HUMAN RIGHTS WATCH

# MIGRANT WORKERS' RIGHTS ON SAADIYAT ISLAND IN THE UNITED ARAB EMIRATES

2015 Progress Report

# Migrant Workers' Rights on Saadiyat Island in the United Arab Emirates

## 2015 Progress Report

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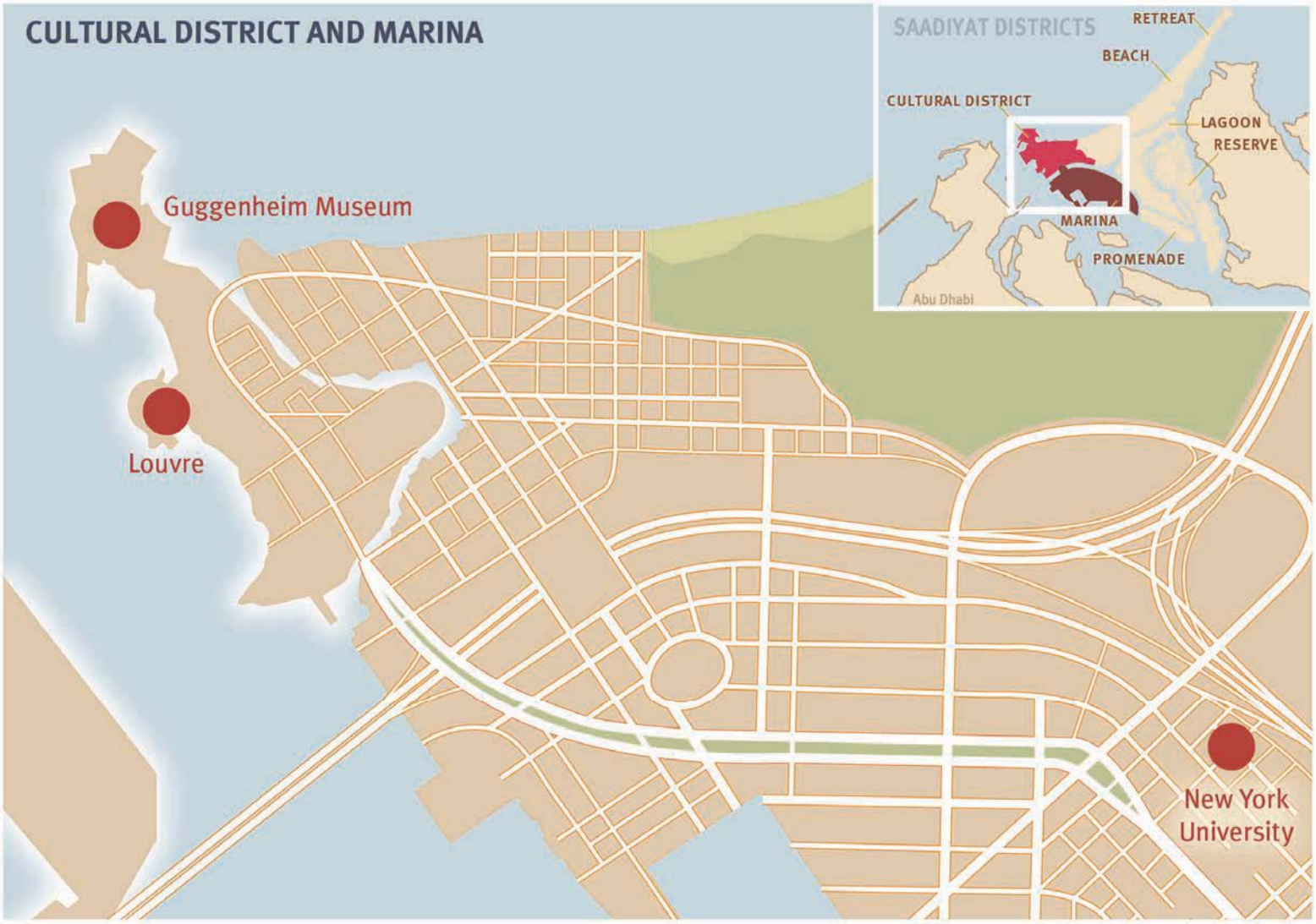
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Guggenheim Museum
Louvre
New York University
SAADIYAT DISTRICTS
RETREAT
BEACH
CULTURAL DISTRICT
LAGOON RESERVE
MARINA
PROMENADE
Abu Dhabi

# SUMMARY AND RECOMMENDATIONS

Site of the Guggenheim Abu Dhabi Museum.
Construction is expected to resume in 2015.

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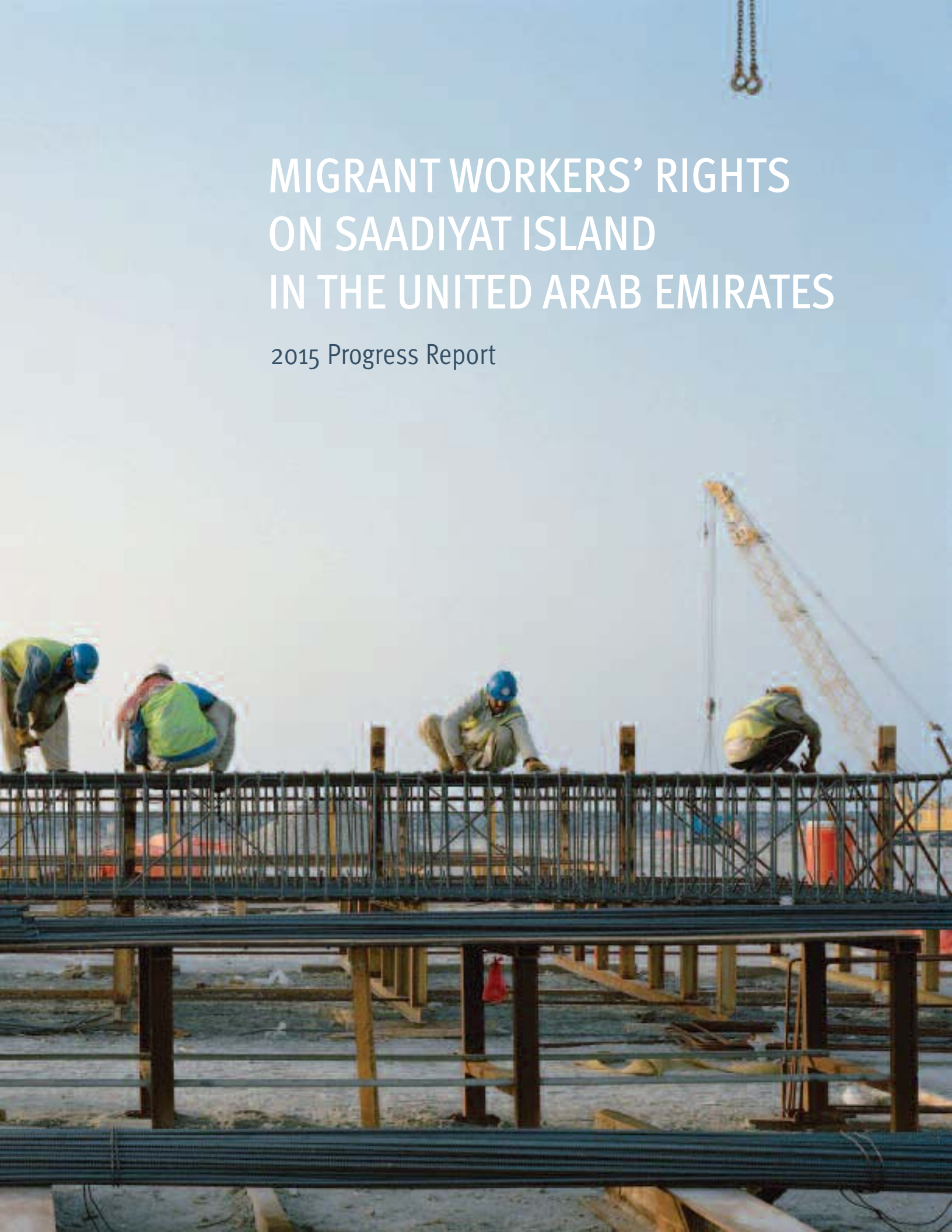
# MIGRANT WORKERS' RIGHTS ON SAADIYAT ISLAND IN THE UNITED ARAB EMIRATES

2015 Progress Report



Migrant workers from Bangladesh share a room in an apartment where they live with other workers in Abu Dhabi, United Arab Emirates, April 2014.

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**Nearly five years after Human Rights Watch first revealed systematic human rights violations of migrant workers on Abu Dhabi's Saadiyat Island, a development project which will host branches of the Louvre and Guggenheim museums and New York University, there remain serious concerns about violations of workers' rights on the island.**

As detailed in this report, some employers continue to withhold wages and benefits from workers, fail to reimburse recruiting fees, confiscate worker passports, and house workers in substandard accommodations. The government has also summarily deported Saadiyat workers who have gone on strike in protest at low pay after their employers contacted the police.

While UAE authorities have recently made significant reforms to Emirati labor law and policy, their failure to rigorously investigate violations and enforce the new laws are contributing to continuing violation of workers' rights.

More than five million low-paid migrant workers are employed in the United Arab Emirates. Although fewer than one in a thousand of these men and women work on Saadiyat Island, the project has become the focal point of scrutiny of the UAE's treatment of migrant workers. The island already hosts a campus of NYU, though facilities are still partly under construction, and, once completed, it will host branches of the Louvre and Guggenheim museums.

After a 2009 Human Rights Watch report found that migrant workers employed in connection with the island's projects faced serious rights violations, including forced labor, the two governmental agencies behind high-profile projects there, the Abu Dhabi Executive Affairs Authority (EAA) and the Tourism Development & Investment Company (TDIC), instituted guidelines and contractual requirements for contractors and subcontractors to curb labor abuses, and appointed third-party compliance monitors.

The EAA drew up what it called "The 14 Points," based on a "Statement of Labor Values," requiring contractors to adhere to more rights-protective standards on recruitment fees, passport confiscation, working hours, wage

Migrant workers from Bangladesh share a room in an apartment where they live with other workers in Abu Dhabi, United Arab Emirates, April 2014.

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payment, and worker accommodations, among others issues. It appointed engineering, management, and development consultant Mott McDonald to monitor contractor compliance. TDIC similarly developed its "Employment Practice Policy" (EPP), which applies to all contractors and subcontractors on projects under the TDIC's purview, requiring them to adhere to standards on many of the same issues covered by "The 14 Points." The TDIC appointed PricewaterhouseCoopers (PwC) as its compliance monitor.

The UAE has also enacted important legislative reforms in recent years. In 2010, the government amended the laws and regulations regulating the *kafala* system, which ties workers' visas to particular employers and severely restricts their right to change employers. According to the new law, workers can change employers when the latter fail to comply with "legal or contractual obligations." A ministerial resolution issued in 2010 regarding recruitment agencies empowers the authorities to force domestically-based recruitment agencies to reimburse workers found to have paid recruiting fees and to revoke or suspend their licenses if they pass fees onto workers. The authorities also passed laws requiring firms to submit bank guarantees to the Ministry of Labour and pay workers via an electronic wage payment system, allowing the Ministry of Labour to refer violators to the responsible "judicial entities." The UAE also appears to have significantly increased the number of labor inspectors it employs. In 2009 the Ministry of Labour only employed 48 inspectors, but according to more recent figures the ministry carried out 77,197 routine inspections in the fourth quarter of 2012, an average of 1187 routine inspections per day.

Migrant workers sell goods at a market outside of a workers' camp in Abu Dhabi, United Arab Emirates, April 2014.

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Despite these positive steps, however, Human Rights Watch research for this report shows that some of the same abuses we documented in our previous reports continue. UAE government authorities prevented us from conducting research openly or from conducting interviews at the Saadiyat Island site, and as a result, we cannot say how widespread the abuses continue to be. Nonetheless, we were able to make contact with seven groups of workers who had recently been deported or worked on the site and lived elsewhere in the UAE—in the Mussafah industrial zone in Abu Dhabi or in Jebel Ali, south of Dubai.

Workers employed on Saadiyat Island in 2013 and 2014 told us of a range of abuses. Some said their employers failed to pay their wages for months at a time, and that they faced arrest and summary deportation when they went on strike. Some said their employers had failed to renew work permits and residence visas and refused to pay the end-of-service benefits to which they were entitled, leaving them penniless and vulnerable to arrest and deportation. All of the workers said that employers continue to retain their passports and fail to reimburse the recruitment fees they had to pay to secure employment on the island. Some Saadiyat workers continue to be housed in cramped and unsanitary housing. Despite the fact that these abuses violate UAE laws and the TDIC and EAA guidelines, workers said they were unable to effectively access grievance mechanisms.

In researching this report, Human Rights Watch met with a total of 113 workers who were or had been employed by seven different contractors or subcontractors, some of them

Workers on Saadiyat Island waiting for a bus after their day shift. Some workers who did not live in the Saadiyat Island Workers' Village, lived in overcrowded and unhygienic housing conditions.

© 2011 Samer Muscati/Human Rights Watch

in person in the UAE and Bangladesh, and others by telephone.

We spoke with 13 former employees of a contractor on the NYU site on Saadiyat Island and two former employees of the main contractor on the Louvre site whom authorities had deported from the UAE in October 2013 and May 2013 respectively. All 15 workers said that their employers acted in concert with the authorities, who arbitrarily detained and deported scores of workers. Two workers on the NYU site described how police officers mistreated them in interrogations where they were asked to name the protest leaders. A worker living on the Saadiyat Construction Village at the time of one of the strikes said that approximately 500 men living there were either deported or had their work visas cancelled after the strike.

Another employee of a contractor on the Louvre site told Human Rights Watch that he fears arrest and deportation because his employer has failed to renew his work and residence permits and that he is owed over US$1900 in unpaid wages and end-of-service benefits, dating back to 2005. UAE law does not require employers to escrow funds designated to pay employees' statutory end-of-service benefits, meaning that they must pay departing employees a sizeable lump sum from the company's working capital. One of his colleagues reported being in a similar situation. Neither of the men has filed a labor complaint, as their employer told them they would "not see a single penny" if they did. Human Rights Watch spoke to a group of 12 men working for the same company on the Louvre site on Saadiyat who have filed a complaint against the company in a Dubai labor court for unpaid wages.

The men filed their complaint in February 2014, but the Dubai labor court adjourned the case in April and again in August. The case remained unresolved at time of writing.

Three workers from Bangladesh, working for a contractor on the New York University site on Saadiyat but living two hours' drive away in Dubai, told Human Rights Watch in January 2014 that they were on a basic salary of $190 per month—half of what recruitment agents in Bangladesh promised them—and that the company did not give them promised annual pay increases. They said they had paid approximately $2570 in recruitment fees and that, while they were unhappy with their pay and working hours and had complained to their employers, they could not go home until they had repaid their debts.

All of the workers we spoke with said they had paid recruitment fees to secure employment in the UAE and none had been reimbursed.

Not all Saadiyat workers are housed in the Saadiyat Construction Village on the island. In researching this report, Human Rights Watch also met with 27 workers, employed as painters on the NYU site on Saadiyat Island. All 27 men were living in a two-room apartment in Abu Dhabi city. Insects were crawling around the kitchen, and there were exposed

Mohammad Wali Ulla (second from left) and his family stand outside their home in the Comilla region of Bangladesh. Since his deportation from the UAE in October 2013, Mohammad earns money selling fish he catches in a small river close to his home.

