practices during the recruitment of employees, charging recruitment fees, and providing accommodation that fails to meet host country housing standards. For contracts over US\$500,000, the regulation also requires contractors to develop a compliance plan that includes an awareness program, a process for employee reporting including a hotline, a plan to only work with recruitment companies that rely on trained employees, a housing plan, and procedures to prevent agents and subcontractors from engaging in human trafficking. It also requires contractors to monitor, detect, and terminate subcontractors and their employees who breach these requirements.

Reflecting on the success of the collaborative initiative in the oil and gas sector, an interviewee insisted that companies working together on tackling workers and human rights is “common sense.” This would

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<sup>38</sup> [www.ethicaltrade.org](http://www.ethicaltrade.org).

<sup>39</sup> [www.fairlabor.org](http://www.fairlabor.org).

<sup>40</sup> [www.eiccoalition.org](http://www.eiccoalition.org).

allow engineering and construction companies to develop common approaches to tackle the key challenges they face and engage meaningfully with other collaborative actors. It would also give their work in this area more visibility and legitimacy.

In addition to responding clients' expectations to see the engineering and construction sector work collaboratively, collaboration can also provide a meaningful platform for engineering and construction companies to engage clients collectively to inform them about their current practices and standards, get a better understanding of clients' expectations, and anticipate and shape future evolutions of their requirements.

## **2. Responding to tightening standards and regulations promoting companies' human rights due diligence and transparency**

Since the adoption of the UN Guiding Principles on Business and Human Rights in 2011, a number of global codes of practice have been amended to include direct references to companies' responsibility to respect human rights through the implementation of human rights due diligence. This is the case for the governments-backed OECD Guidelines for Multinational Enterprises<sup>41</sup> or the UN Global Compact Principles<sup>42</sup> that are endorsed by more than 8,000 companies across the world. Despite wide international endorsement, there remains many challenges with respect to the effective implementation of such codes by the private sector that can effectively be tackled through collaboration. In particular, collaboration can be useful to help companies translate the codes' requirements to the specificities of their sector or the positions of the companies in the supply chain.

### **Examples of collective initiatives developed to help companies implement OECD due diligence guidance on responsible supply chains of minerals from conflict-affected and high-risk areas**

Individual companies bear the primary responsibility for implementation of due diligence, although they may use industry programs and initiatives to assist them in specific due diligence tasks. A number of initiatives have been developed by companies and industry associations to help companies implement due diligence, particularly to help them establish traceability or chain of custody systems, and to identify, assess, and manage risk.

- » Conflict-Free Sourcing Initiative/Conflict-Free Smelter Initiative (CFSI)
- » Dubai Multi-Commodities Center's Responsible Sourcing of Precious Metals
- » ICGLR Regional Initiative against the Illegal Exploitation of Natural Resources
- » ITRI Supply Chain Initiative iTSCi
- » London Bullion Market Association's Responsible Gold Program
- » Responsible Jewellery Council's Chain of Custody Certification
- » World Gold Council's Conflict-Free Gold Standard
- » Conflict-Free Tin Initiative
- » Solutions for Hope

In addition, recent legislations are increasing nonfinancial disclosure requirements and holding companies accountable for human rights infringement in the absence of adequate due diligence. This is the case of the EU Directive 2014/95/EU<sup>43</sup> on disclosure of nonfinancial and diversity information or the

<sup>41</sup> [www.oecd.org/corporate/mne/oecdguidelinesformultinationalenterprises.htm](http://www.oecd.org/corporate/mne/oecdguidelinesformultinationalenterprises.htm).

<sup>42</sup> [www.unglobalcompact.org/what-is-gc/mission/principles](http://www.unglobalcompact.org/what-is-gc/mission/principles).

<sup>43</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&from=FR>

2010 California Transparency in Supply Chains Act<sup>44</sup> and the 2015 U.K. Modern Slavery Act<sup>45</sup> that requires companies to report on their specific actions to eradicate slavery and human trafficking in their supply chains and represent a significant step forward in promoting transparency in relation to company actions to curb modern slavery. Although one might argue that such legislations provide clarity on what is expected from companies and foster harmonization of practices and a level playing field, implementation often constitutes a challenge that collaboration can help tackle. The Ethical Trading Initiative's approach to the U.K. Modern Slavery Act is a good example of the benefits of collaboration in this area.

### The Ethical Trading Initiative (ETI) and the adoption of the 2015 U.K. Modern Slavery Act

The Modern Slavery Act came into effect in October 2015. Section 54 of the Act requires companies with operations in the U.K. and a total turnover of £36 million or more to develop a slavery and human trafficking statement each year. This Act was not only endorsed by companies' members of the ETI, it was actively promoted. In its contribution to the legislative debate,<sup>46</sup> the ETI noted that it did not believe that voluntary initiatives alone will be enough to ensure that all companies take the necessary steps to eradicate slavery from their supply chains and demanded that transparency in supply chain be included in the Act. ETI believed that effective and strong regulation can ensure changes occur across industries, not just in the supply chains of responsible companies.

According to the Act, the slavery and human trafficking statement should set out what steps organizations have taken to ensure modern slavery is not taking place in their business or supply chains. Although the law does not prescribe any positive actions, it should allow organizations campaigning against modern slavery to monitor the statements and name companies that are not taking any action. As a result, companies are expected to take a broader human rights approach. As international labor expert Steve Gibbons noted,<sup>47</sup> this might also involve engagement with public bodies, other companies, trade unions, and NGOs to seek broader collaborative solutions.

Since the adoption of the Act, the ETI is actively supporting its implementation by its members through guidance, training, workshops, and master classes.

In an environment of increasing stakeholders' expectations and tightening regulations, collaboration can help companies better understand and respond to these expectations and support the development and implementation of common policies and processes that bring positive changes and protect their reputation. Thus, stakeholders interviewed for this research insisted that collaborative action only would allow engineering and construction companies to provide meaningful responses to the external expectations and lead to credible impacts on workers.

## CLARIFYING COMPANIES' COMMUNITY OF INTEREST AND ADDRESSING OVERLAPPING CHALLENGES

Over the last few years, media articles and reports from stakeholders have highlighted the exploitative conditions that prevail in the construction sector in the Gulf and have "named and shamed" some engineering and construction companies and their clients that are benefiting from such conditions.<sup>48</sup> While

<sup>44</sup> [www.state.gov/documents/organization/164934.pdf](http://www.state.gov/documents/organization/164934.pdf).

<sup>45</sup> [www.legislation.gov.uk/ukpga/2015/30/contents/enacted](http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted)

<sup>46</sup> [www.publications.parliament.uk/pa/cm201415/cmpublic/modernslavery/memo/ms23.htm](http://www.publications.parliament.uk/pa/cm201415/cmpublic/modernslavery/memo/ms23.htm).

<sup>47</sup> [http://ergonassociates.net/?p=1161&option=com\\_wordpress&Itemid=161](http://ergonassociates.net/?p=1161&option=com_wordpress&Itemid=161).

<sup>48</sup> Examples of media articles and NGOs report on Abu Dhabi Saadyat Island [www.theguardian.com/world/2013/dec/22/abu-dhabi-migrant-workers-conditions-shame-west](http://www.theguardian.com/world/2013/dec/22/abu-dhabi-migrant-workers-conditions-shame-west); Lusail Project in Qatar [www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves](http://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves); Qatar world cup infrastructures [www.ituc-csi.org/IMG/pdf/the\\_case\\_against\\_qatar\\_en\\_web170314.pdf](http://www.ituc-csi.org/IMG/pdf/the_case_against_qatar_en_web170314.pdf) , [www.amnesty.org/en/documents/MDE22/010/2013/en/](http://www.amnesty.org/en/documents/MDE22/010/2013/en/); construction sector in Saudi Arabia [www.amnesty.org/en/documents/ASA20/025/2014/en/](http://www.amnesty.org/en/documents/ASA20/025/2014/en/) etc.



construction workers are still facing abuse and exploitation, it is important to note that many engineering and construction companies are committed to improving workers' conditions in their operations and to working with partners who share their values. However, given the complexity of contractual requirements, the scale of the abuse, and overlapping challenges faced by engineering and construction companies, their commitments have so far had limited visibility and impacts on workers' rights.

## **1. Better implementing companies' commitments to workers' rights in the supply chain**

All the companies interviewed for this research are keen to improve workers' rights in their operations. This is generally reflected in the various commitments they make with respect to human rights and workers' rights and to working with partners that share their values. These are materialized within their human rights statements, workers' welfare policies, and other supply chain codes of practice.

