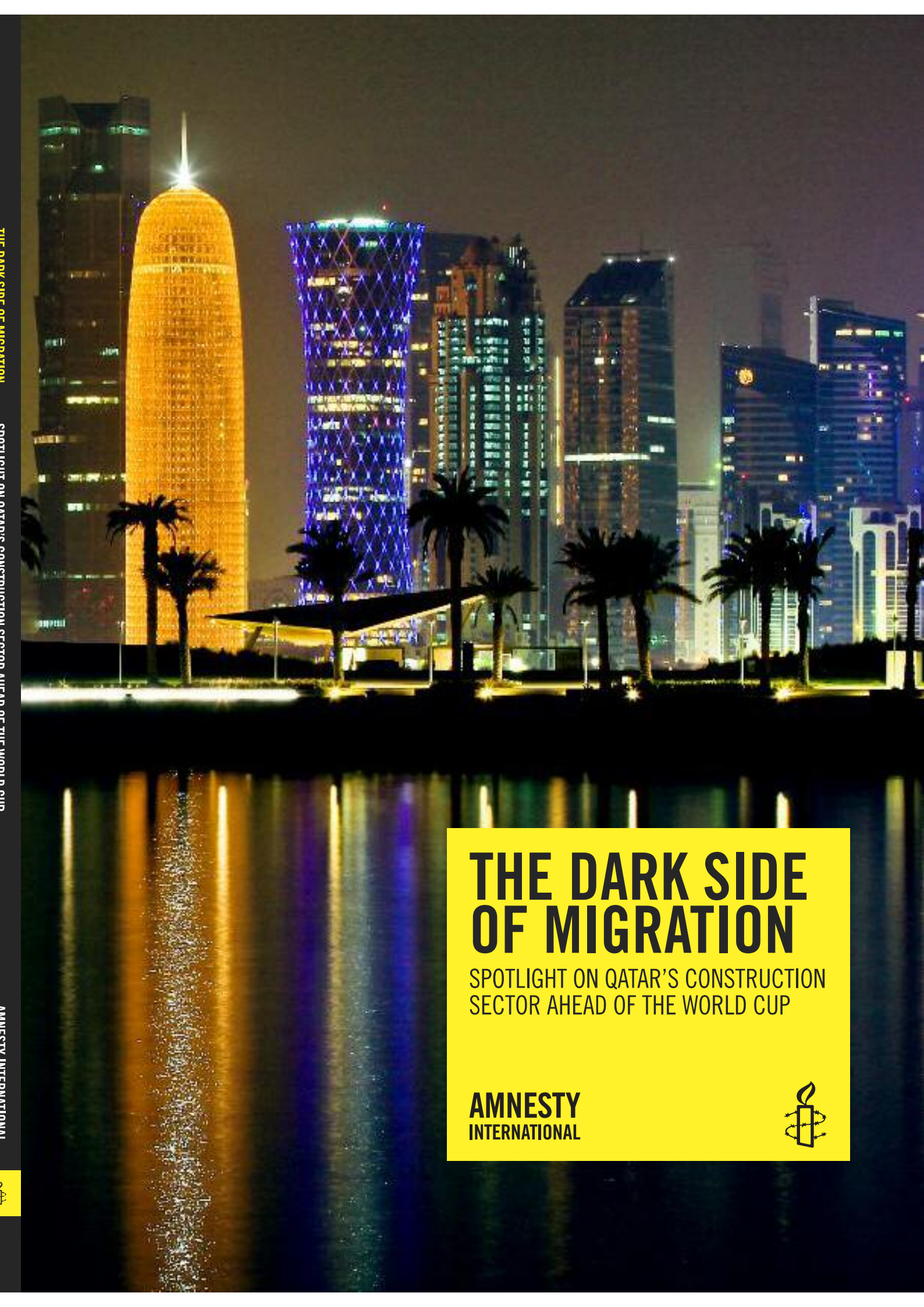


THE DARK SIDE OF MIGRATION
SPOTLIGHT ON QATAR'S CONSTRUCTION SECTOR AHEAD OF THE WORLD CUP

AMNESTY INTERNATIONAL

3



THE DARK SIDE OF MIGRATION

SPOTLIGHT ON QATAR'S CONSTRUCTION
SECTOR AHEAD OF THE WORLD CUP

AMNESTY
INTERNATIONAL



THE SYSTEM FOR MIGRANT WORKERS IN QATAR: 10 KEY FACTS

- 1.** Every migrant worker in Qatar must have a "sponsor", who must also be his or her employer. For most construction workers, their sponsor is the registered company employing them, though they are likely to work on a range of projects. Domestic workers are usually sponsored by an individual, such as a member of the family in whose house they are working.
- 2.** Migrant workers cannot change jobs without the permission of their sponsor. This permission is sometimes called an "NOC" (no objection certificate). If workers leave their sponsor without permission, they are considered to have "absconded" – a criminal offence – and their sponsors are required to report them to the Search and Follow-up Department (sometimes called "CID" by migrant workers) of the Ministry of Interior, which polices the Sponsorship Law. Workers who "abscond" are likely to face detention and deportation.
- 3.** Migrant workers also cannot leave the country without their sponsor's permission. They must obtain an "exit permit" from the authorities, approved by their employer, before they can clear immigration at the airport every time they leave the country.
- 4.** Sponsors are required by law to return their employees' passports to them after completing residence procedures. In reality, most low-income migrant workers do not have their passports returned to them.
- 5.** Migrant workers should be issued residence permits (which are issued in the form of ID cards) to demonstrate their right to work and live in Qatar, and to allow them access to a range of basic services. It is up to sponsors to arrange with the authorities for these critical documents to be issued. Workers without residence permits or whose permits have expired may be suspected of having "absconded" and detained as a result. Workers are fined for not having valid permits; these fines must be paid for them to leave Qatar.
- 6.** The Labour Law, and a set of related decrees, sets out workers' rights in Qatari law, including limits on working hours, mandated annual leave, living conditions, health and safety and the requirement for salaries to be paid on time. The Ministry of Labour is responsible for overseeing the Labour Law's implementation.
- 7.** If workers have complaints against their employer and consider that their rights under the Labour Law have been breached, they can complain to the Labour Relations Department of the Ministry of Labour (sometimes called the "Labour Court" by migrant workers). If the Ministry cannot negotiate a resolution of the complaint, the case is referred to the Labour Court, where workers can file civil cases against their employer.
- 8.** Under the Labour Law, migrant workers are prohibited from joining or forming trade unions.