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electrical wires wrapped around a shower head. Some of the men slept on makeshift beds on the floor underneath bunk beds, and there was a hole punched in the fire escape door, which was locked.

The abuses and difficulties obtaining remedies workers described are more serious than those that compliance monitors Mott McDonald and PwC have reported. While Mott McDonald, hired to monitor the NYU Abu Dhabi (NYUAD) project, has consistently found that employers retain passports, in violation of The 14 Points, it has reported that workers prefer their employers to retain their passports for safekeeping. It has found occasional instances of non-payment of wages, and isolated cases where workers have paid recruitment fees, but in general Mott McDonald reports indicate that compliance with The 14 Points is the norm, and that violations of the code are exceptional, and swiftly rectified.

PwC's most recent report in December 2014 found many positive developments, including that TDIC had "enhanced levels of governance over [Employment Practice Policy] activities" and "strengthened the framework to promote EPP implementation activities." However, it found serious problems with TDIC's enforcement of the policy. The report includes analysis of TDIC's policies and procedures with regard to the EPP based on interviews with TDIC staff and a review of relevant documentation, and findings from interviews with 1,050 workers employed by four of the seven main contractors and six of the 46 subcontractors working at the site during the reporting period.

Former BK Gulf employee Mohammed Abdulrahman, who was deported in October 2013, said that some workers had been on the same salary for five years.

Former Arabtec employee Rassul Hassan did not support the strike and said he supported the company's deportation of Bangladeshi workers: "It's easy for the company to deport 4,000 workers and recruit another 4,000 from Pakistan or India."

Anamul al-Haque said following the 2013 strike in October 2013 police detained him and during his interrogation slapped and pushed him and demanded that he name the strike leaders.

The report indicated that TDIC had not devoted sufficient resources to monitoring adherence to the EPP, which contractors and subcontractors interpreted inconsistently and in some cases to their benefit. It also stated that TDIC did not properly analyze reports on contractor and subcontractor adherence to the EPP, and failed to impose financial sanctions on half of the offending employers it identified. The report does not specify what sanctions TDIC applied, nor does it name the offending employers. Although PwC interviewed 14.4 percent of the average monthly worker population, they did not interview any workers from the 40 smallest subcontractors working on site.

Investigations by international media have also revealed serious, ongoing abuses of workers on Saadiyat Island projects. The Observer newspaper on December 22, 2013 reported that workers under the purview of TDIC continued to endure, among other things, unpaid wages, illegal recruitment fees, substandard housing, and deportation as retribution for striking for better pay and conditions. On May 18, 2014, the *New York Times* reported serious violations of workers' rights on the NYU Abu Dhabi site, specifically that authorities deported hundreds of workers from a company working on the NYU site after they went on strike to protest their low pay. On May 25, the *Independent on Sunday* published similar allegations.

The 2014 US State Department Trafficking in Persons report states that the Ministry of Labour referred 188 wage disputes for legal remedy in 2013, but added that the UAE government did not report having investigated employers who withheld wages or violated the labor law for potential forced labor offenses. The State Department report also notes that the UAE has "rarely prosecuted" potential forced labor cases under the UAE's anti-trafficking law.

As noted above, this report cannot assess overall living and working conditions for workers on the Saadiyat site or determine how widespread the abuses continue to be because government authorities there do not allow us to conduct research openly and our findings of necessity reflect the experiences of the workers with whom we were able to speak.

In early 2014, the UAE authorities denied a senior Human Rights Watch representative permission to enter the country and permanently blacklisted two other staff members as they were leaving the country. They had been in the UAE to hold a press conference, but had also been conducting research and seeking meetings with government officials. One was told he was being blacklisted from the country indefinitely. According to UAE immigration law, the blacklist includes the names of individuals prohibited from entering the country "for being dangerous to public security." The

Mohammed Milannudin had worked for BK Gulf for seven years when he was deported in october 2013, following a strike in protest at low pay. His father sold a part of his land to pay the recruitment fee of US$2,500

Mohammed Mizanurahman was one of a larger group of several hundred BK Gulf workers deported one month after the 2013 strike at a worker camp in Dubai.

BK Gulf employee Razul al-Haque said the police "arrested everyone they could get their hands on," in order to break up the 2013 strike at a worker accommodation camp in Dubai.

authorities refused all requests from Human Rights Watch for meetings to discuss this report and have not responded to our letters requesting information. The authorities have made no comment on the reasons for their actions.

These limitations notwithstanding, our research indicates that even after the recent reforms, including issuance of the new EAA and TDIC policies, the problems persist, calling into question the extent to which the EAA and TDIC oversight provisions are working and whether these authorities are fully committed to protecting workers' rights. As project developers, those entities are subject to the UN Guiding Principles on Business and Human Rights, which require corporate actors "to prevent or mitigate adverse human rights impacts that are directly linked to their operations," and take remedial action should abuses occur. As detailed in this report, neither the EAA and TDIC nor institutions like the Guggenheim, Louvre, and NYU, have so far done enough to address abuses that have persisted at their sites for over five years now.

A key issue appears to be the inability or unwillingness of the TDIC and EAA to penalize contractors who violate the terms of their codes of conduct, including through financial penalties sufficient to deter further abuses.

TDIC supplied Human Rights Watch with a copy of its policy specifying the minimum and maximum financial penalties that they can impose on contractors but the penalties for contractors and subcontractors are so small—at most 1 percent of the contract value—that they are unlikely to have a significant deterrent effect. PwC's 2014 report revealed that TDIC issued financial penalties to six contractors in the previous year, but that it had enforced them against only three contractors and did not reveal their names, the reason for the fines, or the amount of the fines. The EAA's The 14 Points contain no financial penalty provision at all, and there is no mention of the imposition of any financial penalty in any of the three Mott McDonald compliance reports. Mott McDonald has not responded to requests for information on whether the EAA or NYU has a penalty policy in place or details of any sanctions that they may have imposed on offending contractors. Neither the TDIC nor EAA code stipulates that contractors who violate UAE laws, including the anti-trafficking law, will be reported to the authorities.

UAE government lack of transparency about the steps it has taken also remains a serious problem. In October 2014, Human Rights Watch wrote to the Ministry of Labor to request information on, among other things, the number of recruitment agents whose licenses it has suspended, the number of companies it has suspended from obtaining new work permits for non-payment of salaries, and the number of workers who have successfully availed themselves of the

Mijanur Rahman's father borrowed US$2,500 to pay the recruitment fee to secure his son a job in the UAE. He was deported in October 2013 after BK Gulf workers went on strike in protest at low pay.

Former BK Gulf employee Mohammed Ibrahim who was deported in October 2013 said he never saw a labor inspector during his four years working in the UAE.

Former Arabtec employee Lebu Mia who was deported in June 2013 after working in the UAE for six years still owes money to recruitment agents in Bangladesh. "I haven't found work and people are forcing me to repay them," he said.

reforms to the sponsorship law. We received no response, and this information is not publicly available.

If UAE authorities are to better ensure that the labor law reforms are achieving their aim, they should indicate what steps they have taken to inform workers of their rights to leave abusive sponsors, publish verifiable information on the numbers of workers who have successfully changed their employers without their employers' consent have been reimbursed for recruitment fees, and specify the number and identity of employers sanctioned for non-payment of wages, confinement of workers to unlawful housing conditions, and other worker abuses.

The UAE should also pass legislation that expressly criminalizes passport confiscation and prioritize enforcement of that legislation. Finally it should stop deporting striking workers, and pass legislation that expressly recognizes workers' rights to strike and bargain collectively.

In light of the ongoing abuses of workers servicing their projects, Agence France-Muséums, the Solomon R. Guggenheim Foundation, and New York University should make their continued engagement with their projects on Saadiyat Island dependent on public commitments by the UAE government authorities and the EAA and TDIC to ensure that workers are protected from abuses that contribute to forced labor—including through implementation of the recommendations below on recruitment fees, non-payment of wages, and passport confiscation—and that workers subjected to serious rights violations, including arbitrary deportation, are properly compensated.

# RECOMMENDATIONS

## TO THE UNITED ARAB EMIRATES GOVERNMENT

- **Pass legislation that prohibits employers from retaining their employees' passports and provides for meaningful sanctions for offenders.**
- **Pass legislation that requires employers to provide written documentation verifying their payment of recruiting fees and associated costs for each worker in their employ.**
- **Abide by the obligation under UAE Labor Law of 1980 to implement a minimum wage and cost of living index.**
- **Ensure that criminal justice authorities aggressively investigate, prosecute in good faith, and impose meaningful penalties on employers that violate relevant provisions of the labor law, penal code, and anti-trafficking law.**
- **Publish and publicize verifiable details of the sanctions that courts have imposed on firms found in violation of laws regulating migrant workers, including, but not limited to, the number of recruitment agents whose licenses the authorities have suspended or revoked and the sanctions they have imposed on firms that fail to pay their employees' salaries on time.**
- **Publish and publicize verifiable details of the number of workers who have successfully changed sponsors under the changes to the regulations of the employment sponsorship system provided for by Ministerial Decision No. 1186 of 2010.**
- **Pass legislation that requires companies to escrow funds to pay for employees' end-of-service benefits.**
- **Amend UAE labor law to guarantee workers' right to strike—including by establishing explicit voting and notification procedures for strikes—and to provide for binding arbitration of collective labor disputes only upon workers' request and only in limited circumstances.**
- **Provide funding for research into the recruitment process with a view to devising best-practice models that reduce the exploitative potential of the transnational recruitment process and ensure that recruitment costs are borne by employers not workers.**

## TO THE TOURISM DEVELOPMENT AND INVESTMENT COMPANY AND THE ABU DHABI EXECUTIVE AFFAIRS AUTHORITY

- **Penalize contractors working with agents or sub-agents who are found to have charged workers recruitment fees, and terminate relationships with contractors that continue to work with agencies or sub-agencies that charge workers fees. The penalties should be severe enough to act as a deterrent.**
- **Ensure that all contractors can provide documentation to prove that either they, the subcontractor, the labor supplier, or another affiliated company have paid all the recruitment fees, including visa fees and travel costs, for each worker hired.**
- **Audit the financial health of all contractors and subcontractors to ensure they are able to pay workers' salaries and end-of-service benefits.**
- **Oblige all existing and future contractors to escrow funds specifically for employees' end-of-service benefits. Immediately ensure that all workers' accommodations are equipped with facilities for the safe storage of personal documents and that contractors do not retain worker passports.**
- **Conduct inspections to ensure that all Saadiyat contractors house workers in accommodations that meet the standards outlined in The 14 Points and the "Employment Practice Policy" as well as the UAE federal housing law. Publish and publicize the financial penalties and other sanctions that they have imposed, if any, on contractors and subcontractors found to have violated TDIC's Employment Practice Policy or the EAA's The 14 Points.**
- **Amend policies to ensure financial sanctions are imposed for violations in amounts sufficient to have a deterrent effect.**
- **In view of the continued gross inadequacy of judicial or administrative remedies for workers whose rights have been abused and the responsibilities laid out in the UN Guiding Principles on Business and Human Rights, institute a claims procedure to compensate all workers subjected to collective arbitrary expulsion or forced labor.**
- **Amend the Employment Practice Policy and The 14 Points to make clear that TDIC and EAA are required to report to relevant authorities all violations by contractors of the UAE labour law, penal code, and anti-trafficking law.**

## TO THE FRENCH GOVERNMENT, AGENCE FRANCE-MUSÉUMS, THE SOLOMON R. GUGGENHEIM FOUNDATION, AND NEW YORK UNIVERSITY

- **Make continued engagement with projects on Saadiyat Island dependent on public commitments by the UAE government authorities and the EAA and TDIC to implement the recommendations above on recruitment fees, non-payment of wages, passport confiscation, and creation of a compensation scheme.**
- **Obtain representations from TDIC and EAA that they will ensure that all project-related employers establish, in close consultation with workers, conciliation and mediation proceedings that lead, in the event of deadlock, to binding arbitration with sufficient guarantees of impartiality and rapidity to resolve labor conflicts, as recommended by the ILO Committee of Experts.**

## RECOMMENDATION TO LABOR-SENDING COUNTRIES INCLUDING BANGLADESH, INDIA, NEPAL, PAKISTAN, THE PHILIPPINES, AND SRI LANKA

- **Strengthen international cooperation with the UAE to ensure that bilateral and multilateral agreements properly protect migrant worker rights, including through provisions addressing recruitment fees, passport confiscation, access to complaints mechanisms, and sanctions for employers and recruitment agents who violate worker rights and anti-trafficking laws in the UAE and in sending states.**

# Methodology

A Human Rights Watch researcher and a Human Rights Watch consultant conducted research for this report between January and November 2014. We met with a total of 113 workers from seven different contractors or subcontractors, some of them in person in the UAE and Bangladesh, and others by telephone. The latter included workers still employed in the UAE as well as workers who had been deported to Pakistan and Bangladesh.

Approximately 4,000 Saadiyat Island workers are housed in the Saadiyat Construction Village, but access to Saadiyat Island and the construction village is restricted, and it was not possible to speak to workers there. However, Human Rights Watch was able to make contact with seven groups of workers who worked on the Saadiyat Island site but either lived elsewhere in the UAE or had been deported to Pakistan or Bangladesh. A local source identified four of those groups of workers, but we selected at random the group of 10 workers with whom we spoke at Jebel Ali.

Human Rights Watch interviewed one group of six workers in a workers' camp outside of Abu Dhabi city and met another group of 10 workers, three of whom we were able to interview, in a workers' camp near Jebel Ali, approximately 20 km south of Dubai. We visited another workers' camp in the industrial zone of Mussafah, where 43 workers had recently been living, took video footage in February 2014 of the accommodations of another 27 Saadiyat workers in Abu Dhabi city, and spoke to 12 workers involved in a labor dispute with a Saadiyat contractor. In Bangladesh we interviewed one group of nine workers in Comilla region and two workers in Tangail region, all of whom had worked for major Saadiyat Island contractors and were deported from the UAE after strike action. We conducted telephone interviews with a further four deported Bangladeshi workers, and three workers still resident in the UAE.

With the exception of the workers we interviewed in Bangladesh, all of the workers we interviewed and spoke to by telephone in Abu Dhabi expressed fear of retribution and requested that we not use their names. Accordingly, some workers' names have been disguised with initials. They insisted on speaking outside their living accommodations,

and one of them indicated there could be repercussions for them if their superiors knew they had spoken about their living and working conditions or granted us access to their living accommodations. We gained access to Saadiyat workers' accommodation in Jebel Ali, south of Dubai, and spoke with them inside their accommodations for approximately one hour, but we left when security guards grew uncomfortable with our presence.

With the exception of the workers in Jebel Ali, local sources informed us in advance about the issues the workers wished to discuss and we structured the interviews to focus on those issues, but we asked all of the workers about their pay and working hours, whether or not they had paid recruitment fees, and if they had possession of their passports.

We offered no incentives to those interviewed, all of whom gave their informed consent. In light of the security concerns noted above, many workers' names in this report are pseudonyms.

As noted above, because of UAE government restrictions on access, the findings in this report are based on a small sample of workers, and we do not know whether or not their experiences are representative of the larger population of workers employed on Saadiyat Island. The report's findings must also be set in the context of a repressive rights climate that makes it very difficult for rights groups to carry out research in the country, and the UAE's harsh crackdown on freedom of expression, which makes it very difficult for journalists to publish articles that are critical of the country's human rights record.