Despite some robust and/or detailed policies and procedures addressing workers' rights, companies are still struggling to implement their requirements with the subcontractors at the bottom of the supply chain. While stakeholders insisted that companies should take full responsibility for their entire workforce, including subcontracted workers, a business stakeholder noted that one company alone does not have enough leverage to make a shift in its supply chain.

In recent years, outsourcing and subcontracting have significantly increased in the industry, reducing the visibility and diluting the sense of responsibility companies have across the subcontracting chain. Engineering companies and main contractors at the top of the chain generally have well developed policies to tackle workers' rights but have more limited expectations and oversight over the conditions of their subcontractors. At their level, subcontractors have no incentives to implement better standards because they are working under severe resource constraints and can still choose to work for companies that are not imposing such strict expectations. This greatly limits the potential positive outcomes of those companies that want to implement robust workers' rights commitments in their supply chain.

However, engineering and construction companies often use the same subcontractors, which in turn use the same recruitment agencies. The solution that needs to be implemented will affect each company in the sector. Transparency in the subcontracting chain is therefore crucial in order to prevent abuse. Working collectively, companies committed to high labor standards could better identify all subcontractors in the supply chain, set clear business expectations, and agree on joint approaches to implementation that would make it more difficult for subcontractors to maintain a double standard system for their clients.

## **2. Pushing for workers' rights expectations to be included in construction contracts**

Engineering and construction companies' commitments to uphold workers' rights can be undermined by clients, in particular public entities, who sometimes have limited knowledge of the industry, poor technical evaluation capacity, and do not include in tenders any relevant expectations outside of cost. In a highly competitive, cost-driven bidding process, engineering and construction companies who pay less attention to the recruitment and working and living conditions of the workers involved in their operations are likely to develop proposals that—while responding to the technical requirements of the tenders—are cheaper than those developed by companies upholding stronger standards for their workers and subcontracted workers. Large engineering and construction companies upholding robust standards generally agreed that “getting things right requires a lot of investment and there is always the threat that companies with lesser standards win the work.”

Conversely, most interviewees agreed that including specific clauses on workers' rights in the bidding process has very positive impacts. Such clauses not only promote a level playing field among companies that benefits the workers involved on the projects, but they also make the implementation of workers' rights much easier. Included in the tenders, clauses on workers' rights ultimately form part of the contract requirements that are closely monitored by the client. In recent years, very tangible impacts have resulted from the incorporation of such requirements on worker accommodations. The same could be true with other issues such as the payment of fees during the recruitment process, the retention of identity papers, or the on-time payment of wages, in particular within the subcontracted chain. However, contract requirements tend not to cover these aspects specifically nor do they require the development of a robust mechanism to effectively monitor their enforcement in the supply chain. In addition, some abuses that workers might be facing, in particular during the recruitment process, are much more difficult to assess and remediate for lack of proof that payments have been made.

In addition, in some countries such as Qatar, there are various competing standards,<sup>49</sup> and clients may or may not reference them in their tenders. This creates a level of uncertainty for companies bidding for these projects as they need to benchmark their own practices against the standards included in the tenders and calibrate their proposals accordingly, absorbing the costs associated with upholding higher workers' standards when the tenders do not ask for them. Otherwise, they can be undercut.

In this context, collective action from companies dedicated to upholding workers' rights in their construction operations would allow them to make their commitments more visible to clients and potential clients and collectively push for the integration of robust workers' rights expectations in construction contracts without undermining their commercial positions. For engineering companies that are developing and managing projects on behalf of the clients, this would also enable them to start a constructive dialogue with their clients and overcome potential resistance to include workers' rights in the bidding and contractual process.

### **3. Addressing complex and systemic issues workers are facing**

Finally, engineering and construction companies are often confronted by the endemic issues that workers are facing in the Gulf countries, such as the payment of exorbitant recruitment fees; the dependency on their employers for their regular status, which puts them at the mercy of their employers; poor living conditions; and an unreliable wage payment system. These issues result from a series of factors that are not necessarily in the hands of engineering and construction companies, including pervasive corruption in the recruitment industry of the sending countries, restrictive immigration regulations in countries of destination (i.e., sponsorship systems), restrictions on the freedom of association and the freedom of movement of migrant workers, and limited enforcement of labor laws by local authorities. In such context, "there are no sustainable individual solutions to tackle workers' rights challenges," a company noted. Interviewees also generally agreed that meaningful and credible changes will require the collective pressure from a group of committed companies.

This is particularly the case for tackling the challenges arising from weak recruitment practices that pose complex challenges. There are endemic issues associated with migration corridors to the Gulf States in particular, and "companies tend to see recruitment as being far away from their scope of responsibility [...] but if you are not paying attention to recruitment, workers are in debt bondage before they even start working," a stakeholder remarked. In its current form, recruitment of migrant workers sometimes involves bilateral agreements between sending and receiving countries that cover the main conditions under which

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<sup>49</sup> Qatar Foundation / Supreme Committee / Other clients standards.

workers can be recruited. However, even when they exist, these agreements are difficult to enforce and there are many intermediaries, from both the origin and the destination countries, who require payments from workers to help facilitate the migration process and are willing to abuse workers by, for example, extorting exorbitant fees. Individual companies can change their practices by either moving toward a more direct recruitment process or a fully employer paid recruitment process. The impact of such changes will remain limited, and companies that adopt these changes will run the risk of not being able to compete on costs against companies that are still relying on workers willing to pay for their recruitment. Conversely, a group of committed companies could meaningfully engage both sending and receiving governments as well as the recruitment industry to make the case for the development and implementation of better practices.

In the same way, although a stakeholder noted that “companies operating in countries in total noncompliance with ILO standards are benefiting from modern slavery, full stop,” it was generally agreed by interviewees that companies with the intention to push for better standards are a positive presence in these countries. However, individual companies are unlikely to be in a position to effectively lobby their host governments (who might also be their clients) to request changes in the legislative system, and such discussions could be easier coming from a group of companies representing the industry and calling for changes from a general business perspective.

To summarize, many companies are already interested in improving worker' rights in their operations and supply chains and, given the type and nature of the challenges they face, their efforts could be effectively supported through collective action.

## Proposed Options for Collaboration

In this section, BSR has developed a series of recommendations that provide a baseline for discussion among engineering and construction companies interested in setting up a collaborative initiative in the construction sector, and their stakeholders. To develop these recommendations, BSR used the learning and good practices from an in-depth benchmark of five successful collaborative platforms addressing sustainability challenges of companies from various sectors. On the basis of these recommendations, BSR is proposing a practical time-bound road map for implementation that takes into account many practical and logistical considerations as well as the time needed to develop trust between participants and build momentum to ensure the successful creation of a collaborative initiative.

### REVIEW OF EXISTING COLLABORATIVE INITIATIVES TACKLING WORKERS AND BROADER HUMAN RIGHTS ISSUES

Companies, governments, and civil society are all struggling as the problems they face outpace their current ability to solve them. Sustainability issues in particular are often very complex, making individual efforts to tackle them inadequate at best and debilitating to the cause at worst. Rather, the development of systemic solutions depends on the ability of individual actors to come together to share new ideas, promote best practices, and align action for mutual benefit.

Collaboration is essential to resolving the three major features that characterize complex sustainability issues: wide-reaching, deep-rooted, and chronic. By leveraging the competencies and resources of multiple stakeholders, collaborations are better suited to address wide-reaching issues compared to individual actors. Furthermore, collaborations enable stronger alignment, either vertically within a sector or across sectors, helping get to the root cause of the issue instead of merely the symptoms. And finally, cooperative and concerted efforts have greater capacity for longer periods of time, helping to ensure the solutions for chronic issues can be designed for scale and sustained impact.

#### 1. Defining collaboration

The United Nations definition for partnerships is generally applicable to collaborations in that they entail participants agreeing to work together to achieve a common purpose or undertake a specific task and to share risks, responsibilities, resources, and benefits.<sup>50</sup> In order for a collaboration to have its intended impact, it should:

- » Create a shared purpose while supporting individual interests
- » Drive a commitment to best practices instead of setting a low bar
- » Leverage the strengths and skills of diversity rather than focusing on differences
- » Foster transparency and mutual learning rather than competitive behavior
- » Align incentives to integrate measurable performance rather than creating hindrances for individual and collective progress

Collaboration can take various shapes and forms that cater to different objectives and needs from companies and their stakeholders. For example, a collaboration can involve a standalone structure with a membership fee, a standard, and an audit mechanism. And a collaboration can equally take the form of a joint commitment with high level principles and a discussion platform.

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<sup>50</sup> United Nations. *Guidelines on a Principle-based Approach to the Cooperation Between the United Nations and the Business Sector*. UN-Business Action Hub (2015).