- 9.** While the Labour Law applies to construction workers, domestic workers and some other groups of workers are excluded from the terms of the Labour Law, meaning that under Qatari law there are no limits on their working hours, and they cannot complain to the Ministry of Labour if their rights are being breached.
- 10.** Sponsors are expected to provide their employees with housing in Qatar. For construction workers, this is normally in dormitory-style "labour camps" with communal bathrooms and kitchens. Since 2011 it has been illegal for labour camps to be located in "family areas", referring essentially to districts where Qatari families live. Domestic workers are usually housed in the same home or compound as their employer.

6: RECOMMENDATIONS

"In order to realize Qatar's future ambitions, it will be necessary to make up for the shortages of local labor with expatriate workers. Attracting and retaining the right mix of skills will require appropriate incentives, as well as institutional arrangements for ensuring the rights and safety of expatriate labor."

Qatar National Vision 2030⁴⁵³

Qatar's government has, at the highest level, publicly recognised that the country will remain dependent on migrant labour, if it is to deliver its ambitious plans for development. The private sector workforce is overwhelmingly expatriate and this will be the case for the next decade and beyond.

In this context, Qatar will need to develop a comprehensive approach to the protection of migrant workers' rights. This includes both reforms to the legal system, and aligning the state's resources to provide the services that its rapidly growing workforce will require.

While the Ministry of Labour must lead on transforming the government's abilities to protect and provide justice to workers, it cannot work in isolation. The state agencies that lead on infrastructure development, regulation of business, law enforcement, immigration and health should be integral to a whole-of-government programme to deliver Qatar's international obligations and meet the commitments to ensure workers' rights espoused in Vision 2030.

With Qatar and its construction sector in the international spotlight for the next decade as the 2022 World Cup approaches, the state's failure to protect workers' rights threatens to severely affect the country's international reputation. Only fundamental change - including bold reforms backed with political will from the very top of the government - will address the issues documented in this report. It is in this context that Amnesty International makes the following recommendations:

To the Qatari authorities:

1. Fundamentally reform the sponsorship system.

- Remove the requirement in the Sponsorship Law for foreign nationals to obtain the permission of their current employer before moving jobs; and
- Remove the requirement in the Sponsorship Law for foreign nationals to obtain the permission of their current employer in order to leave the country.

2. Pending the fundamental reform of the sponsorship system, take the following steps to mitigate the abuses taking place within the current sponsorship system.