Human Rights Watch sent a summary of this report's findings to the UAE government, the Abu Dhabi Executive Affairs Authority, TDIC, Mott McDonald, PwC, New York University, Agence France-Muséums, the French Government, and the Solomon R. Guggenheim Foundation in advance, requesting comment. At this writing, we had heard back from TDIC, the Louvre, Agence France-Muséums, and New York University, all of whose responses are included in the annex to this report.

# I. Analysis of Recent Labor Law Reforms in the UAE

There are more than five million low-paid migrant workers in the United Arab Emirates. Although fewer than one in a thousand of them work on Saadiyat Island, the development project has there become the focal point of the UAE's treatment of migrant workers.[1] Past Human Rights Watch reports have shown that abuse of migrant worker rights in the UAE are serious and systemic. The violations include restrictions stemming from the *kafala* system, which ties worker visas to their employer and severely restricts their ability to change employers; the routine confiscation of worker passports by employers; and the payment of recruiting fees by workers, which keeps them indebted for years.[2] In conjunction with the prohibition on worker strikes, collective bargaining, and worker associations, these factors have contributed to circumstances of forced labor, making it virtually impossible for workers to leave even abusive employers, notwithstanding the non-payment of wages, dangerous working conditions, and sub-standard housing conditions.

Since 2009, the government has passed positive labor reforms, but as detailed below, abuses continue, suggesting that the reforms are not being adequately enforced.

## The Current Legal and Regulatory Framework

The UAE has ratified international treaties and passed domestic legislation that provides for the protection of migrant workers. Since 2009, the UAE has passed legislation to reduce the exploitative potential of the *kafala* (sponsorship) system, and to ensure that workers are paid on time, and it has tightened regulations on the recruitment of workers. The UAE is a state party to the International Labour Organisation, the Forced Labour Convention and the Protocol to Prevent, Suppress and Punish Trafficking In Persons

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[1] The UAE's population is estimated to be over 9 million, as of 2014. The last set of official statistics from 2010 found that at least 88.5 percent of 8.26 million residents were non-nationals. United Arab Emirates National Bureau of Statistics, "Population Estimates 2006 – 2010", 2011, http://www.uaestatistics.gov.ae/ReportPDF/Population%20Estimates%202006%20-%202010.pdf (accessed March 10, 2014).

[2] Human Rights Watch, *Building Towers Cheating Workers*, November 21, 2006. Human Rights Watch, *The Island Of Happiness*, May 19, 2009. Human Rights Watch, *The Island of Happiness Revisited*, March 21, 2012.

Especially Women and Children.[3] Article 347 of the UAE's penal code prohibits the illegal compulsion of work and can therefore be construed as prohibiting forced labor. It provides for a maximum custodial sentence of one year.[4] Federal law no. 51 of 2006 outlaws forced labor and involuntary servitude, and provides for a minimum custodial sentence of five years.[5] However, the US State Department's 2014 Trafficking in Persons report concludes that the UAE government has "rarely prosecuted" potential forced labor cases under the law.[6]

UAE labor law provides, *inter alia,* for a minimum wage (though it has never been implemented for migrant workers in low-paid sectors like construction), maximum working hours, and annual leave and overtime pay. [7] In 2010, the International Labour Organisation found that there was "no documented labor inspection strategy or enforcement policy" in the UAE.[8] Data from the Ministry of Labour indicates that the UAE has a large body of labor inspectors conducting a large number of random inspections every day. For example, according to data on its website, its labor inspectors conducted a total of 77,197 routine inspections in the fourth quarter of 2012, which corresponds to an average of 1187 routine inspections per day.[9] Human Rights Watch wrote to the UAE authorities to request information on the number of labor inspectors it currently employs, but it did not respond.[10]

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[3] ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932, ratified by the UAE on May 27, 1982. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000, art. 3(a). The UAE acceded to the Protocol on January 21, 2009.

[4] Federal Law No. 3 of 1987, art. 347 states, "Whoever compels a person to work with or without pay in order to serve a special interest in other than legally permissible cases shall be punished by imprisonment for a period not exceeding one year, by a fine not exceeding ten thousand Dirhams, or by one of these two penalties."

[5] Federal Law No. 51 of 2006. art 1. "Human trafficking: recruiting, transporting, moving or receiving persons by means of threat or use of force or by any other means of coercion, kidnap, fraud, deceit, abuse of power, exploiting a condition of weakness, offering or receiving money or advantages to secure consent of a person who is in control of another person, for the purpose of exploitation. Exploitation includes all forms of sexual abuse, involuntary servitude, mistreatment, coercion and abuse of work force, as well as illegal trading in human organs."

[6] US Department of State, "Trafficking in Persons Report 2014," June 2014, p. 393.

[7] For a description of these provisions of UAE labor law, see Human Rights Watch, *Building Towers, Cheating Workers*, November 21 2006, pp 48 – 59. Since this report, the UAE has published a number of new regulations and decrees, which are described in this report.

[8] ILO, Labour Inspection Profile: The United Arab Emirates, December 31 2010, http://www.ilo.org/labadmin/info/WCMS_150919/lang--en/index.htm (accessed August 21 2014).

[9] Ministry of Labour, Inspection Sector Statistical Report, 2012-2013, http://www.mol.gov.ae/newMolGateway/english/StatisticalReport.pdf (accessed July 15 2014).

[10] Human Rights Watch letter to Dr Anwar Gargash, Minister of State for Foreign Affairs and Saqr Ghobash, Minister of Labour, October 23, 2014.

In its 2012-2013 annual report, the National Committee to Combat Human Trafficking, within the Ministry of State for Federal National Council Affairs, stated that in 2012 "inspectors forwarded cases of 405 companies involved in violating labor law to the public prosecution department," but the report does not name the companies, identify how many faced prosecution, or note the outcome of the cases.[11] UAE labor law also provides for "collective labour disputes" and provides for government mediation, conciliation, and arbitration, but migrant workers have no right to organize or bargain collectively. Strike action is illegal in the UAE under the terms of a 2003 UAE Ministry of Labour resolution on labor disputes.[12] Provisions of the penal code provide for prison sentences for individuals involved in strike action if the action, involves public employees, public official or public utilities.[13] Cases of migrant workers being summarily deported for going on strike continue to be reported.[14]

Although a Dubai court ruled the practice of passport confiscation to be illegal in 2001 and 2004, the UAE has never passed legislation expressly prohibiting it.[15] In past years, as Human Rights Watch has documented, employers have routinely confiscated workers' passports on their arrival in the UAE.[16]

The regulations governing the *kafala* (sponsorship) system, which operates in all of the states of the Gulf Cooperative Council, ties a foreign worker's residence and work permit to his or her employer, or "sponsor," and restricts a worker's ability to change employers, on

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[11] National Committee to Combat Human Trafficking, "Combatting Human Trafficking in the UAE: Annual Report 2012 - 2013", p. 19. This statistic is repeated in the 2013 US Trafficking in Persons Report, which states that the inspectors were from the Ministry of Labor. US Department of State, "Trafficking in Persons Report 2013," June 2013, p. 377.

[12] Ministry of Labour and Social Affairs, Ministerial Resolution No. 307 (2003), Concerning collective Labour disputes, May 31, 2003.

[13] Federal Law No. 8 For 1980 on Regulation of Labor Relations, arts. 154-165. Federal Law No. 3 of 1987 on Issuance of the Penal Code, arts. 231-233.

[14] See for example, Sunita Menon and Wafa Issa,"Over 200 Workers to be Deported for Violence," *Gulf News,* May 3, 2009, http://gulfnews.com/news/gulf/uae/employment/over-200-workers-to-be-deported-for-violence-1.117373 (accessed January 28, 2015). Chris Arsenault, "Striking Dubai workers face mass deportation," *Al Jazeera,* May 23, 2013. http://www.aljazeera.com/indepth/features/2013/05/201352375248751541.html (accessed January 28, 2015). Ariel Kaminer and Sean O'Driscoll, "Workers at N.Y.U. Abu Dhabi's Site Faced Harsh Conditions," *New York Times,* May 18, 2014, http://www.nytimes.com/2014/05/19/nyregion/workers-at-nyus-abu-dhabi-site-face-harsh-conditions.html (accessed January 28, 2015).

[15] Dubai Court of Cassation, Case #268 (2001), October 27, 2001.

[16] Human Rights Watch interviewed 107 workers for a 2006 report and 94 workers for a 2009 report; all said that their employers had confiscated their passports. Human Rights Watch, "The Island of Happiness," May 2009, p. 44.

penalty of deportation. The initial purpose of the *kafala* system was to make Gulf nationals responsible for the conduct of the foreign workers they employed.[17] Although it is not codified into the UAE's 1980 Labour Law, various Ministry of Labour resolutions outline the process for obtaining and transferring work permits for migrant workers.[18]

On January 1, 2011, the Ministry of Labour issued Ministerial Decision No. 1186 of 2010 allowing a worker to transfer employers two years after his initial employment. Previously, at the end of the contract, an employee could only transfer to another employer with the written permission of his employer, in the form of a "No Objection Certificate" (NOC). If the employer refused to issue an NOC, the worker would have to leave the country for at least six months before being eligible for employment in the country again. The 2011 decision also allows a worker to move to another employer when the work contract expires, without employer approval. It also allows workers to change his employer prior to the expiry of the work contract without penalty and without his employer's permission if his employer violates his "legal or consensual" obligations; if his employer has "not exercised activity for more than two months," as verified by a report from the inspections department of the Ministry of Labour; if a court rules in favor of the employee in a case referred by the Ministry of Labour; or if the employer terminates or neglects to renew the worker's contract.[19] The ministerial decision does not provide a comprehensive list of the "legal or consensual" obligations that give an employee the right to change his employer, but it provides one example—"non-payment of wages for sixty days."[20]

It is unclear the extent to which the government has allowed workers to avail themselves of this reform. When the government introduced it, the acting director general of the Ministry of Labour said in the local press that the change meant workers would no longer need a

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[17] For a background on the origins of *kafala,* see Andrew Gardner, "Engulfed: Indian Guest Workers and the Structural Violence of the Kafala System", in Nicholas de Genova and Nathalie Peutz, eds., *The Deportation Regime: Sovereignty, Space and Freedom of Movement* (Durham: Duke University Press, 2010).

[18] Articles 95 and 96 of Federal Law No. (6) of 1973 Concerning the Entry and Residence of Foreigners refer to "sponsors". The UAE's 1980 Labour Law makes no specific reference to kafala or to sponsors, but various Ministerial Decrees, passed since 1989, regulate the system. These include, Ministerial Resolutions No. (52) of 1989, No. (467) of 1995, No. (951) of 2003, No. (370) of 2005, No. (1186) of 2010, No. (1188) of 2010, and Administrative Circular No. (77) of 2005.

[19] Ministerial Decision No. 1186 of 2010, "Rules and Conditions of Granting a New Work Permit to an Employee after Termination of the Work Relationship in Order to Move from One Establishment to Another," art 3.

[20] Ibid.

"No-Objection Certificate" (NOC) if they had completed two years of service.[21] Workers who wish to transfer sponsors have traditionally needed an NOC from their employers to prevent the Ministry of Labour from requiring that they leave the country and remain abroad, typically for one year, before returning to the UAE. However, in June 2013, *Gulf News* quoted a Ministry of Labour official as saying that foreign workers would still need a an NOC to change jobs and that the Ministry of Labour would impose a one-year travel ban on anyone who attempted to change jobs without employer permission.[22] The report also quoted the official contradicting the text of the new regulations: "No one is allowed to switch jobs even if they complete many years in their [current job], without the consent of their sponsor," he said.[23]

The sponsorship laws are a key element in the violation of migrant workers' rights across the Gulf region, and these reforms, if effectively enforced, will reduce their exploitative potential.[24] Human Rights Watch wrote to the UAE authorities asking for precise information on the process that a worker must follow to change sponsors and the numbers of workers who have successfully done so, but we did not receive a response.[25]

In August 2014, three economists published a paper on the impact of the UAE's reform of its *kafala* system, based on data that the Ministry of Labour supplied to them.[26] The paper described the reform as "quite effective" and cited in support of this the fact that "worker mobility doubled, wages increased by over 10 percent, and exits from the UAE fell."[27]

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[21] Samir Salama, "New rule marks end of no-objection certificates," *Gulf News,* December 20, 2010, http://gulfnews.com/news/gulf/uae/employment/new-rule-marks-end-of-no-objection-certificates-1.732839 (accessed January 28, 2015).

[22] Bassma Al Jandaly, "UAE bans still enforced – but workers can apply to have them lifted," *Gulf News,* June 10, 2013, http://gulfnews.com/business/general/uae-labour-bans-still-enforced-but-workers-can-apply-to-have-them-lifted-1.1195279 (accessed January 28, 2015).

[23] Ministerial Resolution No. 1186 of 2010.

[24] For analysis of similar problems in Qatar and Bahrain, for example, see Human Rights Watch, *Building a Better World Cup*, June 2012, and Human Rights Watch, *For a Better Life*, October 2012.

[25] Human Rights Watch letter to Dr Anwar Gargash, Minister of State for Foreign Affairs and Saqr Ghobash, Minister of Labour, October 23, 2014.

[26] Suresh Naidu, Yaw Nyarko, and Shing-Yi Wang Wharton, "Worker Mobility in a Global Labor Market: Evidence from the United Arab Emirates," *National Bureau of Economic Research Working Paper No. 20388* (August 2014). The paper was based on a sample of 427,625 workers

[27] Ibid., p. 22.

The doubling in mobility is not as impressive as it sounds. While the paper found that the average number of workers able to change employers at the end of their contract had doubled, it also found that such workers remained a tiny fraction of those sampled—it doubled from an average of less than 0.5 percent per month of those sampled in the two years prior to the reform, to an average of less than 1 percent per month of those sampled in the two years after the reform.[28] The study did not provide any information on how many workers were able to change employers before the end of their contracts, or how many workers tried but failed to change employers, whether at the end of their contracts or earlier.[29]

The UAE's 1980 Labor Law prohibits employers from making workers pay recruitment fees but, as Human Rights Watch documented in 2006, 2009 and 2012, the practice is systematic and customary, with workers paying fees to recruiting agents in their home countries who in turn work with recruiting agents or employers in the UAE.[30] Our prior reports showed that employers were under no obligation to document or verify that they had paid the recruiting fees for each of their employees, or to otherwise ensure that they, and not their employees, paid all such fees.

In recent years, in part in response to these findings, the UAE has affirmed the prohibition on workers paying recruitment fees and strengthened its regulation of domestic recruiting agents. It has not, however, required employers to verify that they, and not their workers, have paid all recruiting fees.

Ministerial Resolution No. 1283 of 2010 on the licensing and regulation of UAE-based private recruitment agents prohibits recruitment agents from charging workers "any sums, monies, rights or gains under the name of commission, fees, or anything else for any reason and through any means whatsoever" and empowers the Ministry of Labour to force

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[28] Ibid., p. 34.

[29] Ibid., p. 35.