In exploring these types of collaboration, it is important to understand the differentiations. BSR generally classifies collaborations into four broad categories:

- » Advocacy or Opportunity Identification
- » Code, Principle, or Standard Development
- » Discussion Platform
- » Norm Creation and Implementation

Each of these four categories has different drivers and outcomes. The advocacy or opportunity identification type is most successful when the collaborators want to advance an agenda in an environment where “what good looks like” is uncertain. Collaborations focused on code, principle, or standard development typically arise around emerging issues where companies face common challenges. Discussion platforms generally take place when practitioners are isolated and seek shared learnings. Finally, collaborations focused on norm creation and implementation seek to develop consistent methods and tools across an industry.

## **2. Benchmark of successful company collaboration**

In the absence of existing collaborative initiatives addressing workers and broader human rights in the construction sector, BSR reviewed a sample of five existing best practice initiatives representing different sectors that parallel the construction industry: the Electronic Industry Citizenship Coalition (EICC), the International Council on Mining and Metals (ICMM), the global oil and gas industry association for environmental and social responsibility issues (IPIECA), the Maritime Anti-Corruption Network (MACN), and the alliance of energy companies promoting responsible coal production (Bettercoal). The initiatives reviewed provide insight into the range of styles, objectives, and governance structures that can be pursued.

BSR evaluated these initiatives against several criteria in the benchmark including vision and mission, governance structure, modus operandi, stakeholder engagement approach, and accountability mechanisms.

As an overview, the EICC is a good example of a structured initiative that relies on the EICC Code of Conduct and audit system. It was founded with the goal of creating an industry-wide standard on social, environmental, and ethical issues in the electronics industry supply chain. Because the EICC now represents the entire supply chain, it has become much easier to implement the Code. It has a self-described “traditional” governance structure, with a Board of Directors, secretariat, and a Senior Executive Advisory Council.

ICMM is a CEO-led initiative that was founded in response to significant mining-sector problems in reputation, sustaining profits, access to new assets, and maintaining investor and employee confidence. All member companies are required to implement and measure their performance against a set of performance standards known as the Sustainable Development Framework. The initiative is governed by the Council of CEOs, the secretariat, and the Principal Liaisons Committee. The CEO involvement ensures strong buy-in from the membership.

Conversely, IPIECA has no membership requirement and promotes knowledge sharing on corporate social responsibility issues more generally. Since IPIECA does not set standards, progress is much easier to achieve. The initiative was launched at the request of the UNEP and still serves as a channel of

communication between the petroleum industry and the UNEP. It is governed by a General Committee, an Executive Committee, and a secretariat.

MACN was created through an industry interest in collaborating on anti-corruption efforts and is governed by a member-elected steering committee and the secretariat. It has expanded its efforts from developing a set of principles to engaging with governments in collective action projects at corruption hotspots around the world. A strong driver for the initiative has been legal compliance pressure, like the U.K. Bribery Act. MACN also administers a self-accountability mechanism that reviews member progress on implementation of the Anti-Corruption Principles.

Finally, Bettercoal was founded by a group of European energy companies to establish a new responsible coal initiative. The Bettercoal Board and the secretariat led the initial development of the Bettercoal Code and are responsible for oversight of the initiative. Initial investment and engagement from companies allowed for the development of a large audit system developed to evaluate coal mining companies and sites against the Bettercoal Code.

### 3. Key takeaways from benchmark analysis of successful collaborative initiatives

There are some common lessons to be learned from these five examples of collaborative initiatives.

- » **Alignment of governance and methods are key to sustained group progress:** It is established that a common understanding of shared purpose is important for the creation of a collaborative initiative. However, the coordination around the methods used to reach that purpose is often underrated. Without a shared theory of change, a group can be subject to stagnation and lack of consensus. Instead, a mutual sense of what it will take to achieve the group's goal enables the building of momentum. For example, all five of the collaborative initiative case studies have achieved a certain level of internal alignment around their theory of change, whether it's sharing best practices, or advocating to governments, or holding companies accountable through audit systems. Four of the five have developed a code or some set of standards for member implementation. The one exception, IPIECA, does not set standards, but instead participates in UN processes and acts as the industry's principal channel of communication with the UN. This drives their partnerships work, compared to other collaborative initiatives that focus more on good practice development. As a collaborative initiative is developed, each interested party may have a different idea of what the "right" theory of change may be. Thus, it is important that there is initial discussion devoted to clarifying how the group intends to reach its desired outcome. This determines where you spend your time and resources, and is crucial to starting a collaborative initiative with a solid foundation.
- » **Credibility is attained through member commitment and measurable impacts:** Credibility of a collaborative initiative is reinforced by the actions of its members. Accountability measures, such as requirements and indicators that evaluate members' efforts, are critical to gaining internal buy-in and external respect. However, it should be clear that greater complexity does not entail greater accountability. The most useful member requirements or key performance indicators will be clear, simple, and focused on driving performance. For example, the fact that ICMM is a CEO-led initiative ensures strong buy-in from within each member company. In addition, they have robust membership commitments in the form of their Sustainable Development Framework, which is made up of three elements: a set of commitments (10 principles and 6 supporting position statements), public reporting, and independent third-party assurance. Member performance against this framework is evaluated annually and published as part of ICMM's Annual Review. These kinds of commitments signal to internal practitioners and external stakeholders that the member companies are serious and

ambitious in their efforts to achieve a solution. As another example, MACN is testing the different levels of impact of their Collective Action projects. For them, having impact measures are important for attracting co-founders and partners. Having a structured accountability process through measurable indicators reinforces the credibility of the collaborative initiative, which can result in increased membership, greater resources and funding, opportunities for partnerships, and reputational benefits for members.

- » **Stakeholder inclusivity is crucial for both assessing challenges and devising solutions:** In order to be well positioned for meaningful impact, a collaborative initiative should prioritize engaging key stakeholders. If the initiative is multi-stakeholder, clear decision-making boundaries will enable a smooth process. If the initiative is developed as company-only, continued dialogue and partnerships would help inform and support the initiative's efforts. For example, Bettercoal has formal, expert Stakeholder Panels that review implementation and support on-the-ground efforts in coal producing countries. Their Civil Society Panel is composed of organizations and individuals from workers' organizations, NGOs, and academia, and they consult with the Board of Directors on all critical matters pertaining to Bettercoal. Their Coal Supplier Panel likewise engages with the Board of Directors to provide guidance and contribute to the development of solutions for mine improvement. Comparatively, MACN does not formally include external stakeholders in their governance structure. In an interview with a member of the MACN secretariat, it was noted that MACN is implementing existing law, not creating new laws or standards, and thus has less of a need for external stakeholders. Instead, they engage with those necessary to implementation and have direct partnerships with local organizations for their Collective Action projects. As a collaborative initiative is developed, the issue being addressed will have some impact on the level and type of stakeholder inclusivity that the group undertakes. Some sustainability problems will require a more holistic engagement process than others. Regardless, it is important for a new initiative to consider how stakeholders will be engaged and make sure they are involved early to provide alternative perspectives on the challenges and possible solutions.
- » **The long-term viability of the initiative relies on its ability to evolve as the needs of the group change:** When conceptualizing a collaboration, capacity for evolution should be built into its structure. Strong leadership can help facilitate necessary changes, but an adaptable structure can enable proactive transitions and can smooth reactive transitions. For example, the EICC started off committing to a theory of change around a highly structured audit program. Though this has successfully led to the development of a common set of tools, it has also created an emphasis on compliance and led to lessened overall impact in the long run. In 2012, members voted for a new governance structure with a professional staff team to support a more forward-looking coalition. Similarly, MACN has been branching out after the development of its Anti-Corruption Principles to address hot spots around the world with its Collective Action projects. Moving from code creation to engagement with governments in target areas is a different way for the member companies to address the levels of corruption that affect their business. Realignment of a collaborative initiative's methods or theory of change may be necessary as the initiative grows or is impacted by external factors. Collaborative initiatives are best able to adapt when they have a structure that can be more flexible or expansive as needs arise.

## RECOMMENDATIONS

Given companies' expressed appetite for collaboration, BSR has developed the below recommendations that support the setting up of a collaborative initiative in the construction sector against each of the main components of a functioning collaborative initiative:

- » Vision and mission
- » Scope (sector, geography, and focus area)
- » Modus operandi (how work gets done)
- » Accountability (membership requirements, stakeholder engagement, measuring impacts, and reporting to public)
- » Governance structure (how decisions are made)
- » Benefits for companies

The initiative BSR proposes reflects the needs of engineering and construction companies as well as the expectations outlined by the stakeholders BSR interviewed. The initiative also takes into account key lessons drawn from our analysis of good practices and challenges faced by the five collaborative initiatives BSR benchmarked for this research (presented in section E.2—Bettercoal, EICC, IPIECA, ICMM, and MACN).

