

9<sup>th</sup> February, 2017

Ms Mary Mitchell O'Connor TD  
Minister for Jobs, Enterprise and Innovation  
Department of Jobs, Enterprise and Innovation  
23 Kildare Street  
Dublin 2

Dear Minister

On behalf of the Irish Congress of Trade Unions, I write to urge the Irish Government, as we are about to take up a titulaire seat on the Governing Body of the International Labour Organisation (ILO), to urge support for the establishment of a Commission of Inquiry on Qatar at the March 2017 Governing Body Session.

More than 1.8 million migrant workers in Qatar continue to be exposed to forced labour, despite promises by the Government to reform the kafala system which bonds migrant workers to their "sponsor" employer and requires the permission of the employer for the worker to leave the country. Even cosmetic changes announced by the Government in December 2016 were withdrawn by a decree from the Emir of Qatar on 4<sup>th</sup> January which re-affirmed the requirement that workers must seek permission from their employer to leave the country.

False assertions to the media by the Government of Qatar that the kafala system has been abolished do not stand up to factual analysis, and it is of the utmost importance that the ILO Governing Body bases its decisions on the facts.

Nor has Qatar made real progress in relation to any of the other issues on which various committees of the ILO supervisory system have urged compliance, including:

- Effective measures to end the confiscation of passports;
- The right of a worker to change employer without permission from the previous employer;
- Ensuring the migrant workers do not bear the cost of often exorbitant recruitment fees, effectively placing many workers in debt bondage;
- Proper access to justice and dissuasive sanctions, thus perpetuating a climate of impunity;
- The establishment of a competent and effective labour inspection system;
- Employment protections for migrant domestic workers, who remain exposed to severe violations of their rights; and,
- Ensuring the right to freedom of association for migrant workers, the absence of which perpetuates the exaction of forced labour.

In March 2016, the ILO Governing Body gave the Government one more year to comply with the observations and conclusions of the various committees of the ILO supervisory system concerning both forced labour and labour inspection. Unless additional pressure is exercised, the Government of Qatar will continue to ignore the criticisms and recommendations of the ILO supervisory mechanisms, as it has done now for several years. Thus, Congress strongly urges the Government to call upon Government members of the Governing Body members to support its establishment.

A detailed summary of the Government's serious and systematic violations of international labour standards can be found in the enclosed factsheet.

Yours sincerely



Patricia King  
General Secretary

Encl: ITUC factsheet on the ILO Commission of Inquiry in Qatar

cc: Pat Breen TD, Minister of State for Employment and Small Business

## **A LOST YEAR AS WORKERS IN QATAR CONTINUE TO SUFFER**

In March 2016, the ILO Governing Body gave the Government of Qatar one year to comply with the observations and conclusions of the various committees of the ILO supervisory system concerning both forced labour and labour inspection. The decision to appoint a Commission of Inquiry was deferred until March 2017 and Qatar was requested to specifically report on the recommendations of the high-level tripartite mission and the implementation of Law No. 21 of 2015 relating to the entry, exit and residence of migrant workers. In our evaluation, supported by the overwhelming evidence, Qatar is no closer to compliance today than it was in March 2016. Thus, we urge members of the governing body to support a Commission of Inquiry, for the sake of around 1.8 million migrant workers in Qatar who otherwise have no voice.

Below is our evaluation on the issues which the ILO has called upon the Government of Qatar to resolve.

### **1. No Progress on Sponsorship, Workers Still Bound to Their Employers**

The Government claims that they have abolished the kafala system, pointing to Law No.21 of 2015. One so-called “reform” is to allow the transfer of a migrant worker to another employer after the end of his/her labour contract; however, workers can still be tied to the employer for duration of the contract. In the case of an indefinite term contract, the worker cannot change jobs for up to **five years**. It is still not possible during the duration of the contract to change jobs without the permission of the employer and the Ministry of Interior. While it is theoretically possible to change employers in the case of exploitation by petitioning the government, in practice this has happened infrequently. According to the Government’s own statistics, there were 2,185 transfers in 2015. This is a paltry number given the 1.8 million migrant workers in Qatar and the far high number of violations which must have occurred. As the Committee of Experts has explained in its 2015 report (published in 2016):