[30] Federal Law No. 8 For 1980 on Regulation of Labor Relations, art. 18 states, "No licensed employment agent or labour supplier shall demand or accept from any workers, whether before or after the latter's admission to employment, any commission or material reward in return for employment, or charge him for any expenses thereby incurred, except as may be prescribed or approved by the Ministry of Labour and Social Affairs." For background on use of passport confiscation, see Human Rights Watch, *Building Towers, Cheating Workers*, November 2006, and Human Rights Watch, *The Island of Happiness*, May 2009.

recruitment agents to "refund to the worker any amounts paid to any entity or person inside or outside of the country."[31] Recruitment agents must supply the Ministry of Labour with a bank guarantee of US$81,667 (300,000 AED), and the Ministry of Labour has the power to revoke or temporarily suspend the license of an agency found to be violating the provisions of the law or committing "any act involving some form of forced labour or human trafficking."[32]

According to a report by the UAE's National Committee to Combat Human Trafficking, "1070 visits were made to follow up on the activities of recruitment agencies" in 2012, but the report does not mention whether the committee found any violations of the law or whether the Ministry of Labour suspended or revoked any licenses or liquidated any bank guarantees.[33] Human Rights Watch wrote to the Ministry of Labour and requested information on the number of licenses that it had suspended on the basis of the ministerial resolution, but it did not reply.[34]

In addition, Cabinet of Ministers Resolution No. 26 of 2010 requires that all firms subject to the labor law provide bank guarantees, to cover, among other things, payments to workers in the event of non-payment of wages and fines incurred for violating regulations on labor accommodation, up to a maximum of $2.72 million (10 million AED), corresponding to the number of workers they employ.[35] The resolution states that "companies or firms established or co-owned by the Federal Government of local governments" are excluded from the requirement to pay bank guarantees. According to the National Committee to Combat Human Trafficking, the Ministry [of Labour] "settled disputes of 3033 workers during 2012" and liquidated $8.58 million (31.5 million AED) of the bank guarantees of companies involved in "untimely, improper or non-payment of salaries."[36] However, there is no indication whether and what fines the government

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[31] Ministerial Resolution No. 1283 of 2010, art. 6b.

[32] Ibid., art. 5a.

[33] National Committee to Combat Human Trafficking, "Combatting Human Trafficking in the UAE: Annual Report 2012 – 2013," p. 20.

[34] Human Rights Watch letter to Dr Anwar Gargash, Minister of State for Foreign Affairs and Saqr Ghobash, Minister of Labour, October 23, 2014.

[35] Cabinet of Ministers Resolution No. 26 of 2010, art. 5.

[36] National Committee to Combat Human Trafficking, "Combatting Human Trafficking in the UAE: Annual Report 2012 – 2013," p. 23.

included in these liquidated bank guarantees, or whether they were used merely to repay workers moneys already owed to them.

Ministerial Resolution No. 788 of 2009 provides for a wage protection system that requires companies to transfer salaries to all workers electronically via banks in the UAE.[37] Under the terms of the resolution, any company that does not pay a worker's salary within a month of its due date is temporarily suspended from obtaining new work permits.[38] It also states that the Ministry "may…refer all those responsible to the judicial entities to take action."[39] According to the most recent annual report from the National Committee to Combat Human Trafficking, the Human Trafficking Crime Control Center of the Dubai police recovers money from companies that are late in paying salaries and redistributes the funds to workers. The report states that in 2012 they redistributed more than $750,000 in 2012, but the report does not name the offending companies or the government imposed any penalties on them. According to the 2013 Trafficking in Persons Report, the wage protection system "has reportedly deterred some employers from withholding workers' wages, though this response was largely limited to administrative remedies, including fines or mediation to recover the wages."

Ministry of Labour data indicates that the number of complaints of unpaid wages continues to rise. The total number of such complaints in the first quarter of 2013 (625) was higher than in the corresponding period in 2012 (542).[40] The 2014 US State Department Trafficking in Persons report states that the Ministry of Labour referred 188 wage disputes for legal remedy in 2013, but adds that the UAE government did not report having investigated employers who withheld wages for potential forced labor offences.[41] The UAE has taken steps to ensure that employers pay their workers, but it does not appear to have complemented its complaints resolution mechanism with effective action against offenders.

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[37] Ministerial Resolution No. 788 of 2009.

[38] Ibid., art. 8.

[39] Ibid.

[40] Ministry of Labour, Inspection Sector Statistical Report, 2012-2013, http://www.mol.gov.ae/newMolGateway/english/StatisticalReport.pdf (accessed July 15 2014).

[41] US State Department, "Trafficking in Persons Report 2014," June 2014, http://www.state.gov/documents/organization/226849.pdf (accessed January 28, 2015).

Human Rights Watch has previously documented how workers face severe difficulties filing complaints with the Ministry of Labour.[42] Ministry of Labour offices close on Fridays, the typical weekly day off for migrant workers in the construction sector. Workers must submit complaints in Arabic, on official forms, and, in cases implicating potential breaches of contract, must submit their complaints to the office of the Ministry of Labour in the emirate that issued their work permit.[43] In 2006, a ministerial decree provided for federal labor courts to fast-track labour dispute resolution,[44] but all of the 94 workers Human Rights Watch interviewed on Saadiyat Island in 2009 said they feared they would be fired and deported if they used official channels to complain about abuses.[45]

The UAE has in the past set up special grievance mechanisms to financially compensate victims of serious human rights abuses and their families. In December 2006, the UAE government instituted a special, non-judicial, grievance mechanism to compensate former child camel jockeys and their families for the rights violations they endured, which included trafficking and slavery, and for the injuries they sustained training and racing camels.[46] Human Rights Watch did not conduct research into grievance mechanisms for this report.

The International Labour Organisation has drawn up a list of 11 "Indications of Forced Labour," based on the theoretical and practical experience of its Special Action Program to Combat Forced Labour.[47] The workers Human Rights Watch spoke to for this report, as well as the workers we spoke to for the two previous reports on Saadiyat Island and a 2006 report on construction workers in Dubai, provide evidence suggesting that nine of the 11 indicators are present in the UAE: abuse of vulnerability; deception; restriction of movement; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive living and working conditions; and excessive overtime.[48]

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[42] Human Rights Watch, *Island of Happiness*, pp. 65-66.

[43] Ibid., p. 66.

[44] Ibib., p. 5.

[45] Ibid., p. 65.

[46] For an analysis of the shortcomings of the claims procedure, see Nicholas McGeehan, "Spinning Slavery: The role of the United States and UNICEF in the denial of justice for the camel jockeys of the United Arab Emirates," *International Journal of Human Rights Practice*, vol. 5 no. 1, (2013).

[47] International Labour Organisation, "ILO Indicators of Forced Labor", October 1, 2012.

[48] Ibid. The other two indicators are "isolation" and "physical and sexual violence."

## Private Sector Responsibility to "Protect, Respect, and Remedy"

Although the UAE government has primary responsibility for respecting, protecting, and fulfilling human rights, businesses also have human rights responsibilities. As elaborated in the "Protect, Respect, and Remedy" framework and the "Guiding Principles on Business and Human Rights," endorsed by the UN Human Rights Council in 2011, businesses should respect all human rights, avoid complicity in abuses, and adequately remedy them if they occur.[49] Elsewhere, the author of the Guiding Principles, Professor John Ruggie, has explicitly noted that "[t]he corporate responsibility to respect human rights … applies across an enterprise's activities and through its relationships with other parties, such as business partners, entities in its value chain, other non-state actors and state agents."[50]

With regard to the right to an effective remedy for victims of rights violations, the Guiding Principles affirm that it is the State's responsibility to ensure the effectiveness of domestic judicial mechanisms and to provide effective and appropriate non-judicial mechanisms for the remedy of business-related human rights abuses.[51] However, the Guiding Principles also encourage businesses to "establish or participate in effective operational-level grievance mechanisms for individuals … who may be adversely impacted."[52] Non-judicial grievance mechanisms, both state-based and non-state-based, should be legitimate, accessible, predictable, equitable, transparent, and rights-compatible.[53]

Businesses therefore have responsibilities to respect human rights and do not need to wait for new laws or rules to act. The Guiding Principles oblige any company to assess any negative human rights impacts in order to mitigate and remedy them. In the UAE's construction sector, companies should, at a minimum, ensure that living and working

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[49] See United Nations Human Rights Council (HRC), Resolution 8/7, "Mandate of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises," June 18, 2008; and HRC, Resolution A/HRC/17/L.17/Rev.1, "Human rights and transnational corporations and other business enterprises," June 16, 2011.

[50] Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, "The Corporate Responsibility to Respect Human Rights in Supply Chains ," Discussion Paper for the 10th OECD Roundtable on Corporate Responsibility, June 30, 2010, http://www.oecd.org/dataoecd/17/50/45535896.pdf (accessed January 28, 2015).

[51] Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework," UN document A/HRC/17/31, March 21, 2011, principles 26 and 27.

[52] Ibid., prin. 29.

[53] Ibid., prin. 31.

conditions do not violate the basic rights of workers involved in their projects. These steps would include, among other things, ensuring that contractors and subcontractors adhere to laws and regulations prohibiting the charging of recruitment fees and the confiscation of passports, and, in the absence of effective state-based grievance mechanisms, instituting operational-level grievance mechanisms to provide effective remedy to victims of rights violations.

# II. The Commitment of UAE Developers and Foreign Institutions to Better Protect Workers' Rights on Saadiyat Island

In 2010, the Abu Dhabi Executive Affairs Authority (EAA), Tourism Development and Investment Company (TDIC), New York University, and the Guggenheim publicly committed to protecting the workers building their sites.[54] On February 3, 2010, NYU and the EAA publicly announced that they would require all employers associated with the NYU Abu Dhabi project to reimburse workers for any fees associated with their recruitment.[55] They also announced that employees would retain all of their personal documents, including passports, and that contractors and subcontractors] would meet specified minimum housing standards and other requirements under UAE law, including timely wage payments through bank accounts and employer-paid medical insurance.[56]

In another welcome development, the Solomon R. Guggenheim Foundation and TDIC, the development company responsible for the bulk of Saadiyat Island construction, including museums in the Cultural District, issued a joint statement in September 2010 publicizing the TDIC's employment practices policy, effective as of July 2010, that sets forth certain labor standards for workers employed on the majority of Saadiyat Island projects, including the Abu Dhabi branches of the Guggenheim and Louvre museums.[57]

Agence France-Muséums (AFM) and the Louvre, by contrast, have never publicly articulated their approach to addressing the human rights of the migrant workers building their museum, although in meetings with Human Rights Watch they said they had raised the issue several times in private with Emirati authorities. In correspondence and in meetings with Human Rights Watch, they have also spoken generally of the French government's historical commitment to protecting labor rights, and stressed that the issues identified in

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[54] Human Rights Watch, *The Island of Happiness Revisited*, March 2012, p. 15.

[55] Ibid.

[56] Ibid.

[57] Ibid.

our 2009 report were of concern to them.[58] In March 2014, M. Marc Ladret de Lacharrière, Agence France-Muséums chairman, said in a press interview that "we are extremely vigilant and make sure that social norms are applied."[59]

The Executive Affairs Authority (EAA) and TDIC also drew up codes for contractors and subcontractors working on projects under their purview and appointed third-party monitors to assess the compliance of such companies with the codes. EAA appointed Mott McDonald to monitor the NYU site and TDIC appointed PricewaterhouseCoopers (PwC) to monitor its projects, which include the Louvre and Guggenheim museums.

The two third-party monitors have issued six separate reports on the conduct of contractors and subcontractors since January 2011.

## NYU Abu Dhabi and Mott McDonald

In October 2010, Tamkeen, an Abu Dhabi government entity that is part of the EAA, appointed Mott McDonald as the independent third-party verifier of living and working conditions for workers on the NYU Abu Dhabi (NYUAD) project. Construction at the site commenced in June 2010.

Mott McDonald issued reports in January 2012, January 2013, and May 2014 on contractor compliance with the EAA's statement of labor values and provisions in The 14 Points described above. In January 2012, the company concluded that there was "wide-ranging evidence that the NYUAD Project is taking workers' rights seriously."[60] Of The 14 points, it found compliance on 13, with the only area of non-compliance being technical non-compliance on the issue of the retention of passports, where it found that "almost all construction staff had signed letters indicating their preference for their employers to retain their passports."[61]

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[58] Ibid., p. 70.

[59] "Louvre Abou Dhabi: une exposition didactique à l'usage des Français en mai," *AFP*, March 11, 2014. http://www.lexpress.fr/actualites/1/culture/louvre-abou-dhabi-une-exposition-didactique-a-l-usage-des-francais-en-mai_1499242.html (accessed January 28, 2015).

[60] Mott McDonald, "NYUAD Compliance Report," January 2012, p. 29. http://nyuad.nyu.edu/pdfs/NYUAD.Compliance.Report.2011.pdf (accessed January 28, 2015).

[61] Ibid., p. 31.

In its January 2013 report, Mott McDonald found that there were two areas of non-compliance: passport retention—for the same reasons as in 2012—and housing. In reference to housing, the report noted that some workers were not housed in accommodations that met the guidelines, but explained that "because of cultural issues it is deemed in the best interests of the employees that they remain in the accommodation."[62] Neither Mott McDonald nor the Executive Affairs Authority responded to a query about what these cultural issues were. Mott McDonald found problems with wage payments in the case of three contractors, but stated that the issue had been rectified. In reference to recruitment fees, it wrote that only one employee recruited directly for the NYUAD Project had paid recruitment fees and that these had been reimbursed. The report did not address whether employees who had worked on the NYUAD but had not been recruited directly for the project had paid recruiting fees. The statement of labor values and the 14 points apply to all employees of main contractors, sub-contractors and service providers.[63] The report concluded that where recruitment fees were concerned, "the project is compliant."[64]

In its May 2014 report, Mott McDonald found that 19 employees of service providers had paid recruitment fees, and that all had been reimbursed. It cited improvements in investigating and resolving problems, and said that the "significant challenge" presented by an increase in subcontractor numbers had been "responded to by the increase in monitoring activities conducted by all parties."[65]

Mott McDonald's reports make no reference to any sanctions imposed on contactors or subcontractors who did not comply with any provisions in The 14 Points. The reports indicate that strong communication and the goodwill of employers led to the swift resolution of problems. Its 2013 report claims:

> When problems were identified in the 2012 monitoring regime, the line of responsibilities for investigating and communicating were better established. In all

[62] Ibid., p. 39.
[63] Ibid., p. 2.
[64] Ibid., p. 38.
[65] Ibid., p. 25.

cases, there is leverage to ensure quick resolution and employers have shown willingness to resolve issues and make any changes to meet the requirements."[66]

Its May 2014 report makes the same claim, verbatim, with reference to its 2013 findings.[67] When the EAA appointed Mott McDonald to act as third-party monitor for the NYU Abu Dhabi site, Mott McDonald was itself a contractor on Saadiyat Island. In 2006, the Abu Dhabi Water and Electricity Authority appointed Mott McDonald to oversee the development of water and electricity systems on Saadiyat Island. Reports in the media do not indicate the value of the oversight contract but state that development of the systems would cost $27 billion.[68]

Human Rights Watch wrote to the Executive Affairs Authority to ask, among other things, if there is penalty policy associated with The 14 points.[69] We did not receive a response.

## The Louvre and Guggenheim Museums, TDIC and PwC

According to its website, TDIC is "the dedicated tourism asset management and development arm of the Abu Dhabi Tourism and Culture Authority (TCA Abu Dhabi)" and the developer behind several key projects on the Saadiyat Island site, including the Louvre Abu Dhabi and the Guggenheim Abu Dhabi.

In 2009, TDIC developed its Employment Practices Policy (EPP), a code for contractors, subcontractors, and "any person or entity that supplies labour to the Contractor or Sub-contractor."[70] The EPP is primarily based on UAE labor law and, like the The 14 Points to which NYU contractors must adhere, it addresses many of the issues that result in worker exploitation, such as recruitment agents' imposition of fees and employers' non-payment of wages and passport confiscation. In June 2011, TDIC appointed PricewaterhouseCoopers

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[66] Ibid., p. 40.