On this basis, BSR suggests setting up an initiative that clearly focuses on promoting workers' rights by developing, sharing, and promoting guidance, good practices, and tools on recruitment and working and living conditions of construction workers; and by supporting the improvement of working conditions in the supply chain. In the absence of strict compliance requirements, BSR suggests that basic membership requirements are required from participating companies from the start of the initiative and strengthened in the future. In addition, BSR has also built into our recommendations the importance of stakeholder representation, whether it is to improve the quality of the initiative's outputs or enhance its credibility. Finally, BSR proposes to give the initiative a couple of years before more strictly formalizing its governance structure and legal status to allow for making adjustments that will guarantee its long-term viability and relevant evolution.

For each section, BSR provides an overview of the issues at stake, an analysis of the best practices and challenges identified among the benchmarked initiatives, as well as a transcription of the feedback BSR received from the interviewees. On this basis, BSR developed recommendations designed to mitigate potential challenges and support the development of positive outcomes for the initiative.

## 1. Vision and Mission

A vision describes a common understanding of shared aspirations and allows alignment of the group's mid- to long-term goals. This vision should be combined with a mission statement that clarifies how the initiative will work towards achieving its vision. Without a shared theory of change, a group can be subject to stagnation and lack of consensus. Instead, a mutual sense of what it will take to achieve the group's goals enables the building of momentum.

Benchmarked collaborative initiatives have visions articulated around the contribution of the group of companies to the general improvement of conditions (working, social, and environmental) in their operations and/or supply chains; and missions that detail the way they approach it.

	Vision and Mission
IPIECA	<ul style="list-style-type: none"> <li>- <b>Vision:</b> An oil and gas industry that successfully improves its operations and products to meet society's expectations for environmental and social performance.</li> <li>- <b>Mission:</b> IPIECA operates globally and seeks to achieve its vision by developing, sharing, and promoting sound practices and solutions; enhancing and communicating knowledge and understanding; engaging members and others in the industry; and working in partnership with key stakeholders</li> </ul>



ICMM	<ul style="list-style-type: none"> <li>- <b>Vision:</b> Leading companies working together with others to strengthen the contribution of mining, minerals, and metals to sustainable development.</li> <li>- <b>Goals and Objectives:</b> Working collaboratively with others to enhance the value-creation role and long-term net contribution of the mining, minerals, and metals industry and its products to people, the environment, and economies.</li> </ul>
MACN	<ul style="list-style-type: none"> <li>- <b>Vision:</b> A maritime industry free of corruption that enables fair trade to the benefit of society at large.</li> <li>- <b>Mission:</b> MACN and its members seek to promote good corporate practice in the maritime industry for tackling bribes, facilitation payments, and other forms of corruption by adopting the MACN Anti-Corruption Principles; communicate progress on implementation, share best practices, and create awareness of industry challenges; and collaborate with key stakeholders, including governments, authorities, and international organizations, in markets where corruption is prevalent, to identify and mitigate the root causes of corruption in the maritime industry.</li> </ul>
EICC	<ul style="list-style-type: none"> <li>- <b>Vision:</b> A global electronics industry that creates sustainable value for workers, the environment, and business.</li> <li>- <b>Mission:</b> Members, suppliers, and stakeholders collaborate to improve working and environmental conditions through leading standards and practices.</li> </ul>
Bettercoal	<ul style="list-style-type: none"> <li>- <b>Vision:</b> A coal supply chain that respects the rights of people and the environment and contributes positively to the social and economic livelihoods of workers, producers, and communities.</li> <li>- <b>Mission:</b> To advance the continuous improvement of corporate responsibility in the coal supply chain by improving business practices through engagement with stakeholders and based on a shared set of standards.</li> </ul>

During the roundtables organized by CH2M and IHRB in London in 2015, participants discussed the positioning of a potential collaborative initiative around the promotion of workers' rights and welfare.<sup>51</sup> Our research also clearly demonstrates that there was a community of interest among leading engineering and construction companies committed to promoting workers' rights and welfare in their operations, and to working with partners that share their values. All external stakeholders interviewed agreed with this general scope. It is also important to note that the construction sector faces specific challenges—such as the implementation of workers' rights and welfare within the supply chain and the subcontractors' chain specifically, where working conditions are often less favorable to workers—that can be meaningfully reflected in the initiative's vision and mission statements.

On the basis of the interviews conducted and the review of the visions and missions of the benchmarked initiatives, BSR suggests the following:

- » **Vision:** An engineering and construction industry that upholds and promotes the rights and welfare of workers.
- » **Mission:** The initiative seeks to uphold and promote the rights and welfare of workers by developing, sharing, and promoting guidance, best practices, and tools on the recruitment and working and living conditions of construction workers, both within their companies and through their supply chains.

## 2. Scope (Sector, Geography, and Focus Areas)

The scope of the initiative seeks to clarify which entities are the target participants to the initiative, what is the geographical reach of the initiative, and what are the focus areas of work.

- » **Sector.** Interviewees generally agreed that the initiative should be primarily made up of engineering and construction companies that are directly involved in large construction projects, irrespective of

<sup>51</sup> Workers' rights are a group of legal rights and claimed human rights having to do with labor relations between workers and their employers, usually obtained under labor and employment law. The concept of worker welfare is less clear and may refer to all issues related to the well-being and protection of workers such as standards of accommodation, quality of amenities available, health services, and retirement fund, etc., but it might also refer all things related to worker issues, including workers' rights, or simply to the development of an environment for workers to have the ability to voice and address their needs and concerns.

the nature of the work (large real estate, public infrastructure, oil and gas, etc.). However, some interviewees stressed the importance for the initiative to demonstrate quick progress “to catch the eyes of clients” and attract more companies. This approach, they explained, requires starting with a small group of very committed companies—likely based in the United States, U.K., and Europe—and then expand to additional companies, including from other geographies as well as smaller companies, including subcontractors.

- » **Geography.** Interviewees all agreed that engineering and construction companies are facing similar challenges in their operations around the world. The geographical focus of the initiative should therefore be global. However, many interviewees also noted that the important scale of construction projects in the Gulf countries may warrant an initiative that is relevant to the specific challenges companies and workers are facing in this region.
- » **Focus Areas.** Interviewees globally agreed that the general scope of the initiative should be workers' rights and welfare. Within this broad scope, stakeholders interviewed and reports reviewed have called on companies in the sector to address a broad range of issues from which three priority areas can be determined and which correspond to priorities identified by engineering and construction companies.
  - Recruitment practices: This priority area covers issues such as implementing employer paid recruitment systems; informing workers about their rights and conditions in their country of origin; developing more direct recruitment systems; conducting due diligence on recruitment agencies; conducting workers' surveys; supporting the development of fair recruitment agencies; engaging government authorities from sending and receiving countries, etc.
  - Working and living conditions: This priority area covers issues such as benchmarking existing worker accommodation standards; working on further improvements of workers' welfare in the accommodation; improving access to communication and health services; providing general and life skills training; enabling access to social and cultural activities; and promoting workers' freedom of movement in general.
  - Supply chain improvements: This priority area covers issues such as improvement of companies' management of subcontractors' conditions including recruitment practices; on-time payment of wages; hours, leaves, and other working conditions, through the development of contract clauses, audit mechanisms, checklists of useful documents to review, training modules for key staff, etc.

In addition to these three obvious areas for collaboration, many of the other expectations outlined by stakeholders could be tackled collectively by companies in the sector. While some are very challenging (i.e., freedom of association or the payment of a living wage) and would require time and trust to be built among the participants to the initiative, other are referred as “low hanging fruit” or “quick wins” that could be easily implemented by companies and enable the initiative to show progress (i.e., safe storage for passport to all workers, automatic granting of NOC, etc.).

On the basis of the above considerations, BSR suggests the following:

- » **Sector**
  - Start the initiative with a small group of U.S., U.K., and European-based companies that are directly involved in large construction projects.
  - In the future, consider reaching out to a larger group of engineering and construction companies including from other geographies such as Turkey, India, China, and Korea.