*The Committee notes with regret that, pursuant to Law No. 21 of 2015, employers will continue to play a significant role in regulating the departure of their employees, and that Law No. 21 does not seem to foresee termination by the expatriate worker before the expiry of the initial contract (that is, with a notice period) without the approval of the employer, nor does it set out reasons and conditions for termination generally, other than in a few very specific cases.*

### **2. Little Progress on Exit Permits, Decision Still Remains with Employer and Government**

The Government also “reformed” the exit permit system. Instead of asking the employer for the permit, the worker can request an exit permit from the Government with a 72-hour notice. However, the employer can still object to the granting of an exit permit. If the employer refuses, the worker can appeal to a Ministry of Interior-sanctioned committee. The Government has explained that the only acceptable basis to refuse an exit permit would be if there were criminal charges of civil claims pending against the worker. If that is the case, the law (or implementing regulations) should make that very clear. However, we note with deep concern that for many years, workers have been accused by their employer under civil and criminal law for a variety of supposed offenses which have no basis in fact. Further, workers are also charged over acts which should not be illegal under international norms, including collective action. If the government is going to use court processes as a basis to prevent workers from leaving, it must make sure that its laws meet international norms.

Despite the fact that the CAS concluded in 2016 that the Government should “amend Law No. 21 of 2015 before it comes into force, taking fully into account the observations in the 2016 report of the Committee of Experts and the conclusions of the Conference Committee in 2015,” it has failed to do so.

### **3. No Progress on Recruitment Fees, Workers Highly Indebted Simply to Get a Job**

The Government continues to treat the issue of recruitment fees, which leaves workers deeply in debt and significantly contributes to their risk of forced labour, as “outside its jurisdiction” and thus a problem solely of the country of origin. Qatar has had legislation since 2004 banning recruitment fees; however, this law does not cover recruitment fees paid outside of Qatar – a glaring loophole rendering it essentially useless. The culpability of the Government and Qatari employers in the payment of recruitment fees by migrant workers has been explained in detail in a 2014 report by the Qatar Foundation and again in a 2016 report prepared for the ILO.<sup>1</sup> The ILO report explains,

*“It is important to understand why so much money is taken from migrant workers. First, contractors and subcontractors ‘outsource’ recruitment costs to private recruitment agencies in origin countries as a means to circumvent local labour laws that prohibit workers paying recruitment fees. Second, employing companies save money and increase their competitiveness by not paying for recruitment costs. Third, private recruitment agencies compete internally and internationally to obtain labour supply contracts by providing kickback payments to employing company personnel and placement agencies in the destination countries. The costs of this collusion between the private recruitment agencies, employing companies and placement agencies are passed onto low-skilled workers. The remittances that migrant workers send home are thus partly offset by hundreds of millions of dollars from worker payments being sent by private recruitment agents to employers and agents in destination countries as kickback payments for labour supply contracts. A World Bank study in 2011 estimated that **US\$17 to \$34 million** per year was transferred from Nepal to Qatar (5 per cent of recorded remittances from Qatar to Nepal) in kickback payments to employers and placement agencies in Qatar using the informal hawala system of money transfer.”*

Recruitment fees will continue to be extracted so long as Qatari employers try to pass their recruitment costs on to recruiters in the country of origin. The Qatari government can no longer pretend it is not their problem.

### **4. No Progress on Passport Confiscation**

Article 9 of Law 4 require passports to be returned after the process to obtain a residence permit. Law 21 of 2015 also includes provisions prohibiting passport confiscation. However, the existing prohibitions on passport confiscation have yet to be meaningfully enforced. The fact that there were only 168 complaints in 2015 points more to the difficulty for or reluctance of workers to report passport confiscation than there being so few cases in a migrant population of over 1.8 million. A 2016 report from Amnesty International stated that “The vast majority of the workers whom Amnesty International interviewed had their passports confiscated by their employers, in contravention of Qatari law... Some

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<sup>1</sup> ILO, Dr Ray Jureidini, Ways forward in recruitment of low-skilled migrant workers in the Asia-Arab States corridor, 2016 ([http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms\\_519913.pdf](http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_519913.pdf))

of the companies subsequently returned passports to their employees; however, this appears to have only taken place after Amnesty International wrote to the companies.” The government has not made any meaningful progress in addressing the issue of passport confiscation.