- Take steps to increase awareness amongst migrant workers of the Ministry of Interior mechanism allowing workers to move sponsors in the event of abuse, and publish criteria for "abuse" which are line with international standards;

- Significantly simplify and speed up Ministry of Interior arrangements for workers whose sponsors are not assisting them to leave the country, so that workers in such situations can leave without delay;
- Make arrangements to ensure that workers whose employers have failed – for whatever reason – to arrange for them to be issued with residence permits are able to get one another way, and are not detained as a result of not having one;
- Stop the practice of preventing workers from leaving the country when fees are due to be paid because they do not have valid residence permits because of failures on the part of their employers;
- Ensure that any worker who is detained and/or issued with a deportation order for “absconding” from his or her current sponsor has his or her case thoroughly and independently reviewed to investigate the possibility of abuse or labour exploitation by his or her employer, and apply the provision under the Human Trafficking Law which allow for victims of human trafficking to be exempted from the provisions of the Sponsorship Law;
- Ensure that all workers are provided with legal assistance and language translation services to challenge deportation orders before judges;
- Improve co-ordination between the Ministry of Interior and Ministry of Labour with regard to workers suffering from exploitation;
- Proactively enforce Article 9 of the Sponsorship Law requiring employers to return passports to workers once residence procedures are completed; and
- Ensure that Ministry of Interior offices refuse to accept workers’ passports as a way of sponsors filing “absconding” charges against workers, and instead investigate and hold accountable any sponsor who is withholding his or her employees’ passports.

3. Allow workers to obtain health cards without requiring them to produce residence permits.

- Additionally, ensure that proposals for the social health insurance system tackle the fact that some employers may not purchase insurance for workers, or may pass the costs to workers through salary deductions.

4. Significantly reform the Labour Law.

- Repeal or amend Article 3 to ensure that all workers – including but not only domestic workers – have their labour rights protected by law, equally; and
- Repeal Article 116.4, which prohibits migrant workers from forming or joining trade unions;
- Amend Article 116.1 so that workers in enterprises with less than 100 workers of any nationality employed are able to form or join a union;
- Amend Article 116.3 to allow for the possibility of more than one confederation, and 116.1 to allow the possibility of more than one union at the enterprise level;

- Adopt clear and precise provisions protecting workers from all forms of anti-union discrimination as well as efficient procedures to ensure their implementation;
- Amend Article 120 to ensure that workers are able to exercise the right to strike consistent with the observations of the ILO supervisory mechanisms; and
- Adopt provisions that extend to all workers the right to bargain collectively, consistent with the observations of the ILO supervisory mechanisms.

5. Significantly improve the enforcement of labour protections contained in the Labour Law and related decrees.

- Increase the monitoring of the arrival of workers in Qatar, so that when workers arrive their contract is checked by government officials in the presence of their employer and the worker, to confirm that the terms and conditions are what the worker has been promised prior to leaving his or her home country;
- Significantly increase the number of competent Labour inspectors as a matter of urgency, ensuring that either a significant proportion of Labour inspectors are able to speak the languages used by workers or are accompanied by competent translators;
- Change the nature of inspections to ensure that they are thorough and involve detailed investigation into conditions across a company's operations;
- Compile and publish detailed data on workplace injuries and fatalities;
- Carry out a multi-agency review of the adequacy of health provision for migrant workers, including a thorough and independent investigation into the leading causes of death among migrant construction workers, identifying key measures to address this;
- Consider making public the grades awarded to employers for compliance with labour standards, and the criteria upon which they are judged, providing independent oversight for this system;
- Ensure criminal investigation, and where sufficient admissible evidence exists, prosecution of employers suspected of exploitation, and prevent companies - and the individuals involved at a senior level in the management of these companies - from recruiting workers in future; and
- Review the penalties applicable under law for serious exploitation of workers, including the crime of Forced Labour as specified in the Penal Code, and violations of the Labour Law, to ensure that they are adequate and in line with Qatar's international obligations.

6. Explore, with the business community, financial mechanisms which would ensure that payment of workers' salaries is not adversely affected by delays in payment in the chain of contracting.

7. Consider establishing a cross-government, integrated unit to deal with companies in crisis and assist workers to rapidly collect unpaid wages and – if they wish – leave the country or change employers.

8. Improve the systems to deliver justice to migrant workers bringing complaints against their employers.

- Improve access to the Labour complaints system by
 - Providing all relevant information on the Ministry of Labour's web-site in English and a range of relevant languages for the migrant workforce, as well as Arabic;
 - Opening the Labour Relations Department offices outside core working hours at specified times of the week in order to allow workers easier access to the office;
 - Ensuring translation between workers and Labour Relations Department officials is available; and
 - Providing translation of Labour Relations Department documents into English and the main languages spoken by migrant workers.
- Publish detailed proposals for the establishment of a "tribunal resolving labour disputes", to which the authorities committed in the National Strategy 2011-16;
- Significantly reduce the time taken to deal with Labour Court cases;
- Cancel the imposition of fees on workers for any part of the Labour Court process, including the commissioning of expert reports;
- Provide relief funds – as standard – to workers pursuing legal cases at the Labour Court if they are not receiving their salaries during this time; and
- Establish a system of state-funded legal aid to allow workers to hire lawyers to pursue Labour Court cases and to enable victims to gain equality of arms and effective redress.