- In the future, consider opening membership to subcontractors.
- » **Geography**
  - Keep the initiative global in its reach but focus on issues that are particularly relevant to construction projects in the Gulf countries.
  - In the future, consider amending the geographical focus to reflect any shift in construction activities or specific challenges faced by companies or workers in other regions.
- » **Focus Areas**
  - Focus on the three priority areas identified by both companies and stakeholders as key for collaboration, namely recruitment practices, working and living conditions, and supply chain practices.
  - Ensure that any work in these focus areas responds to the relevant expectations outlined by stakeholders.
  - In the next couple of years, engage with companies and stakeholders to allow the emergence of additional priority topics for collaboration (grievance mechanism, workers' representation, etc.).

### 3. Modus operandi (how works get done)

The operational and financial models determine the *modus operandi* of a collaborative initiative and should support the objectives of the initiative.

- » **Operational model.** All five of the collaborative initiatives reviewed have achieved a certain level of internal alignment around their theory of changes with a variety of modus operandi; by enabling peer learning and promoting the sharing of good practices through awareness briefings, case studies, and workshops (IPIECA), toolkit development and benchmarking studies (ICMM), development of high level principles and tools, and sharing best practice (MACN), and/or through the development of very structured groups with stringent membership requirements, specific standards, and mechanisms to ensure their correct implementation by members.

Companies interviewed generally mentioned best practice sharing, peer learning opportunities, and tool development as the most important objectives of collaboration. While one interviewee made its participation to a collaborative initiative subject to the absence of compliance requirements, another clearly advocated for the development of such requirements as well as auditable mechanisms in the mid- to long-term. However, companies and stakeholders generally agreed on the importance of not imposing too stringent of requirements at the beginning of the initiative and giving the participants an opportunity to first learn from each other by promoting peer learning, the development of guidance, and the implementation of good practices and tools in the areas of focus of the initiative.

To conduct this work, the initiatives reviewed generally rely on a secretariat made up of an executive director (or similar) and staff that are responsible for implementing the strategy of the initiative, driving the initiative's agenda, ensuring anti-trust and competition, and planning and organizing its work. In addition, initiatives benchmarked also commonly rely on in-kind contributions from their members (time commitment in particular), sometimes referred to as sweat equity. Financial contributions may enable the secretariat to take up more of the work, thus reducing the required sweat equity from its members. However, BSR has learned from interviews that there is an important balance to be found to ensure that while the secretariat needs sufficient funding in order to manage the initiative effectively and help steer direction, members' active engagement is essential to drive the momentum and success in the longer term.

- » **Financial model.** Financially, all initiatives reviewed were heavily dependent on membership fees to conduct their missions. Membership fees provide the initiatives with the funds necessary to pay for

the secretariat, organize meetings, recruit experts to develop good practice notes, develop tools, conduct fact-finding missions, or implement full-on audits against the initiative principles and codes. Some initiatives also receive additional funding on an ad-hoc basis from other organizations (including multilateral funding or other donor organizations) to conduct specific work. This is particularly feasible when the work to be conducted has a direct positive impact on a stakeholder group that the organization invests in. Although it is clear that the recruitment of full-time staff can effectively support the implementation of many activities and allow for quick progress on key issues, companies interviewed made it clear during the interviews that their financial contribution would be limited. However, it is equally important to keep in mind that the funding available, as well as members' sweat equity, support the ambition levels of the initiative and that sustainability of the initiative will be a factor in its capacity to levy membership fees and/or access stable funding streams from donor organizations that support the objectives of the initiative.

On the basis of the interviews conducted and the review of the operational and financial models of the benchmarked initiatives, BSR suggests the following:

» **Operational model**

- At the outset, determine an operational model for the initiative that promotes peer learning, the development of guidance, and the implementation of good practices and tools in the areas of focus of the initiative. Ensure in its design a flexibility to evolve as the initiative matures and trust is built between members and stakeholders.
- Recruit an individual or an organization to be in charge of managing the work of the initiative in the next couple of years including:
  - Organization and facilitation of working groups
  - Member engagement
  - Stakeholder outreach
- Recruit experts/expert organizations needed to progress the work of the initiative in some areas (background research, benchmark reports, etc.).

» **Financial model**

- Develop a mixed financial model that reflects the needed membership contributions from companies (recommended US\$10,000-US\$15,000 per company) to ensure the basic functioning of the initiative. In addition, seek funding from other organizations to further the work of the initiative on specific research or projects implemented by the working groups and where learning can be shared with a broader audience.
- Determine a level of expected nonfinancial contributions from members that includes time commitment from company individuals as well as in-kind contributions from companies (participation in initiative's leadership, participation in specific working groups, providing venues for meetings, etc.).

#### 4. Governance structure (how decisions are made)

The initiative's statutes and governance structure clarifies how decisions are made within the initiative as well as rules and obligations of members.

- » **Legal status.** To some extent, all initiatives reviewed started as informal groups of companies committed to working together to address some complex challenge. For instance, while ICMM was formed in 2001 to represent the world's leading companies in the mining and metals industry and to advance their commitment to sustainable development, its conception can be dated to two years earlier, when the global mining firms accepted at the highest level that their sector was facing

significant problems in maintaining reputation, sustaining profits, accessing new assets, and maintaining investor and employee confidence. With the exception of MACN—which still operates as an initiative run as a “working group” under the legal entity of its secretariat (BSR), despite the complexity of the work it undertakes—all the other initiatives are their own legal entities.

- » **Leadership group (steering committee or board).** Generally, the governance structure reflects the size and level of complexity of the initiatives. However, all initiatives reviewed rely on a leadership group (similar to a board) at the top, generally made up of senior company representatives, with the exception of ICMM which is CEO-led. These leadership teams provide the initiatives the institutional support they need for their credibility and direction on strategy and evolution, as well as ensuring a good level of ownership from the company participants, thus securing their involvement in the mid- to long-term. The leadership groups reviewed provide strategic leadership and oversight of the functioning of their initiatives. They are responsible for strategic and budget planning, and generally meet two to four times a year. It is also important that they are able to help facilitate changes to adaptation of the initiative where necessary. For smaller initiatives, leadership groups might include representatives from all the members of the initiative. Larger initiatives are also likely to have a range of leadership committees in charge of advising and preparing the work for their board.
- » **Working groups (task force or sub-teams).** A series of working groups or other task forces are set up to implement the leadership group’s strategic priorities and drive the work of the initiative. These groups are generally made up of company representatives. Their chairs are designated by the leadership group or elected by the members of the group, and their work is supported by a member of the secretariat and/or external experts. Depending on their specific objectives and budgets, working groups might meet as frequently as twice a month.
- » **Membership.** Finally, the initiatives reviewed give company participants (members) a formal role in the governance structure of the initiative. The full membership usually meets formally once or twice a year. These meetings serve to appoint the leadership group and endorse its strategic and budget planning. Such meetings are also used to provide a forum for facilitated discussions about challenges and opportunities, best practice sharing, and making progress on working group projects and tools.

During the interviews conducted for this research, no specific information was collected on the preferred governance structure—although there are sufficient learnings on setting up an initial governance structure that is able to appropriately evolve as an initiative matures.

On the basis of the above considerations, BSR suggests the following:

- » **Legal status**
  - Start the collaborative initiative as an informal group of companies, managed by a hired-in secretariat function.
  - Within the first two years, review the functioning of the initiative and consider setting up a formal legal entity that can be either incorporated as a private business or as a not-for-profit organization.
- » **Leadership**
  - The leadership group (i.e., Steering Committee) is made up of senior company representatives that are elected by the members of the initiative.
  - The leadership group meets on a quarterly basis to discuss strategy, budgets, working groups, and membership expectations.

- In two years, the leadership group structure is reviewed and adapted to the new context before it is further formalized (i.e., Board).
- » **Working groups**
  - Working groups are set up to manage the different work streams of the initiative, including the key areas of focus (recruitment practices, supply chain management, working and living conditions).
  - Working groups' objectives are set by the leadership group.
  - Working groups are composed of company representatives, and their work is supported by someone from the initiative's secretariat.
  - In the future, the leadership group should consider developing additional working groups to respond to the initiative's strategic direction (additional areas of focus or other issues important for the progress of the initiative such as impact measurement or membership requirements).
- » **Membership**
  - Membership is open to engineering and construction companies.
  - All company members meet at least annually to agree on the initiative's budget and strategy, and elect the leadership group of the initiative.
  - In the future, the initiative should consider opening associate membership to associate members including clients and suppliers of engineering and construction firms.
  - In the future, the initiative should also consider the opportunity to open its membership to civil society organizations.