[67] Ibid., p. 25.

[68] "Mott McDonald wins power and water deal on Saadiyat Island," *Arabian Business* September 1, 2006, http://www.arabianbusiness.com/mott-macdonald-wins-power-water-deal-on-saadiyat-island-33751.html (accessed March 11, 2014).

[69] Human Rights Watch letter to Khaldoon al-Mubarak, Chairman of the Abu Dhabi Executive Affairs Authority, October 28, 2014

[70] TDIC Employment Practice Policy, February 3, 2012, p. 6, http://www.tdic.ae/pdf/Employment-practices-policy-2012.pdf (accessed March 11, 2014).

(PwC) "to independently monitor both TDIC's and its contractors' compliance with the EPP."[71] PwC issued compliance reports in September 2012, December 2013 and December 2014.

PwC's initial report revealed, among other things, that 77 percent of the workers it had interviewed had paid recruitment fees, 75 percent had paid their own visa and travel costs, and 20 percent reported illegal deductions from their salary.[72]

PwC's December 2013 compliance report similarly found that the TDIC was failing to commit sufficient resources to workers' rights. It concluded that the EPP monitoring and compliance function was "insufficiently resourced" within TDIC and that PwC lacked the appropriate resources to analyze contractors' monthly reports and verify documents related to the payment of workers' salaries.[73] It also found that there had been a decline in standards in some key areas since its September 2012 report. For example, 86 percent of workers PcW interviewed reported having paid fees to recruitment agencies and 92 percent reported having paid relocation costs. None of the workers interviewed in the report said their employers had reimbursed them for these fees.

In its 2014 report, PwC found that 88 percent had paid recruitment fees and 89 percent had paid relocation costs, but that "none of the workers were able to provide evidence of these payments."[74] In a case where PwC found that a contractor directly had charged 261 workers a recruitment fee, among other unnamed violations of the EPP, TDIC issued an enforcement notice "requiring the Contractor to immediately investigate and rectify these non-compliances."[75] The report added that "a financial penalty was applied to the contractor" but it does not state the amount of the fine, or if the contractor had paid it.[76] Nor does the report indicate if the workers had been reimbursed, stating only that "the Contractor will respond with an action plan to rectify this issue by January 2015."[77] In its

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[71] TDIC website, http://www.tdic.ae/TDIC/ourapproach/Pages/worker.aspx (accessed October 17, 2014).

[72] "Report Highlights Need for Worker Protections," Human Rights Watch news release, September 27 2012.

[73] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report to the Executive Committee," December 2013, p. 11.

[74] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report, December 2014," p. 8.

[75] Ibid.

[76] Ibid.

[77] Ibid.

2013 and 2014 reports, PwC stated that that "the full resolution of this issue is beyond TDIC's direct influence and also requires action outside of the UAE."[78]

The original draft of the EPP, published in July 2010, outlined a raft of regulations and standards, but did not provide for sanctions for non-compliance. It stated that "repeated failure" by a contractor to comply with the EPP "may cause the Client [TDIC] to report non-compliance with laws to the relevant authorities."[79] When contractors showed "consistent unfavorable results," the draft stated that this "may… lead to the exclusion of the Contractor from future participation in bidding activities related to other projects with the client."[80] TDIC issued an updated version of the EPP in February 2012.[81] It differs from the earlier version in that it states that TDIC may "impose financial penalties" according to the terms of a Penalty Policy included in an annex. The annex does not contain details of the penalty policy but TDIC sent a copy to Human Rights Watch.[82] The policy provides that the maximum financial penalty that TDIC can impose is an amount equal to 1 percent of the total value of the contract. The 1 percent figure is for contracts worth up to $27.23 million (100,000,000 AED).[83] For the largest contracts—those with a total value exceeding $1.36 billion (5 billion AED)—the maximum financial penalty falls to 0.4 percent of the total value of the contract.

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[78] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report to the Executive Committee", December 2013, p. 11. PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report," December 2014," p. 8.

[79] Art. 51.2 TDIC Employment Practice Policy, July 29, 2010, http://www.saadiyat.ae/en/Uploads/pdf/EPP.pdf (accessed March 11, 2014).

[80] Ibid., art. 51.3.

[81] Art. 49.1.2. TDIC Employment Practice Policy, February 3, 2012, available at http://www.tdic.ae/pdf/Employment-practices-policy-2012.pdf (accessed March 11, 2014).

[82] TDIC Penalty Policy Relating to the Employment Practice Policy. The penalty policy outlines five zones, each of which corresponds to a different level of compliance with the EPP: tolerance zone, green zone, yellow zone, red zone, and black zone. Contractors can attain a maximum audit score of 100, based on scores for 10 criteria. The penalty policy sets out minimum and maximum financial penalties based on eight bands of contract value. The policy provides an example of the different penalties that TDIC would impose on a contractor, based on different levels of compliance (audit scores of 0 to 100). A 24-month duration contract worth $191 million should be subject to eight audits of its compliance. The maximum fine for each of these audits would be $153,142, making a total maximum penalty of $1.23 million, or 0.6 percent of the total contract value. To be subject to this fine, the company would have to score less than 20 out of 100 in all eight of its audits, meaning it had consistently failed to comply with EPP standards on working visas, recruitment, EPP administration, the working employment process, the payment of wages, working hours, health and safety, grievance mechanisms, and accommodation, and scored less than 20 out of 100 each time. The penalty policy also states that more than two audit scores in the black zone of compliance (less than 20 out of 100) would comprise a material breach of contract.

[83] Ibid.

The penalty policy states that any contractor who records more than two audit scores in the "black zone" of compliance has committed a material breach of contract. The black zone is the worst of five compliance zones, and indicates that there have been serious breaches of most or all of the regulations on working visas, recruitment processes, EPP administration, the withholding of passports, the payment of wages, working hours, health and safety standards, grievance mechanisms, and accommodations. The penalty policy does not state what steps TDIC should or even can take in cases of a material breach of contract. Neither of the two PwC reports makes reference to any material breaches of contract. PwC's December 2013 report includes details of serious violations of workers' rights but no specific details on the sanctions, if any, that TDIC had imposed on the violators.

PwC's 2013 report found that workers for one subcontractor had been recruited by agents who made workers sign contracts that were not in compliance with the EPP. The TDIC response (included in the PwC report) was that the subcontractor who employed the workers was "demobilized from site on 17 November 2013," but the report provides no further details.[84]

PwC found four instances where workers did not receive salaries in line with their contracts and also that contractors had made illegal deductions from workers' salaries. In this case, TDIC responded that it "issued a non-compliance letter to the Contractors" to stop the practice, and said that "penalties will be levied as per the EPP."[85] TDIC did not say if the workers had been reimbursed or give any details of the future penalty.

In the most serious instance of worker abuse that PwC documented, assessors found that "all of the workers interviewed for one subcontractor informed us that they had not been paid wages for six months." TDIC responded that it issued official letters "enforcing payment of wages to the workers" and that "a plan was put in place and all workers received their salaries by June-July 2013."[86] However, despite acknowledging that workers had gone unpaid for half a year, TDIC made no mention of any penalties that it had imposed on the offending

[84] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report to the Executive Committee," December 2013, p. 12.
[85] Ibid., p. 14.
[86] Ibid., p. 14.

company. In response to a letter from Human Rights Watch, TDIC said that the subcontractor in question had been "financially penalized" but did not provide details of the sanction imposed.[87] TDIC did not provide any more details of any sanctions that it has imposed on any other contractors since the implementation of the EPP.

In its 2014 report, PwC noted that TDIC had enforced financial penalties against only three of the six contractors it had sanctioned the previous year.[88] PwC added that "reports produced by the TDIC EPP team were not being escalated to TDIC management and were not acted on or used for Contractor financial penalty determination," and that "although EPP required reports were submitted by Contractors and the SAV Operator on [a] monthly basis, no analysis was carried out by the EPP team on the submitted data to ensure consistency and accuracy of reported information."[89] In reference to contractor reporting on health and safety data, PwC expressed skepticism over the comparatively low number of reported near-miss incidents, which it says "suggests that further work is required to improve the reliability of this reporting by Contractors."[90]

In the absence of complete information on the sanctions that TDIC has imposed on contractors, examples of violations that constitute a material breach of contract, and information on what steps TDIC is empowered to take in the event of a material breach, it is hard to see how the penalty policy could have any significant deterrent effect. This is true even for serious abuses. Where protections for workers' rights historically have been weak or non-existent, as in the UAE, migrant workers are highly vulnerable to forced labor. The only sanction the EPP explicitly provides for, however, is a fine not to exceed 1 percent of the contract value.[91]

In addition to the apparently limited powers of TDIC to effectively sanction violators of the EPP and its failure to enforce the financial penalties that it issued against three of six penalized contractors, there is evidence that TDIC is failing to devote adequate resources

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[87] Letter from Ali al-Hammadi, CEO, TDIC, to Human Rights Watch, November 23, 2014.

[88] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report," December 2014, p. 13.

[89] Ibid.

[90] Ibid., p. 22.

[91] Human Rights Watch, *The Island of Happiness*, May 2009, p. 4.

to its monitoring of the EPP. PwC described TDIC's monitoring of EEP compliance as "insufficiently resourced" in its 2013 report. The 2014 report does not indicate if TDIC has resolved this problem but recommends that TDIC "further enhance the level of resources focused on EPP implementation."[92] The same report also refers to "a lack of consistent and rigorous internal EPP monitoring in place at TDIC" and "ambiguity in terms of consistent EPP interpretation by Contractors and Subcontractors," leading to "conditions being interpreted to the benefit of the Contractors/ Subcontractors rather than the workers on a number of occasions."[93]

PwC's 2014 report also includes many positive findings. It reports that TDIC has "enhanced levels of governance over EPP activities" and "strengthened the framework to promote EPP implementation activities," and it provides specific examples of instances where EPP violations have been rectified.[94] In one instance, the report noted that a subcontractor reimbursed workers for irregular deductions from monthly salaries.[95] In another, it said TDIC "demobilized" a subcontractor from the site for refusal to provide PwC with copies of its contracts with recruitment agents who had allegedly charged workers fees.[96] In a third case, TDIC made a subcontractor return passports to workers who were not given the option of retaining them. However, in all of these cases, PwC informed TDIC of the violation, which it subsequently resolved. This underscores the importance of effective third-party monitoring and is further evidence of TDIC's problematic self-enforcement of the EPP.

In its response to Human Rights Watch's summary of findings, TDIC said "projects such as the Louvre Abu Dhabi have hundreds of subcontractors and thousands of workers involved in the delivery of the project which means if the pool of workers you have interviewed is not of a specific ratio, the findings would not truly reflect the reality on the ground."[97]

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[92] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report to the Executive Committee," December 2013, p. 11. PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report," December 2014," p. 9.

[93] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report," December 2014, p. 12.

[94] Ibid., p.6.

[95] Ibid., p.8.

[96] Ibid., p. 13.

[97] Letter from Ali al-Hammadi, CEO, TDIC to Human Rights Watch, November 23, 2014.

According to PwC's 2014 report, seven main contractors and 46 subcontractors employed a total of 7,297 workers between December 2013 and 2014 on TDIC projects, and PwC interviewed 1,050 of those workers.[98] Although this represents a relatively high sampling rate of 14.4 percent, PwC only interviewed workers from "four main contractors and the largest six of their subcontractors," meaning that PwC's findings do not take account of the experiences of the workers employed by the smallest 40 companies.[99]

Many of the findings of Human Rights Watch are confirmed in PwC's most recent report. As PwC concluded, "the issues around recruitment and relocation fees, provision of offer letters, living conditions and payment of wages are still prevalent despite a number of initiatives being implemented."[100]

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[98] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report," December 2014", p.36.

[99] Ibid.

[100] PwC, "Employment Practices Policy (EPP) Compliance Monitoring Report," December 2014," p.35.

# III. Rights Violations of Saadiyat Island Workers in 2013 and 2014

This chapter details the findings of Human Rights Watch interviews conducted in 2014 with seven groups of employees from different contractors and subcontractors. We met with a total of 113 workers, some of them in person in the UAE and Bangladesh, and others by telephone.

## Deported for Striking

In April, July and November , Human Rights Watch spoke to 13 members of a group of more than 200 workers of BK Gulf, which does construction work on Saaidyat, all 200 of whom who were deported after they went on strike in October 2013 to protest low wages. *The New York Times* and the *Independent on Sunday* published separate articles on the incident.[101]

In November, Human Rights Watch interviewed the men in person in the Comilla region of Bangladesh. Human Rights watch also interviewed two former employees of the main contractor building the Louvre, Arabtec, in the Tangail region of Bangladesh, one of whom authorities had arrested and deported after a strike that led to several thousand deportations, and one whose work visa was not renewed in the weeks following the strike.

According to the workers we interviewed, approximately 3000 BK Gulf workers launched a coordinated strike action on October 20. Instead of going to work, they stayed in their accommodations in Jebel Ali, an industrial zone south of Dubai, or on Yaz Island in Abu Dhabi, close to Saadiyat Island. The workers said that they were working on the New York University site on Saadiyat Island at the time of the strike. All of the workers said the protest was about low wages and pay discrepancies between new workers and old workers.

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[101] Ariel Kaminer and Sean O'Driscoll, "Workers at N.Y.U. Abu Dhabi's Site Faced Harsh Conditions," *New York Times* May 18, 2014 http://www.nytimes.com/2014/05/19/nyregion/workers-at-nyus-abu-dhabi-site-face-harsh-conditions.html (accessed January 28, 2015).

Archie Bland, "Dubai workers for British firm beaten by police over strike," *Independent*, May 25, 2014, http://www.independent.co.uk/news/world/middle-east/dubai-workers-for-british-firm-beaten-by-police-over-strike-9432149.html?origin=internalSearch (accessed January 28, 2015).

According to Z. P., a Bangladeshi electrician who had been working in the UAE for eight years and on the NYU site for four months at the time he was deported, the workers were demanding an increase in their basic wage.[102] He said they had been receiving the same basic monthly wage of 572 dirhams ($156) for the eight years of his employment with the company, and that with overtime this amounted to a typical monthly wage of between 800 and 900 dirhams ($218 - $255).[103] Another Bangladeshi, A. Y., said that he received a basic wage of 670 dirhams ($182), rising to a maximum of 1200 dirhams ($327) with overtime, but that he had received no annual increase in his wage for five years.[104] Z.P. told Human Rights Watch that he and his colleagues were seeking a basic monthly wage of 936 dirhams ($255), which with overtime would have resulted in total pay of 1500 dirhams ($408). The highest basic monthly wage of the workers we spoke to was 780 dirhams ($212).[105]

Anamul al-Haque, an employee of BK Gulf who also participated in the strike, told Human Rights Watch that on the first day of the strike, company management took photos of the workers to record who was involved in the strike.[106] He said that on the second day of the strike, the camp boss announced that the workers should go to a meeting with management to discuss their wage demands, but that when they went to the meeting, the police were there. The company management separated the striking workers from employees of a sister company, and the police arrested him along with many others. Razaul al-Haque, who was working for BK Gulf but not on the NYU site at the time of the strike, said that 15 to 20 masked police coordinated the arrest, which he described as "terrifying."[107]

Amir Sarker, another BK Gulf employee who participated in the strike, recounted an experience similar to that of Anamul al-Haque. He told Human Rights Watch that camp cleaners and maintenance men came to the men's accommodations and said that the

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[102] Human Rights Watch telephone interviews with Z.P., April 19 and July 26, 2014.

[103] Ibid.