9. Review Law no. 10 of 2010 and Minister of Municipal Affairs and Urban Planning Decree 83 of 2011 to ensure that they are not in violation of Qatar's obligations under the International Convention on the Elimination of Racial Discrimination.

10. Ratify the following essential international instruments, incorporate their provisions into domestic law, and implement them in law, policy and practice. In particular:

- The International Covenant on Civil and Political Rights;
- The International Covenant on Economic, Social and Cultural Rights;

- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and
- All the ILO Core conventions and other relevant ILO conventions,⁴⁵⁴ including ILO Convention 189 on Domestic Workers.

To the governments of migrant workers' countries of origin:

- Strengthen and enforce regulation of recruitment companies and agencies and laws to protect workers from predatory recruiters, ensuring that recruitment agencies who breach regulations face appropriate penalties;
- Establish better pre-travel training and orientation for migrant workers recruited to work in Qatar and other Gulf Cooperation Council countries;
- Increase the scope of support provided by diplomatic missions in Qatar to migrant workers facing exploitation or abuse;
- Ensure that all migrant workers, regardless of whether they migrated via “official” routes, have access to a transparent and effective complaints mechanism through which they or their families can seek redress if they were trafficked and forced to work under exploitative terms or conditions, or if they are deprived of the benefits to which they are entitled as a result of accidents, illness or death while abroad; and
- Monitor the enforcement of existing bilateral agreements with Qatar relating to migrant workers and work in partnership with the Qatari authorities to ensure that workers are protected.

To companies employing migrant workers in Qatar:

- Publicly commit to respecting human rights and put in place adequate systems to enable the company to become aware of and prevent human rights abuses as a consequence of its operations;
- Review operational practices and policies to ensure the company does not commit, or materially assist in the commission of, acts that lead to human rights abuses;
- Comply fully with Qatari and international labour standards, including with regard to respecting the terms and conditions guaranteed to workers in their contracts, maximum working hours, the payment of workers on time, provision of decent accommodation, protection of workers' health and safety and forced labour;
- Respect workers' rights to freedom of movement, by complying with the legal requirement to allow workers' to hold their own passports, and not preventing them from leaving the country;
- Allow workers to move to other employers in Qatar on request;
- Put in place financial safeguards to ensure that sufficient reserve funds are always held by the company that, in the event the company suffers financial difficulties, the company is

still able to pay its employees the wages they are owed, appropriate end-of-service benefits and their ticket to travel to their home country.

To large companies or organizations commissioning or managing construction projects, including the Qatar 2022 Supreme Committee:

- Take into account the fact that they may be involved with adverse human rights impacts as a result of their relationships with other parties through the chain of contracting, and assess the most common and most serious risks of abuses which could be suffered by migrant workers employed by companies in the chain;
- Ensure that efforts to address human rights abuse go beyond simply including labour rights in contracts with subcontractors, and put in place adequate human rights due diligence systems to enable them to become aware of and prevent human rights abuses as a consequence of their operations or business activities;
- Establish mechanisms to enable them to become aware of and to appropriately address late payment or non-payment of salaries of subcontractors' employees;
- Ensure that those whose human rights have been violated as a result of corporate activity have an effective remedy; and
- Publicly disclose actions that are taken to prevent negative human rights impacts.

To home governments of companies operating in Qatar:

- Engage with the companies named in this report that are headquartered in their country and call on these companies to take action to prevent and address human rights abuses;
- Provide guidance to companies that are headquartered in their country and operating in Qatar on how to ensure their operations are in line with the responsibility to respect human rights as outlined in the UN Guiding Principles on Business and Human Rights; and
- Ensure that any State support to companies, including through export credits, insurance support or diplomatic support, is made conditional upon the company carrying out adequate human rights due diligence in relation to its operations.

To FIFA:

- Send a strong public message to the Qatari authorities and the construction sector that human rights must be respected in all World Cup related construction projects, including not only stadiums and training facilities being managed by the Qatar 2022 Supreme Committee, but also increased hotel capacity as well as key transport and other infrastructure that will support the staging of the World Cup;
- Work closely with the Qatar 2022 Supreme committee and the Qatari authorities to ensure that the protection of migrant workers is addressed as a matter of urgency, dedicating additional internal resources at FIFA to Qatar 2022 even though the events will not take place for nine years;
- Put in place adequate human rights due diligence systems to enable FIFA to become

aware of and prevent human rights abuses as a consequence of the staging of World Cup events in future.