## 5. Accountability (membership requirements, stakeholder engagement, measuring impacts, and reporting to public)

- » **Membership requirements.** Credibility of a collaborative initiative is reinforced by the actions of its members. Accountability measures, such as requirements and indicators that evaluate companies' efforts to promote workers' rights in their operations and within their subcontractors' chains are critical to gaining internal buy-in and external respect. As most of the external stakeholders interviewed put it, "the initiative cannot be just a talking shop." Real commitments have to be taken and work commissioned.
- » **Stakeholder engagement.** In this context, it is crucial to set up a dialogue and seek partnerships with the stakeholder community to help inform and support the initiative's effort and drive meaningful impacts. However, some companies are cautious about exposing the nascent initiative to formal stakeholder scrutiny. The review of the benchmarked initiatives also shows that while all the initiatives have on-going relationships with external stakeholders, only Bettercoal has stakeholder panels—representing both the coal producers' community and the civil society—formally included in their governance structure. Their Civil Society Panel, for instance, is composed of organizations and individuals from workers' organizations, NGOs, and academia, and consults with the Board of Directors on all critical matters pertaining to Bettercoal. During the roundtable discussion, representatives from engineering and construction companies generally agreed that stakeholders should be engaged within each working group at a minimum.
- » **Measuring impacts.** One of the most challenging areas of work for the initiatives reviewed relates to impact measurement. With the exception of the EICC, which can report on the analysis of the audits carried out at suppliers' levels, initiatives generally are not measuring their impacts. IPIECA, however, sends various surveys to its members to understand how they have taken up the guidance developed by the group. MACN has established criteria to measure the impact of its in-country anti-corruption projects in order to measure effectiveness and report to stakeholders. MACN has also

committed to reporting on members progress on implementing the MACN Anti-Corruption Principles within its mission statement, which has been an effective way of ensuring that members recognize their obligation to annually report their progress. MACN also measures members' feedback on how effective MACN is at supporting their progress on implementation (e.g., tools, resources, best practice sharing). Only a couple of companies interviewed insisted on the importance of developing impact measurement and time-bound goals to show success. Although stakeholders generally agreed that impact measurement is not key to the launching of an effective collaborative initiative, this is something that participants should keep in mind from the inception because it will become crucial to focus and professionalize the work of the initiative and bring more credibility to its work in the future, particularly when seeking funding from multilaterals and donor organizations.

- » **Public reporting.** While all initiatives reviewed have web pages and, to some extent, public communication, most reporting is actually focused on the work of the initiative itself. Unless the initiative has been set up to respond to expectations for increased transparency, only limited information on companies' work is made available. However, Bettercoal has strong public reporting systems in place where members are expected to report annually against the obligations they committed to implement as part of their membership agreement. As a result, a Members Implementation and Reporting Obligations (MIRO) Progress and Conformity Review is published annually. In a similar way, a member performance table is published as part of ICMM's Annual Review. It is expected that MACN will publicly report members' progress in the coming years also.

On the basis of the above considerations, BSR suggests the following:

- » **Membership requirements**
  - Membership to the initiative is open to companies that have publically endorsed the vision and mission of the initiative (senior executive level), and that are committed to sharing good practices and implementing guidance and tools that are developed by the initiative as well as supporting the improvements within their supply chain.
  - In the future, membership requirements are strengthened and include reporting expectations as well as a good level of transparency.
- » **Stakeholder engagement**
  - Consider how stakeholders will be engaged as part of the setting up of the collaborative initiative and make sure they are involved early to provide meaningful input, as well as alternative perspectives on the challenges and possible solutions.
  - Include a form of stakeholder participation within each working group set up by the initiative
  - At first, if non-business stakeholders are kept out of the governance structure of the initiative, ensure that the initiative informs and engages them meaningfully about its work and seeks their input and feedback on a regular basis.
  - Commit to review the governance structure of the initiative within two years to consider the development of a formal stakeholder advisory panel.
- » **Measuring impacts**
  - Ensure that the measurement of impacts is built into the work of the initiative from its inception.
  - Raise participants' awareness of the importance of measuring impacts.
- » **Reporting to public**
  - Consider which aspects of the work of the initiative and its participants could be used for public reporting.

## 6. Benefits for companies

Finally, the success of any collaborative initiative depends on the benefits the initiative offers to its participants. In addition to articulating a business case that supports the setting up of the initiative (see section above, “The Case for Collective Action”), it is important to clarify what benefits companies can expect from their participation in the initiative. As suggested in the previous section, expected benefits will primarily depend on the modus operandi of the initiative, which gives members opportunities to learn, collaborate, and share challenges, as well as the outputs available from the different working groups (guidance, good practices notes, benchmark reports, etc.). In addition to these obvious benefits, it is important to clearly articulate the less tangible benefits that might result from increased networking opportunities with other international organizations and initiatives such as the ILO, the UN, IPIECA, or international civil society organizations, as well as the enhanced credibility and reputation gain that can contribute to shielding companies from criticism and direct exposure by media and vocal stakeholders.

On the basis of the above considerations, BSR suggests the following:

- » **Benefit for companies**
  - Consider developing a business case short report that details the expected benefits of joining the initiative.



## Annex 1: Table of the Proposed Options for Collaboration

Dimension	Aspects	BSR recommendations
Vision	-	» An engineering and construction industry that upholds and promotes the rights and welfare of workers.
Mission	-	» The initiative seeks to uphold and promote the rights and welfare of workers by developing, sharing, and promoting guidance, best practices, and tools on the recruitment and working and living conditions of construction workers, both within their companies and through their supply chains.
Scope	Sector	<ul style="list-style-type: none"> <li>» Start the initiative with a small group of U.S./U.K./European-based companies that are directly involved in large construction projects.</li> <li>» In the future, consider reaching out to a larger group of engineering and construction companies including from other geographies such as Turkey, India, China, and Korea.</li> <li>» In the future, consider opening associate membership to subcontractors.</li> </ul>
	Geography	<ul style="list-style-type: none"> <li>» Keep the initiative global in its reach, but focus on issues that are particularly relevant to construction projects in the Gulf countries.</li> <li>» In the future, consider amending the geographical focus to reflect any shift in construction activities or specific challenges faced by companies or workers in other regions.</li> </ul>
	Focus Areas	<ul style="list-style-type: none"> <li>» Focus on the three priority areas identified by both companies and stakeholders as key for collaboration, namely recruitment practices, working and living conditions, and supply chain practices.</li> <li>» Ensure that any work in these focus areas respond to the relevant expectations outlined by stakeholders.</li> <li>» In the next couple of years, engage with companies and stakeholders to allow the emergence of additional priority topics for collaboration (grievance mechanisms, workers' representation etc.).</li> </ul>
Modus operandi	Operational model	<ul style="list-style-type: none"> <li>» At the outset, determine an operational model for the initiative that promotes peer learning, the development of guidance, and the implementation of good practices and tools in the areas of focus of the initiative. Ensure in its design a flexibility to evolve as the initiative matures and trust is built between members and stakeholders.</li> <li>» Recruit an individual or an organization to be in charge of managing the work of the initiative in the next couple of years including: <ul style="list-style-type: none"> <li>○ Organization and facilitation of working groups</li> <li>○ Member engagement</li> <li>○ Stakeholder outreach</li> <li>○ Recruitment of experts/expert organizations needed to progress the work of the initiative in some areas (background research, benchmark reports, etc.)</li> </ul> </li> </ul>
	Financial model	» Develop a mixed financial model that reflects the needed membership contributions from companies (recommended: US\$10,000-US\$15,000 per company) to ensure the basic functioning of the initiative. In addition, seek funding from other organizations to further the work of the initiative on specific