[104] Human Rights Watch telephone interviews with A.Y, April 19 and July 26, 2014. Inflation in the UAE was 12.5% in the 2008, but fell to less than 2% between 2009 and 2013. Rates at http://www.statista.com/statistics/297779/uae-inflation-rate/ (accessed October 20, 2014).

[105] Human Rights Watch interview with Anamul al-Haque, November 15, 2014.

[106] Ibid.

[107] Human Rights Watch interview with Razaul al-Haque, November 15, 2014.

company management had agreed to a meeting on the ground floor to discuss their demands.[108] He said that he was among a group of seven workers who arrived at the meeting first only to find that police were waiting for them. A policeman grabbed his arm and told him to get on a net-covered prison bus that was parked outside the camp. Ali Akbar, a Pakistani driver for the company, told Human Rights Watch that police arrested him and took him to Dubai central jail even though he was on sick leave at the time of the strike and had six stitches in a wound to his foot that had left him unable to drive.[109]

According to the 13 men Human Rights Watch spoke with, two groups of workers were deported. On October 20, police arrested a group of 40 workers at their accommodations at Camp 42 in Jebel Ali, interrogated them at Dubai central jail, and deported them nine days later. Seven of the workers Human Rights Watch spoke to were among that group. Six of the workers in the group were part of a second, much larger group — the men we spoke with estimated that this group numbered between 220 and 300—whose work visas were cancelled and who were sent home by their employer in groups several weeks later.

Amir Sarker told Human Rights Watch that two police officers interrogated him for three to four hours in Dubai central jail.[110] He said that the officers repeatedly asked him if he was a strike leader and threatened to beat him. He said he denied being a strike leader and told the police that the workers had decided as a group to strike. "They did not beat me, but I heard they beat others," he said.[111] BK Gulf employee Z. P. told Human Rights Watch that two policemen interrogated him for approximately 20 minutes and that another official slapped him in the face during a retina scan, telling him to "look straight at the camera."[112] Anamul al-Haque told Human Rights Watch that two police officers interrogated him for 30 minutes, asking him who started the strike and who notified the workers about it.[113] He said that police slapped and pushed him during his interrogation. None of the workers we spoke to had a lawyer present during their interrogation, and Razaul al-Haque said the

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[108] Human Rights Watch interview with Amir Sarker, November 15, 2014.

[109] Human Rights Watch telephone interview with Ali Akbar, April 19, 2014.

[110] Human Rights Watch interview with Amir Sarker, November 15, 2014.

[111] Ibid.

[112] Human Rights Watch telephone interviews with Z. P., April 19 and July 26, 2014.

[113] Human Rights Watch interview with Anamul al-Haque, November 15, 2014.

police officers asking the questions spoke to the detainees in "bad Hindi."[114] After their interrogations, police forced the arrested workers to sign a statement in Arabic, a language none of them can read or understand, he said. Ali Akbar told Human Rights Watch that a BK Gulf company representative brought the workers' unpaid salaries for the month to the jail along with their luggage, but that the workers did not receive their end-of-service gratuity.[115] "We will give you nothing more," he said the company representative told the imprisoned men.[116]

UAE labour law provides for an end-of-service payment equivalent to 21 days' salary per year for workers who have been in service for up to five years, or 30 days' salary per year for workers who have been employed for more than five years.[117] UAE labour law lists 10 circumstances in which an employer may dismiss employees without notice and deny them their end-of-service benefit.[118] One of the 10 is "if [the worker] fails to perform his basic duties under the contract of employment and persists in violating them despite formal investigation with him in this respect and warning him of dismissal if the same is repeated."[119] UAE labour law also states that workers who leave their jobs "at their own option" lose their right to their end-of-service payment.[120]

O. M. told Human Rights Watch that he was among a group of 10 BK Gulf workers sent home on November 25 after being held at Camp 42 in Jebel Ali for more than one month.[121] A. Y., also an employee of BK Gulf, said that on the day of the strike, the company transported him and his colleagues to Camp 42 in Jebel Ali, where the police had previously arrested 40 workers.[122] "I was not involved in the strike but I was sent back to Dhaka in November." He said that he spoke to the company managers many times and tried to explain that these workers were not part of the strike, but that they did not listen.

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[114] Human Rights Watch interview with Razaul al-Haque, November 15, 2014.
[115] Human Rights Watch telephone interview with Ali Akbar, April 19, 2014.
[116] Ibid.
[117] UAE Labour Law, art. 132.
[118]UAE Labour Law, 1980, arts. 120 and 138.
[119] Ibid.
[120] UAE Labour Law, 1980, art. 138.
[121] Human Rights Watch telephone interviews with O.M., April 19 and July 26, 2014.
[122] Human Rights Watch telephone interviews with A. Y., April 19 and July 26, 2014.

He said he believed this was because they wanted to set an example and discourage similar actions. He told Human Rights Watch that company managers demanded he sign a resignation. He said he initially refused but agreed after the company said they would not pay his ticket back home unless he signed.[123]

*The New York Times* printed a scanned copy of the notice of termination of Bangladeshi worker Milon Uddin Abdul Gofur, an employee of BK Gulf, who spoke to Human Rights Watch and confirmed that he was held at Camp 42.[124] It is dated October 27, 2013, and states that the reason for the termination of work is "refusal to go to work."[125] Gofur told Human Rights Watch he did not receive his end-of-service benefit.

None of the Bangladeshi employees of BK Gulf with whom Human Rights Watch spoke said that they had ever seen a labor inspector during their period of employment with BK Gulf or spoken with anyone who had asked about issues addressed in the statement of labor values and The 14 points, such as passport confiscation and recruitment fees. Razaul al-Haque said that the first time anyone ever asked him about his working conditions was during his interrogation in jail.[126] Anamul Hoque said that sometimes the "main client" would come to the site to speak to the foremen, supervisors, and one or two workers, but that they did not interview workers one by one. He added that any worker who said the wrong thing "would be sacked."[127]

All of them said they were flown home on commercial flights to Dhaka. Ali Akbar told Human Rights Watch that authorities placed him on a flight to Karachi on October 30, even though he lives in a city near Islamabad, 1500 km further north.[128] He said that the first

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[123] Ibid.

[124] Ariel Kaminer and Sean O'Driscoll, "Workers at N.Y.U. Abu Dhabi's Site Faced Harsh Conditions," *New York Times* May 18, 2014. http://www.nytimes.com/2014/05/19/nyregion/workers-at-nyus-abu-dhabi-site-face-harsh-conditions.html (accessed January 28, 2015). Human Rights Watch telephone interviews with Milon Uddin Abdul Gofur, April 19 and July 26, 2014.

[125] Ariel Kaminer and Sean O'Driscoll, "Workers at N.Y.U. Abu Dhabi's Site Faced Harsh Conditions," *New York Times* May 18, 2014. http://www.nytimes.com/2014/05/19/nyregion/workers-at-nyus-abu-dhabi-site-face-harsh-conditions.html (accessed January 28, 2015).

[126] Human Rights Watch interview with Razaul al-Haque, November 15, 2014.

[127] Human Rights Watch interview with Anamul al-Haque, November 15, 2014.

[128] Human Rights Watch telephone interview with Ali Akbar, April 19, 2014.

[128] Ibid.

time he was able to inform his family of his deportation was when he called from a phone booth in his hometown on November 1; his uncle brought him a change of clothes, which was the first change he had since his arrest on October 20.[129] An uncle of two of the deported men said that when they got home, "they didn't even have shoes." He added "It's fine if you want to deport people, but there's a basic standard."[130]

Z. P. told Human Rights Watch, "I have no job now, no way to provide for my family."[131] Mohamed Younes said he too has been unemployed since his deportation to Bangladesh.[132] He said he had not wanted to go on strike in the first place. "I agreed to a small salary because I am a poor man."[133]

In November, a Human Rights Watch researcher interviewed two former employees of Arabtec, the main contractor building the Louvre Abu Dhabi, both of whom had been deported by UAE authorities in the aftermath of a strike that took place in May 2013.

R.H. told Human Rights Watch that at the time of the strike he was working as a driver for Arabtec on a basic monthly salary of $408 (1500 AED) and lived in the Saadiyat Construction Village.[134] L.M. was living and working for Arabtec in Dubai as a "helper" on a basic monthly salary of $109 per month (400 AED).[135] They told Human Rights Watch that the strike, which they did not support, began on May 16 and continued until May 21, and that the reason for the strike was that some workers were angry at pay discrepancies between new and old workers.[136]

According to an article in the UAE press on May 27, UAE authorities responded to the strike by cancelling the visas of 467 Arabtec employees.[137] The article quotes Rayed al-Shafi, a

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[129] Ibid.

[130] Human Rights Watch interview with Razaul al-Haque's uncle, November 15, 2014.

[131] Human Rights Watch telephone interviews with Z. P., April 19 and July 26, 2014.

[132] Human Rights Watch telephone interviews with M.Y., April 19 and July 26, 2014.

[133] Ibid.

[134] Human Rights Watch interview with R.H. November 16, 2014.

[135] Human Rights Watch interview with L.M., November 16, 2014.

[136] Human Rights Watch interviews with R.H. and L.M. November 16, 2014.

[137] Preeti Kannan, "Striking Arabtec workers in UAE 'helped to return home'," *National*, May 27, 2013. http://www.thenational.ae/news/uae-news/striking-arabtec-workers-in-uae-helped-to-return-home (accessed January 28, 2015).

representative of the Dubai Police human rights department and member of the Permanent Committee for Labour Affairs in Dubai as saying that the workers returned home voluntarily: "They said they didn't want to work and we are helping them return."[138]

R.H. and L.M. said that they were sent home against their wishes and claim that the total number of Arabtec workers deported was between 3000 and 4000, 500 of whom were living at the Saadiyat Construction Village at the time of their deportation.[139]

L.M. said that he was one of approximately 500 men arrested at random by police at their accommodations in Dubai on May 21.[140] He told Human Rights Watch that he was deported after a week in prison during which time he was never questioned by police. He said he is still trying to pay back people in Bangladesh who loaned him the money to pay the recruitment fee of $2,600.[141]

R.H. said that he was one of approximately 500 workers from the Saadiyat Construction Village who was sent home in the weeks following the strike because Arabtec did not renew his contract.[142] He said that he believed that the decision not to renew his expired work contract was based on the fact that he was Bangladeshi, but said that he shared the company's view that Bangladeshi workers were responsible for the strike and that he agreed with the company's decision to deport them. "It's easy for the company to deport 4000 workers and recruit another 4000 from Pakistan or India."[143]

In 2011 local media reported that authorities had arrested 70 Arabtec workers after 3000 Arabtec workers stopped work in protest at low pay.[144] The article quoted the director general of the Dubai Police General Department: "We intend to deport the workers whose

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[138] Ibid.

[139] Human Rights Watch interviews with R.H. and L.M. November 16, 2014.

[140] Human Rights Watch interview with L.M. November 16, 2014.

[141] Ibid.

[142] Human Rights Watch interview with R.H. November 16, 2014.

[143] Ibid.

[144] Wafa Issa, "70 Workers Arrested in Dubai Following Unrest", *National*, January 27, 2011. http://www.thenational.ae/news/uae-news/70-workers-arrested-in-dubai-following-unrest (accessed January 28, 2015).

involvement is proven."[145] In November 2007, media reports stated that thousands of Arabtec workers had gone on strike in protest at low pay, although it is not clear if authorities deported any workers in that instance.[146]

There are no provisions in UAE labor law guaranteeing workers' rights to organize or bargain collectively. Without these rights, workers are largely unable to collectively raise workplace concerns with their employers and government bodies or collectively seek structural reforms. Neither TDIC nor the EAA's code of conduct addresses this problem.

TDIC's Employment Practice Policy states that employees must formally notify a designated manager that they are raising a grievance.[147] If the problem cannot be resolved, the worker must "complete an official grievance form in duplicate" after which time a small committee will be convened and the parties will "endeavor to resolve the grievance."[148] If they cannot, "the decision of the designated manager will be final."[149] Contractors on the NYU site are under no obligation to provide workers with any grievance mechanisms. The EAA's statement of labor values states simply that "no worker shall be subject to harassment, intimidation or retaliation in their efforts to resolve work disputes."[150]

Article 26(2) of the Arab Charter on Human Rights, which the UAE has ratified, provides the same protection against the arbitrary expulsion of non-nationals as article 13 of the International Covenant on Civil and Political Rights.[151] The Arab Charter states that collective expulsions are prohibited "in all cases" and that an individual party may be expelled only pursuant to a decision reached in accordance with law, and that the

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[145] Ibid.

[146] "Dubai workers strike called off", BBC news online, November 2, 2007, http://news.bbc.co.uk/2/hi/business/7074917.stm (accessed January 28, 2015).

[147] Annex b, TDIC Employment Practice Policy, 2012.

[148] Ibid.

[149] Ibid.

[150] McDonald, "NYUAD Compliance Report," p. 20.

[151] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52,

U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. League of Arab States, Arab Charter on Human Rights, May 22, 2004, entered into force March 15, 2008.

individual must be allowed to submit a petition to the competent authority, unless compelling reasons of national security preclude it.[152]

In the cases documented in this report, UAE authorities, in collusion with the workers' employers, arbitrarily arrested and deported thousands of workers. The workers we interviewed had no lawyers present at their interrogations, were forced to sign statements that they did not understand, and had no ability to appeal the decisions to deport them.

Human Rights Watch wrote to the EAA and TDIC and asked why details of the BK Gulf strike were not included in any Mott McDonald compliance reports and why a PwC report stated only that the incident was "not within the scope of the monitoring program."[153] TDIC denied that any strike action had taken place, despite the fact that UAE media reported the Arabtec strike in some detail,[154] stating that a disturbance in August 2013 was the result of a dispute between two sets of workers.[155] The EAA did not respond.

## Trapped in the UAE

Human Rights Watch spoke by telephone on February 25, 2014 with a Nepalese national, S.A, one of a group of 12 workers who said they were working on the Louvre site on Saadiyat Island and had not received their salaries for five months.[156] The group filed a complaint for unpaid wages in a Dubai labor court, where their employer, Robodh, is registered.

S.A. said his job was to monitor his company's compliance with the TDIC Employment Practice Policy and that he had been working on the Louvre site since September 2012. He said he filed the complaint for unpaid wages and benefits in the Dubai labour court on February 9. He said that the company was not paying workers' salaries on time and that many employees had expired visas and could not return home because they would be

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[152] Ibid.

[153] Human Rights Watch letter to Khaldoon al-Mubarak, Chairman of the Abu Dhabi Executive Affairs Authority, October 28, 2014. Human Rights Watch letter to Ali al-Hammadi, CEO, TDIC, November 4, 2014.

[154] Preeti Kannan, "Striking Arabtec workers in UAE 'helped to return home'," *The National*, May 27, 2013.

[155] Letter from Ali al-Hammadi, CEO, TDIC to Human Rights Watch, November 23, 2014.

[156] Human Rights Watch telephone interview with S.A., February 25, 2014.

liable for fines at the UAE airport that they could not pay. UAE immigration law makes non-nationals subject to financial penalties if they remain in the country after the expiry or cancellation of their work visa or residence permit.[157] When employers fail to renew residence and work permits for their workers, the workers accrue fines that they must repay before they can leave the country; authorities can detain workers whose residence permits have expired through no fault of their own.