## **5. Labour Inspection System Remains Largely Ineffective**

The Government of Qatar has hired additional labour inspectors, including female inspectors, in recent years. The low number of interpreters (four per major language) remains a serious issue, as it would appear extremely difficult to conduct a competent inspection without an interpreter to interact with the migrant workforce. It seems unlikely that inspectors who are not accompanied by an interpreter would be able to collect evidence from workers who are unable to speak Arabic (or English). Further, the information on labour inspection provided by the Government consistently fails to indicate whether the violations complained of have actually been addressed, the workers provided a remedy and the employers appropriately sanctioned. For example, in 2016 the Government’s report to the Governing Body stated that there have been 24,913 inspections in seven months. It reports over 10,300 warnings, but does not indicate what follow-up was given and whether those violations have in fact been remedied. Similar questions can be raised concerning the infringement reports. Indeed, there is no data as to what the violations were. While it is positive that the initial action is being taken, we need to see evidence of the follow-through, and that workers are remediated for violations and employers appropriately sanctioned. Without this, we have little confidence in the statistics provided, particularly in light of the information we receive routinely from workers which would indicate that labour inspection remains largely ineffective.

## **6. Access to Justice Still a Mirage**

There is no indication that the substantial barriers to access to justice have been effectively overcome. The Government highlighted during the High Level Mission the electronic kiosks at which workers can submit electronically labour-related complaints to the authorities through a simplified interface in different languages. However, interviews with workers during the ILO High Level Mission indicated that:

“[The] complaints process was not easily accessible and that courts’ processes were lengthy. Many workers were not aware of the electronic machines for lodging a complaint, and those workers that were aware of these indicated that they did not have the resources to travel such a long distance to file a complaint. Some workers had faced retaliation by their employers after filing complaints, including one who was sent to the deportation centre after the employer filed a criminal complaint against her. The tripartite delegation spoke with several workers who had filed complaints to the labour courts or to the High Court where decisions were pending for several months, often because the employer was not present during the proceedings. These workers are awaiting for a decision for several months for their salaries to be paid to them and for their passports to be returned so that they could return home, relying on their community solidarity as they are left with no income.”

In October, the ITUC had an opportunity to inspect a kiosk and submit a sample complaint. Surprisingly, the kiosk only gave workers the option of submitting four kinds of complaints. They are “unpaid wages”, “annual leave”, “bonuses” and “tickets”. Of course, workers face numerous other labour violations at the workplace than these. The kiosk indicated that the form could be printed out, assuming one would claim one of the four violations, with additional claims that could be written in a box labelled “other”.

However, it did not allow workers to submit other complaints electronically. Thus, if workers suffered any violation other than the four listed, he or she would still have to travel to the Ministry of Labour and hand in the form – nullifying the value of the electronic kiosks. Finally, to date there are only ten kiosks in the entire country. With Qatar's vast resources, there is no reason that there could not be a machine on every major worksite, and with the ability to transmit claims on any violation of the law.

The ILO supervisory system had previously raised concerns about the access to justice. These include assistance with language and translation, the elimination of experts fees and charges related to bringing a claim, ensuring that workers are able to access these systems without fear of reprisals and that these cases are processed expeditiously and that judgements are enforced. *In 2016, the CEACR "strongly encourage[d] the Government to continue taking measures to improve the functioning of the available complaints mechanisms so that migrant workers can have rapid and effective access to these mechanisms with a view to enabling them, in practice, to approach the competent authorities and seek redress in the event of a violation of their rights or abuse, without fear of reprisal."*

## **7. Penalties Remain Far from Dissuasive**

During the ILO High Level Mission, the Government indicated that the penalties for the violation of the Labour Law, including criminal sanctions that could be imposed against employers for non-payment of wages, were strengthened through the adoption of Law No. 1 (2015) and Ministerial Decision No. 4 (2015).