		<p>research or projects implemented by the working groups and where learning can be shared with a broader audience.</p> <ul style="list-style-type: none"> <li>» Determine a level of expected nonfinancial contributions from members that includes time commitment from company individuals as well as in-kind contributions from companies (participation in initiative's leadership, participation in specific working groups, providing venues for meetings, etc.).</li> </ul>
<b>Governance</b>	Legal status	<ul style="list-style-type: none"> <li>» Start the collaborative initiative as an informal group of companies, managed by a hired-in secretariat function.</li> <li>» Within the first two years, review the functioning of the initiative and consider setting up a formal legal entity that can be either incorporated as a private business or as a not-for-profit organization.</li> </ul>
	Leadership	<ul style="list-style-type: none"> <li>» The leadership group (i.e., Steering Committee) is made up of senior company representatives that are elected by the members of the initiative.</li> <li>» The leadership group meets on a quarterly basis to discuss strategy, budgets, working groups, and membership expectations.</li> <li>» In two years, the leadership group structure is reviewed and adapted to the new context before it is further formalized (i.e., Board).</li> </ul>
	Working groups	<ul style="list-style-type: none"> <li>» Working groups are set up to manage the different work streams of the initiative, including the key areas of focus (recruitment practices, supply chain management, working and living conditions).</li> <li>» Working groups' objectives are set by the leadership group.</li> <li>» Working groups are composed of companies' representatives, and their work is supported by someone from the initiative's secretariat.</li> <li>» In the future, the leadership group should consider developing additional working groups to respond to the initiative's strategic direction (additional areas of focus or other issues important for the progress of the initiative such as impact measurement or membership requirements).</li> </ul>
	Membership	<ul style="list-style-type: none"> <li>» Membership is open to engineering and construction companies.</li> <li>» All company members meet at least annually to agree on the initiative's budget and strategy, and elect the leadership group of the initiative.</li> <li>» In the future, the initiative should consider opening membership to associate members including clients and suppliers of engineering and construction firms.</li> <li>» In the future, the initiative should also consider the opportunity to open its membership to civil society organizations.</li> </ul>
<b>Accountability</b>	Membership requirements	<ul style="list-style-type: none"> <li>» Membership to the initiative is open to companies that have publically endorsed the vision and mission of the initiative (senior executive level), and that are committed to sharing good practices and implementing guidance and tools that are developed by the initiative as well as supporting the improvements within their supply chain.</li> <li>» In the future, membership requirements are strengthened and include reporting expectations as well as a good level of transparency.</li> </ul>
	Stakeholder engagement	<ul style="list-style-type: none"> <li>» Consider how stakeholders will be engaged as part of the setting up of the collaborative initiative and make sure they are involved early to provide meaningful input, as well as alternative perspectives on the challenges and possible solutions.</li> <li>» Include a form of stakeholder participation within each working group set up by the initiative</li> </ul>

		<ul style="list-style-type: none"> <li>» At first, if non-business stakeholders are kept out of the governance structure of the initiative, ensure that the initiative informs and engages them meaningfully about its work and seeks their input and feedback on a regular basis.</li> <li>» Commit to review the governance structure of the initiative within two years to consider the development of a formal stakeholder advisory panel.</li> </ul>
	Measuring impacts	<ul style="list-style-type: none"> <li>» Ensure that the measurement of impacts is built into the work of the initiative from its inception.</li> <li>» Raise participants' awareness of the importance of measuring impacts.</li> </ul>
	Reporting to public	<ul style="list-style-type: none"> <li>» Consider which aspects of the work of the initiative and its participants could be used for public reporting.</li> </ul>
Benefits for companies	-	<ul style="list-style-type: none"> <li>» Consider developing a business case short report that details the expected benefits of joining the initiative.</li> </ul>

## Annex 2: Civil Society's Expectations on Engineering and Construction Companies

	EAP	Amnesty	HRW	ILO	UN Rapporteur	TUAC	ITUC	BWI	DLA Piper	Nardello
Publicly commit to respect workers' rights		●	●	●						
Publicly report on measures implemented		●	●							
Train relevant staff on workers' rights				●						
Train migrant workers on their rights							●			
<b>MIGRATION &amp; RECRUITMENT</b>										
Blacklist non-ethical recruitment companies	●							●	●	
Inform migrant workers on conditions/translate their contracts			●			●	●	●	●	
Reimburse recruitment fees			●			●		●		
Keep passport available/provide safe storage facilities			●		●	●			●	●
Use the International Recruitment Integrity System (IRIS)				●						
Provide and renew ID cards in due time					●					
Systematically grant NOC/Exit visa	●				●	●	●	●		
<b>WORKING CONDITIONS</b>										
Promote electronic payment of wages	●									
Ensure wage levels consistent across nationalities						●	●	●		
Bargain in good faith with workers' representatives						●	●	●		
Set up mandatory OHS committees with workers' representatives								●		
<b>LIVING CONDITIONS</b>										
Provide adequate housing facilities			●		●					
Appoint workers' welfare officers									●	
Comply with national and international standards						●				
Provide health insurance coverage at no cost for all workers								●		
Provide health education and raise awareness on HIV								●		
<b>SUBCONTRACTORS' PRACTICES</b>										
Conduct accommodation and administrative audits	●						●			
Assess contractors' compliance during bidding processes									●	
Add clauses on migrant rights in contracts	●							●		
Apply penalties/termination in case of noncompliance			●					●		●
Set up independent monitoring of workers' conditions			●							
Set up due diligence mechanisms to identify high risks of abuses		●			●					
Conduct regular workers' interviews to identify abuses							●	●	●	●
Implement reserve funds/escrow monitored by a third party		●								●
Establish labor guidelines for all employees										●
Require transparency on practices during the selection process					●					●
<b>ACCESS TO REMEDY</b>										
Implement grievance mechanism available for all workers	●	●					●	●	●	●
Implement fast-track procedure for major complaints									●	
Promote effective labor dispute and court system								●		

Key media headlines and reports calling on companies to improve migrant workers' rights in Gulf countries	
2016	<ul style="list-style-type: none"> <li> <a href="#">Verité, An Exploratory Study on the Role of Corruption in International Labor Migration</a>            In this report, Verité examines three illustrative transnational migrant worker recruitment corridors—including Nepal to Qatar—to identify the points in the recruitment process where bribes or illicit payments are solicited and paid; the entities implicated; the range and nature of such payments; and the corresponding benefit that accrues to the employers of migrant workers. Verité highlights the resultant fee burden borne by migrants in each of the recruitment corridors. The report urges companies to consider corruption embedded in recruitment processes as a serious risk and to tackle this challenge across their labor supply chain.         </li> <li> <a href="#">Amnesty International, The Ugly Side of the Beautiful Game: Exploitation of Migrant Workers on a Qatar 2022 World Cup Site</a>            This reports details human rights violations and exploitative practices related to the Khalifa International Stadium and the surrounding Aspire Zone, one of the main venues for the 2022 World Cup. Amnesty specifically mentions that companies must address deception in the recruitment process by engaging directly with the recruitment agents they use.         </li> </ul>
2015	<ul style="list-style-type: none"> <li> <a href="#">ITUC, Frontlines Report 2015, Qatar: Profit and Loss—Counting the Cost of Modern Day Slavery in Qatar: What Price Is Freedom?</a>            This report released on International Migrants Day criticizes Qatar for failing to deliver changes to labor rights or compliance, and warns construction companies, hotels, retail chains, and U.K. and U.S. universities about the cost of doing business in a slave state. The report demands that companies afford workers in Qatar treatment which is equal to what they would provide in their home nations and insists on the following: Kafala systems and exit visa, workers' representation and collective bargaining rights, direct employment or use of large reputable recruitment companies, and national minimum wage.         </li> <li> <a href="#">Nardello &amp; Co., Report of the Independent Investigator into Allegations of Labor and Compliance Issues During the Construction of the NYU Abu Dhabi Campus on Saadiyat Island, UAE</a>            In this report, the investigation firm shares what they learned about how workers involved in the construction of the NYU Abu Dhabi complex have been treated and their evaluation of the monitoring system that had been implemented to protect migrant workers on this project. It also provides very practical recommendations for companies to better control potential negative impacts across the whole value chain: ensure that all workers benefit from the labor guidelines when those are set up; establish an escrow account under the control of the compliance monitor; simplify the compliance monitoring regime; establish and enforce strict penalties for compliance violations and make the penalties public; publicly acknowledge enforcement policies; and hire an independent compliance monitor.         </li> <li> <a href="#">Human Rights Watch, Guidelines for a Better Construction Industry in the GCC: A Code of Conduct for Construction Companies</a>            In this report, HRW shares specific practices that companies should implement to improve migrant workers' conditions, focusing on the following four topics: employment and contracting; health, safety and living conditions; monitoring, enforcement, and reporting; and solving labor disputes.         </li> </ul>
2014	<ul style="list-style-type: none"> <li> <a href="#">BWI, Decent Work for Migrant Workers in Qatar—The Role of Construction Companies in Qatar</a>            This report highlights 11 key areas that construction companies need to address to ensure decent work for migrant workers in Qatar: Kafala and exit visa-system; respect, dignity, and equality for migrant workers; occupational health and safety measures in line with International Convention standards; workers' rights to organize and collective bargaining; joint liability of principal and subcontractors and employment relationship; regulate recruitment agencies to prevent exploitation; conduct effective, independent, and legally binding labor inspections; ensure effective labor dispute and court system; employment contracts; living wage; and safe and decent accommodations.         </li> <li> <a href="#">ITUC, The Case Against Qatar</a>            The report demands that companies afford workers in Qatar treatment which is equal to what they would provide in their home nations and insists on the following: Kafala systems and exit visa, workers' representation and collective bargaining rights, direct employment or use of large reputable         </li> </ul>

recruitment companies, and national minimum wage. In the appendices section, the report includes sample contracts provisions for Qatar 2022 contractors, written in 2012 by Human Rights Watch and the ITUC covering the above aspects.