Although S.A. said he did not pay a recruiting fee when he came to the UAE in November 2008, he said Robodh kept his passport and owed him four months of unpaid salary and statutory end-of-service benefits for five years of work. He said that the Robodh company manager told him that he would have to pay an expired work permit fine of approximately $272 (1000 AED) if he wanted to go home, and that because the company failed to renew his residency permit, the government would also fine him a base fee of $59.89 (220 AED), which increases by $4.90 (18 AED) for each day he overstays in the UAE.[158] He said that he had incurred six months of these fees and would be unable to pay the fine at the airport if he attempted to leave. He feared authorities would arrest him for being resident in the country without a valid visa.

On March 4, S.A. said the Dubai labor court adjourned their case until April 1 to give the company time to settle the complaint. On April 1, the court again adjourned the case. Human Rights Watch is not aware of the final disposition of the case, but it has seen a copy of the complaint filed by the 12 men, who requested anonymity. The men told Human Rights Watch that they fear the company will leave them stranded and are having difficulty feeding themselves because they have no money. They said that at least 100 workers have filed labor complaints against Robodh.[159]

Human Rights Watch spoke by telephone on February 24 with another two workers employed by Robodh who said that the company supplies workers to both the Louvre and

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[157] Ministerial Decision No. (360) of 1997 Regarding the Issuance of Executive Regulation of the Federal Law No. (6) of 1973 Concerning the Entry and Residence of Foreigners, art. 78.

[158] Ibid. UAE immigration law actually provides for larger fines of $6.80 per day (25 AED), rising to $27.20 per day (100 AED) if the worker has been in the country without the requisite documentation for more than 100 days.

[159] Human Rights Watch telephone interview with N. V., February 25, 2014.

NYU sites on Saadiyat; the men also requested anonymity and expressed a fear of reprisals if their names became public.[160]

One said he had been in the UAE since 2005 working for Robodh on a basic salary of $150 per month. He said he worked on the NYU site for two years between mid-2011 and mid-2013, when his residency and work permits expired. He told Human Rights Watch that Robodh owes him unpaid wages dating back to 2007 and end-of-service benefits for his nine years of employment. The other said he had worked for Robodh for 14 years (but never on the NYU site) and had a similar experience.

Neither man has filed a labor complaint, as they both said that their employer told them directly and separately on different occasions that they would "not see a single penny" if they filed a complaint. They say officials from the company offered to pay them 30 percent of what they are owed if they agreed to leave the country, and promised to pay them the rest when they return to their countries of origin.

The two men said they were scared to leave their living accommodations for fear that police would apprehend them and deport them on account of their expired residency and work visas. They said the company has allowed them to stay in its accommodations in Al Quoz, a large workers' residential camp in the south of Dubai, but they survive on the kindness of colleagues, who provide them and others like them with food.

In October 2014, one of the men told Human Rights Watch that the case had not yet been resolved and that the total number of workers awaiting unpaid wages from the company was approximately 200.

According to a November 2013 article in *The National*, an English-language newspaper in the UAE, more than 60 percent of respondents in a survey of 90 businesses in the Gulf said that they did not escrow funds specifically for end-of-service benefits separate from their working capital.[161] According to the article, UAE law requires employers to pay the end-of-

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[160] Human Rights Watch telephone interview with A.G. and H.G., February 24, 2014.

[161] Sananda Sahoo, "Shoddy handling of end of service benefits in the Gulf," *National*, November 11, 2013. http://www.thenational.ae/article/20131111/ARTICLE/131119844 (accessed January 28, 2015).

service benefit but does not require firms to keep these funds separate. If funds are not escrowed and dispensed to employers by a third party, badly managed companies may have insufficient funds to pay end-of-service benefits, and unscrupulous employers may simply choose not to pay.

Both PwC and Mott McDonald concede that most workers on their clients' projects do not retain possession of their passports. Mott McDonald's most recent report claims that workers "are given the choice" as to whether they, or their employers have possession of passports, while conceding that it is "regular practice in the UAE for companies to keep workers' passports."[162] PwC's latest report states, "TDIC has worked with the Contractors to agree a solution where passports are stored in a safe location on behalf and at the request of workers only with their written consent to do so."[163] Almost three years since TDIC, EAA, and their related international partners committed to allowing workers to retain their passports, it is particularly disappointing that the commitment remains unfulfilled.

## Low Pay, High Recruitment Fees

On January 24, 2014, a Human Rights Watch researcher visited a labor camp in Jebel Ali, more than 60 miles from where the resident laborers work on the NYU site on Saadiyat Island in Abu Dhabi. Unlike some workers on TDIC projects, workers on the NYU site are not housed in the Saadiyat Construction Village and may spend more than two hours in transit to and from work. Human Rights Watch spoke to a group of 10 workers, all of whom said that their employer, Salah Interiors, which does joinery work on the site, held their passports. Three men from Bangladesh said that the group members were all skilled joiners, yet they received a base salary of only 700 AED ($190) per month, while other workers for the same company received 900 AED ($245). The Bangladeshi workers said that with overtime, they received 1,100 AED ($300) per month for six-and-a-half days of work each week. They said that recruitment agents had promised them they would be paid twice that amount and receive annual pay increases.

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[162] McDonald, "NYUAD Compliance Report," p. 13.

[163] PwC, EPP Annual Report, December 2013, p. 11.

On arrival in the UAE, they said Salah Interior company representatives told them that if they did not like the wages, they should go home. However, the men said that they had paid recruitment fees and now needed to stay to earn the money to repay the debt. They each said they had paid approximately $2570 in recruitment fees to various agents in Bangladesh. One of the men showed us his room, which accommodated six men in bunk beds. The accommodation was clean and well-maintained, and there was a gym and a recreation room in the basement.[164]

In its 2009 report on Saadiyat Island, Human Rights Watch found that salaries for unskilled or semi-skilled workers, including overtime, ranged from 650 to 1050 dirhams per month ($177 to $286). More than five years after Human Rights Watch conducted this initial research, at least three laborers said they earned a base rate of 700 dirhams per month ($190), rising to 1200 dirhams per month ($327) with overtime. These men say they spend 76.5 hours per week on site, and their rate of pay is thus approximately $1.04 per hour. If transport time of four hours per day is factored in—workers have no control over where they live, and many workers do not live in the Saadiyat Accommodation Village — this falls to $0.78 per hour. UAE labor law provides for a minimum wage and a cost of living index. In 2013 UAE authorities outlined minimum wage levels for some categories of foreign workers, but not for low-paid workers.[165]

## Unpaid Wages

Human Rights Watch's 2006 report on the construction sector in Dubai found that non-payment of wages was widespread.[166] Things looked to be improving by the time of our 2009 report due to direct, electronic payments of wages into bank accounts set up for workers.[167] In researching the current report, however, we found that while electronic payments help in detecting non-payment of wages, they do nothing to prevent employers from delaying wage payment for months at a time or not paying at all.

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[164] Human Rights Watch group interview with workers in Jebel Ali, January 24, 2014.

[165] This is based on press reports. "Ministry of Labour: minimum salary rule for three categories," *Emirates 24/7*, March 31, 2013, http://www.emirates247.com/news/ministry-of-labour-minimum-salary-rule-for-three-categories-2013-03-31-1.500605 (accessed November 11, 2014).

[166] Human Rights Watch, *Building Towers Cheating Workers*, November 2006, p. 30.

[167] Human Rights Watch, *The Island Of Happiness*, May 2009, p. 8.

On January 23, 2014, a Human Rights Watch researcher spoke to a group of six Indian workers just outside their living accommodations in Mussafah, an industrial area near Abu Dhabi city. They said they worked for Al Reyami, a large UAE company that is a subcontractor on the NYU site in Abu Dhabi. The men said that the company had possession of their passports and had not paid them since mid-October. They said that the company employed approximately 500 workers, 100 of whom worked on the NYU site on Saadiyat Island. All of the men said they had paid recruitment fees, which one man said typically amounted to $1,600. The camp supervisor would not allow Human Rights Watch to enter the housing area, but the men expressed displeasure about where they were living. A source had visited two days before and found the men living eight to a room. There were no recreational facilities he said, and the men complained to him that there was nothing to do except sleep and go to work.[168]

## Cramped and Unsafe Housing

Human Rights Watch has obtained video footage recorded on February 1, 2014 of the living conditions of a group of 27 workers at their quarters in Abu Dhabi city center. Eleven of the men told a local source, who shot the video, that they work as painters on the NYU site on Saadiyat Island for Falcon City Trading. The men told a Human Rights Watch consultant that they earned $245 per month and had paid recruitment fees of about 5000 Emirati dirhams ($1,361). The workers were living crammed into two rooms, 15 in one room and 12 in another. The video shows insects crawling around the kitchen; exposed electrical wires wrapped around a shower head; a room containing six bunk beds with makeshift beds on the floor underneath three of the bunk beds (in the room that slept 15 men); and a hole punched in the fire escape door, which was locked. Foodstuffs such as rice bags were stored in the bedroom, along with work tools.

The 27 men shared two small toilets and also washed their work clothes in the bathroom, they said. Several of the men complained of sickness and dizziness from inhaling paint, but said that they wore masks at work.[169]

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[168] Human Rights Watch group interview with workers in Mussafah, UAE, January 23, 2014.

[169] Human Rights Watch interview with group of 27 workers in their Abu Dhabi city accommodations, February 2, 2014.

On December 1, 2013, a Human Rights Watch consultant visited a Mussafah labor camp housing 43 Bangladeshi painters who said they worked for different subcontractors who were working for different companies who in turn were under contract to a company called Darsun working at the NYU site on Saadiyat Island. He observed the men sleeping nine to a room in bunk beds, with minimal space for personal possessions, and storing work tools and paint buckets in their bedroom. There were no windows in the rooms, and the men had no access to any recreational area. The kitchen facilities on the ground floor of the three-storey block consisted of gas stoves covered in cooking grease and grime. When a Human Rights watch researcher visited the site on January 24, 2014, the men were no longer living there, but the living conditions were as described.

On February 25, 2014, the vice-chancellor of NYU Abu Dhabi, Al Bloom, sent an email to members of the university senate. He stated that "the strict compliance and auditing regime in place since 2010 has ensured that those working for NYUAD at our current facilities, and those building the new campus, have been part of our commitment to labor values."[170] He acknowledged that problems remained but stated that "when a problem has been identified, we have moved swiftly to rectify it and done our best to ensure it does not happen again." He then went on to refer specifically to a case "where accommodation for 43 men was not in compliance with our Statement of Labor Values." It stated that all the men had "since been relocated to accommodation that does meet NYUAD standards" and that aside from accommodation "the investigation confirmed that all other requirements as outlined in the labor values were upheld."[171]

The assertion that the men's complaints extended no further than their accommodations is contradicted by their statements to Human Rights Watch. In addition to living in grossly substandard accommodations, the men said that they earned $245 per month and had paid recruitment fees of between $1,470 and $2,940, none of which had been reimbursed. Eight said they wanted to return to Bangladesh but could not, on account of outstanding recruitment fees. Some said that they had to pay for their work boots and clothes, which further reduced their chances of saving any money for their families. One

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[170] Email from Al Bloom, Vice-Chancellor of New York University Abu Dhabi, to members of New York University Senate, February 25 2014. Copy on file with Human Rights Watch.

[171] Ibid.

described a complex labor supply chain of subcontractors and recruitment companies, with the workers employed by a myriad of small locally owned subcontractors. This claim is supported by copies of six of the men's labor cards, which show the names of six different employers.[172]

Human Rights Watch made repeated attempts to contact the men after they were moved from their accommodations in Mussafah. In November 2014 we spoke by telephone to one of the men, I.H., who said the men were living in Al Quoz in Dubai and that their employer, who had possession of their passports, had left the country. He said they had not been paid since their employer went out of business in April 2014, had spent all their savings, had tried but been unable to file a labor complaint online, and were being threatened with eviction. Human Rights Watch informed representatives from New York University, who at time of writing were investigating the situation with a view to assisting the men. The men told NYU that the problems with their employer started after their work on the NYU site had ended in January 2014.

[172] Copies of labour cards on file with Human Rights Watch.

# Acknowledgments

This report was researched and written by Nicholas McGeehan, a researcher with the Middle East and North Africa Division of Human Rights Watch. Sean O'Driscoll, a consultant, provided additional research.

Clive Baldwin, senior legal advisor, conducted legal review, and Tom Porteous, deputy program director, provided program review. Sarkis Balkhian, associate in the Middle East and North Africa Division, provided editing and production assistance. Amanda Bailly of the multimedia division produced and edited multimedia. Grace Choi, director of publications, and Kathy Mills, publications specialist, also provided production assistance.

We would like to thank Tourism Development and Investment Company, New York University, Arabtec, Agence France Museums, the Solomon Guggenheim Foundation and the French Ministry fore Culture and Communication for their engagement with us during the course of this research.

# Appendix I: Letter to Government of the United Arab Emirates from Human Rights Watch

## Dated August 27, 2014

August 27, 2014

H.E. Dr. Anwar Mohammed Gargash
Minister of State for Foreign Affairs
Minister of State for Federal National Council Affairs
Ministry of Foreign Affairs
United Arab Emirates
Via fax: +971 2 222 2000 / +971 4 357 2113

Cc:
Excellency Saqr Ghobash
Minister of Labour
Ministry of Labour
Abu Dhabi, United Arab Emirates

Your Excellency:

As per our discussion in New York, I write to share with you a summary of the findings of a Human Rights Watch investigation into the must current situation of migrant workers on the Saadiyat Island project in Abu Dhabi.

Human Rights Watch has taken note of the positive legislation introduced by the government since 2009, including the changes to the sponsorship system allowing greater worker mobility. As part of our commitment to fair and accurate reporting, we will reflect positive developments in our report as well as identifying areas where we believe the government could strengthen laws and policies.

We wish to offer you the opportunity to respond to our most recent findings so that we can reflect the government's position in our report, which we plan to release in New York in

January 2015. As you will note from the attached, we have done our utmost to provide you an extremely detailed briefing of our findings, as well as questions that we hope can shed light on these findings and most adequately represent the government's efforts to address labor conditions in the country. We are hopeful that our effort will again encourage a process of meaningful dialogue and sharing of information, and ensure that the government has detailed knowledge of our report before it is published.

We look forward to receiving your response and will reflect all pertinent information that we receive from you by November 13 in our public findings.

We would also welcome the opportunity to engage with your government to discuss this issue both to enable us to duly reflect your government's progress on labor reforms and to identify areas where further reforms, if implemented, would improve living and working conditions for the UAE's migrant workers. We would be available for such a meeting prior to the release of our report at a time and location of your preference, also as we discussed in New York.

I look forward to receiving a response at your earliest convenience. You can reach us by contacting Nicholas McGeehan at mcgeehn@hrw.org or +44 20 7618 4758.

Yours sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

**Summary of Human Rights Watch 2014 findings on the situation of migrant workers on Saadiyat Island.**

Nearly five years after we first documented systematic human rights violations of migrant workers on Abu Dhabi's Saadiyat Island, a new investigation by Human Rights Watch has found that workers continue to be subject abuses that can lead to conditions of forced labour. This is despite significant and laudable labor law reforms by the government, as well as important policies for labor protections implemented by the companies involved in the development project. When completed, the project is due to host branches of the

Louvre and Guggenheim museums and New York University, Human Rights Watch conducted the research for its new report between January and July 2014. The research involved interviews, in the field and by telephone, with five groups of workers who worked on the Saadiyat Island site but either lived elsewhere in the UAE or had been deported to either Pakistan or Bangladesh when they spoke to Human Rights Watch.