However, Law 1 of 2015 only addresses the non-payment of wages. It provides that "A sentence of not more than a month in prison and a fine of not less than QR2,000 (US\$550) and not more than QR6,000 (US\$1650), or either of these penalties, shall be imposed on any person violating the provisions of Article (66) herein." According to Ministerial Decision #4, Art. 2 of this decision requires employers to transfer the wages of their employees to their Qatari bank account within seven days of their due date through the Wage Protection System instituted by the Ministry of Labour and Social Affairs (Art. 2). Employers who fail to comply with article 2 of this decision will be penalised by either not being granted new work permits for employees or freezing the processing of all applications submitted to the Ministry until they have transferred all pending wages (Art. 4). While the imposition of penalties for the non-payment of wages is the duty of any responsible government, our concerns about the adequacy of penalties went beyond the question of wages.

The information provided by the Government in its report to the Nov. 2016 Governing Body does not actually address the question of the adequacy of penalties. All it does is reflect how many complaints were filed – 6,111 in 2015, and how many were settled, shelved, referred to the judiciary and how many are under examination or follow-up. We have no indication as to what penalties if any were imposed, and whether workers were given a full remedy in the settled cases. Again, given the population of at least 1.8 million migrant workers, the number of complaints registered is unusually low.

With regard to the offense of forced labour, we find no information whatsoever provided by the government. According to the 2016 US Trafficking in Persons Report,

*"The government prosecuted and convicted 11 suspected traffickers, including the staff of two private companies under the 2011 anti-trafficking law as compared to no convictions in the previous reporting period.... The government has begun to prosecute exploitative employers under the 2011 anti-trafficking law, but other existing labor protections remain biased in favor of the employer. The government's primary solution*

for resolving labor violations was to transfer a worker's sponsorship to a new employer, ban the employer violating labor protections from new contracts or importing more laborers, and made minimal efforts to investigate whether the violations constituted forced labor. The government did not report investigations, prosecutions, or convictions of government officials for complicity in human trafficking offenses."

In 2016, the Committee of Experts *"Recall[ed] that the absence of penalties applied to persons imposing forced labour creates a climate of impunity that is likely to perpetuate these practices, the Committee expresses the firm hope that the Government will take all the necessary measures to ensure that, in accordance with Article 25 of the Convention, effective and dissuasive penalties are applied in practice to those who impose forced labour."*

## **8. Migrant Domestic Workers**

We deeply regret the continued delay on the adoption of a law on migrant domestic workers. Draft legislation has been pending for a very long time. This needs to be treated as a matter of urgency, and Qatar must ensure that any law be fully compliant with C 189. We note that the government points to the use of standard contracts. However, this merely privatises a public law function. Further, it is unclear how a domestic worker will be able to enforce those contracts in court, given the well-known obstacles to justice migrant workers face, and the even greater ones faced by migrant domestic workers. Domestic workers need to be covered by legislation. The government has made no progress in addressing this issue.

**Finally**, the Government of Qatar has done nothing to ensure that workers are able to exercise their right to freedom of association. Indeed, the lack of freedom of association facilitates the exaction of forced labour of migrant workers. In addition to the clear directions by the Committee on Freedom of Association, the ITUC provided to the Government of Qatar, at its urging, a draft trade union law in November 2016. The ITUC has yet to receive a single comment on the text.

## **Conclusion**

The time is now to establish a Commission of Inquiry in Qatar. By doing so, the ILO Governing Body would directly improve the working lives of about 1.8 million migrant workers in the country. It would also demonstrate that no country can buy its way out of ILO scrutiny. There is clear and serious evidence that Qatar failed to comply with the recommendations of the ILO supervisory system. Time has come to act now.