- [Engineers Against Poverty, Improving Employment Standards in Construction in Qatar](#)  
This report presents the findings of EAP's discussions with construction industry stakeholders in Qatar in 2013. It recommends steps that the industry itself could take to address the main problems workers are facing including with respect to their accommodation, recruitment, and payment of wages. According to EAP: All public-sector clients should set up workers' welfare department to undertake regular welfare audits of contractors and subcontractors and aim to work only with contractors who comply with the Qatar Foundation Standards; all public sector clients should investigate measures to improve the flow of funds down the subcontracting chain and consider contract clauses requiring principal contractors to pay the workers employed by subcontractors if they have not been paid; principal contractors should be required to set up a "hotline" for workers to alert all stakeholders of delayed payment of wages by subcontractors; payment of workers' wages through electronic bank transfer should be mandatory because this would provide workers with the evidence needed to prove that they have not been paid and allow them to seek redress.
  - [DLA Piper, Migrant Labor in the Construction Sector in the State of Qatar](#)  
This report was commissioned by the government of Qatar to examine the state of affairs of Qatar's growing blue-collar workforce, following intense media coverage of various abuses. It covers comprehensively all aspects of workers' conditions, with recommendations for the State of Qatar and the private sector on: recruitment; Kafala sponsorship system; contract misrepresentation and substitution; wages; health and safety; accommodation; inspections; freedom of association and collective bargaining; access to justice.
  - [OHCHR, Report of the Special Rapporteur on the Human Rights of Migrants](#)  
The report notes that the private sector can play an important role in ending the abuse and exploitation of migrants in Qatar. This includes ending practices such as contract substitution, the confiscation of passports, not providing identity cards, not paying employees on time, and inadequate working and living conditions. On this basis, the UN Special Rapporteur recommends that the private sector implement the Guiding Principles on Business and Human Rights; ensure that international human rights and labor standards are respected for all persons working on their projects and throughout the company's value chain; integrate binding commitments to respect the rights of migrants in contracts with suppliers, contractors, and business partners and put in place robust systems for the oversight of suppliers and subcontractors at all levels; ensure that the migrants they hire do not pay recruitment fees in their home countries; ensure that contracts signed by workers in their home countries are respected and that the work they perform is in accordance with those contracts; provide adequate accommodation for their workers.
  - [TUAC, Qatar: Implementing the OECD Guidelines for Multinational Enterprises](#)  
This report submitted by the Trade Union Advisory Committee to the OECD (TUAC) calls for government action to address the violations of the OECD Guidelines in Qatar. The report notes that multinational enterprises should develop plans to ensure that workers are in possession of their passports at all times; workers are provided with the terms and conditions of employment offered at the moment they accepted employment in Qatar; workers are paid the same wage rate per job; recruitment fees paid by the worker are reimbursed; workers receive expeditiously a "No Objection Certificate" (NOC) letter and/or exit visa if they want to change employer or leave the country; workers have a right to form a representative workers' organization; worker accommodation is compliant with national and international standards.
- 2013
- [Amnesty International, Qatar: The Dark Side of Migration Spotlight on Qatar's Construction Sector Ahead of the World Cup](#)  
This report presents the conclusions of workers' interviews conducted by Amnesty International researchers in Qatar and solutions proposed by Amnesty International to improve workers conditions. It urges companies employing migrant workers in Qatar to make public commitments to respect human rights, review their practices to ensure that they do not commit (directly or indirectly) human rights abuses, comply with Qatari and international regulations, respect workers' freedom of movement, allow workers to move to other employers, and ensure sufficient reserve funds to be able to pay wages in time. For large companies, the report also recommends that they conduct proper human rights due diligence across their supply chains and with their contractors and implement

	<p>effective grievance mechanisms and effective remedy for their contractor workers, and that they publicly disclose actions taken to prevent negative human rights impacts.</p>
2012	<ul style="list-style-type: none"><li>• <a href="#">Human Rights Watch, Building a Better World Cup</a> This report documents exploitation and abuse of workers in Qatar's construction industry and government's failure to enforce laws that could protect worker rights. It examines why violations of workers' rights go largely undetected and looks at the barriers that workers face in reporting complaints or seeking redress. Human Rights Watch strongly encourages all companies in that industry to publicly pledge to respect the rights of all workers associated with their projects and to undertake concrete measures to prevent, mitigate, and address abuses of worker rights. Specifically, the report calls on companies to take all possible steps to ensure no workers have paid fees associated with their recruitment and to commit to reimbursing workers who have paid any such fees in contravention of local law, including if the fees were paid to labor agencies or other intermediaries; to strictly prohibit the retention of workers' passports or other identity documents, including by subcontractors or intermediaries, and ensure that safe storage facilities where they can access such documents are made available; and to ensure that all workers receive and sign enforceable employment contracts in a language that they understand prior to their migration.</li></ul>
2009	<ul style="list-style-type: none"><li>• <a href="#">Human Rights Watch, UAE: Exploited Workers Building 'Island of Happiness'</a> This report examines abuses that migrant workers are facing in the UAE and warns the Guggenheim, New York University, and the French Museum Agency (responsible for the Louvre Abu Dhabi projects) about risks of forced labor in the country where they have initiated important construction projects. The report also makes recommendations to construction companies and other companies employing migrant workers including: make public any guarantees and protections given or sought and obtained from subcontractors to protect the rights of workers in the UAE; penalize and terminate relationships with any labor agencies or subagencies that charge workers fees and/or mislead workers regarding conditions of employment upon arrival in the UAE; ensure that workers have access to governmental grievance mechanisms and that workers are clearly instructed about their right to file complaints without fear of reprisal; ensure that workers are informed of their rights under UAE law, including rights to overtime rates, minimum numbers of days off and holidays, and extra compensation; consider joining the UN Global Compact and implementing measures to ensure work conforms to the human rights and labor law based "principles" contained therein.</li></ul>

## Annex 3: List of Key Desktop Resources Analyzed

2016	<ul style="list-style-type: none"> <li>» Verité, An Exploratory Study on the Role of Corruption in International Labor Migration</li> <li>» Amnesty International, The Ugly Side of the Beautiful Game: Exploitation of Migrant Workers on a Qatar 2022 World Cup Site</li> </ul>
2015	<ul style="list-style-type: none"> <li>» Amnesty International, Qatar: Promising Little, Delivering Less—Qatar and Migrant Labour Abuse Ahead of the 2022 Football World Cup</li> <li>» ILO, Good Practices and Challenges in Promoting Decent Work in Construction</li> <li>» ITUC, Frontlines Report 2015, Qatar: Profit and Loss—Counting the Cost of Modern Day Slavery in Qatar: What Price Is Freedom?</li> <li>» Nardello &amp; Co., Report of the Independent Investigator into Allegations of Labor and Compliance Issues During the Construction of the NYU Abu Dhabi Campus on Saadiyat Island, UAE</li> <li>» CIOB, Modern Slavery: The Dark Side of Migration</li> <li>» Human Rights Watch, Guidelines for a Better Construction Industry in the GCC: A Code of Conduct for Construction Companies</li> </ul>
2014	<ul style="list-style-type: none"> <li>» Amnesty International, Exploited Dreams: Dispatches from Indian Migrant Workers in Saudi Arabia</li> <li>» BWI, Decent Work For Migrant Workers in Qatar—The Role of Construction Companies in Qatar</li> <li>» ITUC, The Case Against Qatar</li> <li>» Engineers Against Poverty, Improving Employment Standards in Construction in Qatar</li> <li>» DLA Piper, Migrant Labour in the Construction Sector in the State of Qatar</li> <li>» ILO, Realizing a Fair Migration Agenda: Labour Flows Between Asia and the Arab States Experts Meeting (background paper for discussion)</li> <li>» OHCR, Report of the Special Rapporteur on the Human Rights Migrants</li> <li>» TUAC, Qatar: Implementing the OECD Guidelines for Multinational Enterprises</li> <li>» PwC, Tourism Development and Investment Company (TDIC) Employment Practices Policy (EPP) Compliance Monitoring Report</li> </ul>
2013	<ul style="list-style-type: none"> <li>» Amnesty International, Qatar: The Dark Side of Migration: Spotlight on Qatar's Construction Sector Ahead of the World Cup</li> <li>» The Guardian, Revealed: Qatar's World Cup 'Slaves'</li> <li>» ILO, Tricked and Trapped: Human Trafficking in the Middle East</li> </ul>



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