Workers reported that their employers had failed to pay their wages for months at a time, and that they faced arrest and summary deportation when they went on strike. They described the unwillingness of their employers to renew work permits and residence visas, leaving them vulnerable to arrest and deportation by the UAE authorities, or to pay end of service benefits due to them. Workers said that their employers continued to retain their passports and failed to reimburse them for recruitment fees that they had paid initially to secure employment on the island. Some Saadiyat workers continue to be housed in cramped and unsanitary housing.

One employee of a contractor working on the Louvre site on Saadiyat Island told Human Rights Watch that he fears arrest and deportation because his employer has refused to renew his work and residence permits, and that he is owed over $7000 in unpaid wages and end of service benefits, dating back to 2005. One of his colleagues reported that he had experienced similar problems. Neither man had filed a labor complaint, as their employers, they said, had threatened that they would "not see a single penny" if they did.

Human Rights Watch spoke to a group of 12 men working for the same company on the Louvre site on Saadiyat who filed a complaint in February 2014 against the company in a Dubai labor court for unpaid wages. The Dubai labour court adjourned the case in April and in August, and at time of writing it remains unresolved.

Three workers from Bangladesh, working for a contractor on the New York University (NYU) site on Saadiyat, but who live two hours' drive away in Dubai, told Human Rights Watch that they have been on a basic salary of $190 per month – half of the amount of wages that recruitment agents in Bangladesh said they would be paid when they agreed to travel to the UAE to work – and that the company did not give them promised annual pay increases. They said they had paid approximately $2,570 in recruitment fees and that, despite their unhappiness regarding their pay and working hours, about which they had complained to

their employer, they could not return home to Bangladesh until they had repaid the debts they had accrued in order to pay their initial recruitment fees.

All of the workers we asked said they had paid recruitment fees to secure employment in the UAE. None had received reimbursement.

Human Rights Watch also spoke with seven former employees of another contractor on the NYU site on Saadiyat Island, who said they had participated in a strike to protest low pay, which led to the deportation of over 200 workers. Four of the men were among 40 whom police arrested, and two of the seven interviewed by Human Rights Watch said that police had mistreated them during their detention.

Human Rights Watch also met with a group of 27 workers employed as painters on the NYU site on Saadiyat Island, who were living in a two-room apartment in Abu Dhabi city. During Human Rights Watch's visit, researchers observed insects crawling around the kitchen, and exposed electrical wires wrapped around a shower head. Some of the men slept on makeshift beds on the floor underneath bunk beds, and there was a hole punched in the fire escape door, which was locked. Another group of 43 workers, who said they worked on the NYU site on Saadiyat Island, but were living in the Mussafah industrial zone outside Abu Dhabi city, were sleeping nine to a room in bunk beds, with minimal space for personal possessions, and storing work tools and paint buckets in their windowless bedroom.

The research does not examine to what extent the abuses documented in this report reflect general living and working conditions for workers on the Saadiyat site or to determine how widespread such abuses are: government authorities there do not allow us to conduct research openly and our findings of necessity reflect the experiences of the workers with whom we were able to speak. They do indicate, however, that problems persist on the country's most highly scrutinized project. In principle, workers on this project enjoy the protection of laudable codes of conduct put in place by the two quasi-governmental developers that are responsible for Saadiyat Island projects - the Tourism Development and Investment Company's (TDIC) "Employment Practices Policy", whose implementation is monitored by PwC, and the Abu Dhabi Executive Authority's (EAA) "14 Points", whose implementation is monitored by Mott McDonald. These codes of conduct cover issues including passport confiscation, recruitment fees, payment of salaries and overtime, working hours and accommodation. If properly enforced, these codes of conduct should

guarantee that workers are not subject to the sort of abuses that Human Rights Watch's investigation uncovered. Our report again details the important steps forward these codes of conduct represent.

Workers on Saadiyat projects should also have benefited from important labor reforms that the UAE government has enacted since Human Rights Watch first reported on this issue in 2009. Our report describes these reforms in great detail, including, inter alia: Ministerial Decision No. 1186 of 2010, allowing a worker to transfer employers two years after his initial employment, without having to wait six months from the cancellation of his labour card, and if his employer agrees; Ministerial Resolution No. 1283 of 2010 on the licensing and regulation of UAE-based private recruitment agents, which prohibits recruitment agents from charging workers' "any sums, monies, rights or gains under the name of commission, fees, or anything else for any reason and through any means whatsoever," and empowers the Ministry of Labour to force recruitment agents to "refund to the worker any amounts paid to any entity or person inside or outside of the country"; Cabinet of Ministers Resolution No. 26 of 2010, which requires that all firms subject to the labour law provide bank guarantees, to cover, among other things, payments to workers in the event of non-payment of wages and fines incurred for violating regulations on labour accommodation; and Ministerial Resolution No. 788 of 2009, which provides for a wage protection system that requires companies to transfer all salaries to their workers electronically via banks in the UAE. We would be particularly interested in information from the government on other labor reforms that might have been implemented but not otherwise referenced above, to ensure the accuracy and completeness of our description of labor reforms in the country.

Notwithstanding these important legislative reform measures, the workers to whom we spoke did not appear to have benefited from them, nor the extra layer of protection provided by the private codes of conduct in place on Saadiyat Island. In our assessment, implementation and enforcement remain a critical problem in ensuring that workers benefit from labor law reforms and employer-initiated codes of conduct.

### Request for Information

Human Rights Watch requests information regarding UAE government policy, as well as government data, on the following matters:

- How many labor inspectors does the Ministry of Labor currently employ in each of the seven emirates of the UAE?
- What training do labor inspectors receive, and what languages do they typically speak?
- How many random labor inspections have Ministry of Labour inspectors conducted on the Saadiyat Island site since construction began?
- Do labor inspectors interview workers and how do they conduct these interviews, if any?
- How does the Ministry of Labor enforce the following labor reforms: Ministerial Decision No. 1186 of 2010 (kafala reform); Ministerial Resolution No. 1283 of 2010 (regulation of recruitment agents), and Ministerial Resolution No. 788 of 2009 (wage payment protection system)? More specifically, is it the workers' responsibility to make an official complaint to the Ministry of Labour or do labor inspectors proactively monitor adherence to the new regulations and file complaints against employers found to be in breach?
- How many companies has the Ministry suspended from obtaining new work permits for failure to pay their employees' salaries under the terms set out in Ministerial Resolution No. 788 of 2009? Of those, how many are related to Saadiyat Island development projects?
- How many companies has the Ministry of Labour referred to the relevant judicial entities for failure to pay their employees' salaries under the terms set out in Ministerial Resolution No. 788, and what actions did those entities take? Of those, how many are related to Saadiyat Island development projects?
- What are the precise legal and contractual obligations that, if violated, enable a worker to change sponsors under the terms of Ministerial Decision No. 1186?
- Does a worker who wishes to change his or her sponsor on account of his or her employer's violation of "legal and contractual obligations" require a new sponsor to be in place for the government to approve and process a transfer?
- With regard to the procedure for enforcing the right to change sponsor, must a worker who wishes to file a complaint relating to breach of contract submit the complaint to the office of the Ministry of Labour in the emirate that issued his work permit?

- How many workers have filed requests to change sponsors based on the terms of Ministerial Decision No. 1186? How many of those requests have been successful? Of those, how many are related to Saadiyat Island development projects?
- What is the timeframe between a worker filing a request to change sponsor and his successful transfer to a new sponsor?
- In June 2013, *Gulf News* quoted a Ministry of Labour official as saying that foreign workers would still need a "no-objection certificate" from his employer to change jobs and that the Ministry of Labour would impose a one-year travel ban on anyone who attempted to change jobs without employer permission. The report also quoted the official as saying "No one is allowed to switch jobs even if they complete many years in their [current job], without the consent of their sponsor." Does this statement reflect the manner in which the Ministry of Labour has been applying Ministerial Decision No. 1186 since its entry into force, or does it reflect a change in the manner of its application?
- According to the National Committee to Combat Human Trafficking, the Ministry [of Labour] "settled disputes of 3033 workers during 2012" and liquidated $8.58 million (31.5 million AED) of the bank guarantees of companies involved in "untimely, improper or non-payment of salaries." What did the Ministry of Labor do with these liquidated funds? Were they collected as fines or redistributed to workers?
- What attempts have the Ministry of Labour or other governmental bodies made to inform migrant workers of their rights, in particular their right to change employer under certain conditions? Has the Ministry of Labour published informational advice on employment rights for migrant workers and, if so, in what languages, and where?

Please do not hesitate to include any other materials, statistics, or information that you consider relevant.

# Appendix II: Letter to the Abu Dhabi Executive Affairs Authority from Human Rights Watch

## cc'd to Mott McDonald and New York University, Dated August 27, 2014

August 27, 2014

Khaldoon al Mubarak
Abu Dhabi Executive Affairs Authority
Chairman
10th Floor Al Mamoura Building
Abu Dhabi
United Arab Emirates
Fax: +971 2 499 1992

cc: Mott MacDonald
Al Ghaith Towers
Hamdan Street
Abu Dhabi
United Arab Emirates

Dear Mr Al Mubarak,

I write to share with you a summary of findings of a Human Rights Watch investigation into the situation of migrant workers on the Saadiyat Island project in Abu Dhabi and to request further information on the steps that the Executive Affairs Authority is taking to ensure workers' basic rights.

Human Rights Watch has taken note of the Abu Dhabi Executive Affairs Authority's "Statement of Labour Values" and the implementation of "The 14 Points" and Mott McDonald's three separate assessments of contractor and subcontractor adherence to "The 14 Points". As part of our commitment to fair and accurate reporting, we will continue to reflect positive developments in our report as well as identifying areas where we believe the EAA could strengthen its policies.

We wish to offer you the opportunity to respond to our findings so that we can reflect the EAA's position in our report, which we plan to release in New York in January 2015. We look forward to receiving your response and will reflect all pertinent information that we receive from you by November 18 in our public findings.

We would welcome the opportunity to engage with the EAA to discuss this issue in order both to enable us to duly reflect your progress on labor rights and to identify areas where further steps could be taken to improve living and working conditions for the migrant workers on your projects. We would be available for such a meeting prior to the release of our report at a time and location of your preference.

I look forward to receiving a response at your earliest convenience. You can reach us by contacting my colleague Nicholas McGeehan at mcgeehn@hrw.org or on +39 366 417 3277

Yours sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

**Summary of Human Rights Watch 2014 findings on the situation of migrant workers on Saadiyat Island.**

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Workers reported that their employers had failed to pay their wages for months at a time, and that they faced arrest and summary deportation when they went on strike. They described the unwillingness of their employers to renew work permits and residence visas, leaving them vulnerable to arrest and deportation by the UAE authorities, or to pay end of service benefits due to them. Workers said that their employers continued to retain their passports and failed to reimburse them for recruitment fees that they had paid initially to secure employment on the island. Some Saadiyat workers continue to be housed in cramped and unsanitary housing.

One employee of a contractor working on the Louvre site on Saadiyat Island told Human Rights Watch that he fears arrest and deportation because his employer has refused to renew his work and residence permits, and that he is owed over $7000 in unpaid wages and end of service benefits, dating back to 2005. One of his colleagues reported that he had experienced similar problems. Neither man had filed a labor complaint, as their employers, they said, had threatened that they would "not see a single penny" if they did. Human Rights Watch spoke to a group of 12 men working for the same company on the Louvre site on Saadiyat who filed a complaint in February 2014 against the company in a Dubai labor court for unpaid wages. The Dubai labour court adjourned the case in April and in August, and at time of writing it remains unresolved.

Three workers from Bangladesh, working for a contractor on the New York University (NYU) site on Saadiyat, but who live two hours' drive away in Dubai, told Human Rights Watch that they have been on a basic salary of $190 per month – half of the amount of wages that recruitment agents in Bangladesh said they would be paid when they agreed to travel to the UAE to work – and that the company did not give them promised annual pay increases. They said they had paid approximately $2,570 in recruitment fees and that, despite their unhappiness regarding their pay and working hours, about which they had complained to their employer, they could not return home to Bangladesh until they had repaid the debts they had accrued in order to pay their initial recruitment fees.

All of the workers we asked said they had paid recruitment fees to secure employment in the UAE. None had received reimbursement.

Human Rights Watch also spoke with seven former employees of another contractor on the NYU site on Saadiyat Island, who said they had participated in a strike to protest low pay,

which led to the deportation of over 200 workers. Four of the men were among 40 whom police arrested, and two of the seven interviewed by Human Rights Watch said that police had mistreated them during their detention.

Human Rights Watch also met with a group of 27 workers employed as painters on the NYU site on Saadiyat Island, who were living in a two-room apartment in Abu Dhabi city. During Human Rights Watch's visit, researchers observed insects crawling around the kitchen, and exposed electrical wires wrapped around a shower head. Some of the men slept on makeshift beds on the floor underneath bunk beds, and there was a hole punched in the fire escape door, which was locked. Another group of 43 workers, who said they worked on the NYU site on Saadiyat Island, but were living in the Mussafah industrial zone outside Abu Dhabi city, were sleeping nine to a room in bunk beds, with minimal space for personal possessions, and storing work tools and paint buckets in their windowless bedroom.

The research does not examine to what extent the abuses documented in this report reflect general living and working conditions for workers on the Saadiyat site or to determine how widespread such abuses are: government authorities there do not allow us to conduct research openly and our findings of necessity reflect the experiences of the workers with whom we were able to speak. They do indicate, however, that problems persist on the country's most highly scrutinized project. In principle, workers on this project enjoy the protection of laudable codes of conduct put in place by the two quasi-governmental developers that are responsible for Saadiyat Island projects - the Tourism Development and Investment Company's (TDIC) "Employment Practices Policy", whose implementation is monitored by PwC, and the Abu Dhabi Executive Authority's (EAA) "14 Points", whose implementation is monitored by Mott McDonald. These codes of conduct cover issues including passport confiscation, recruitment fees, payment of salaries and overtime, working hours and accommodation. If properly enforced, these codes of conduct should guarantee that workers are not subject to the sort of abuses that Human Rights Watch's investigation uncovered. Our report again details the important steps forward these codes of conduct represent.

Workers on Saadiyat projects should also have benefited from important labor reforms that the UAE government has enacted since Human Rights Watch first reported on this issue in 2009. Our report describes these reforms in great detail, including, inter alia: Ministerial Decision No. 1186 of 2010, allowing a worker to transfer employers two years after his initial

employment, without having to wait six months from the cancellation of his labour card, and if his employer agrees; Ministerial Resolution No. 1283 of 2010 on the licensing and regulation of UAE-based private recruitment agents, which prohibits recruitment agents from charging workers' "any sums, monies, rights or gains under the name of commission, fees, or anything else for any reason and through any means whatsoever," and empowers the Ministry of Labour to force recruitment agents to "refund to the worker any amounts paid to any entity or person inside or outside of the country"; Cabinet of Ministers Resolution No. 26 of 2010, which requires that all firms subject to the labour law provide bank guarantees, to cover, among other things, payments to workers in the event of non-payment of wages and fines incurred for violating regulations on labour accommodation; and Ministerial Resolution No. 788 of 2009, which provides for a wage protection system that requires companies to transfer all salaries to their workers electronically via banks in the UAE. We would be particularly interested in information from the government on other labor reforms that might have been implemented but not otherwise referenced above, to ensure the accuracy and completeness of our description of labor reforms in the country.

Notwithstanding these important legislative reform measures, the workers to whom we spoke did not appear to have benefited from them, nor the extra layer of protection provided by the private codes of conduct in place on Saadiyat Island. In our assessment, implementation and enforcement remain a critical problem in ensuring that workers benefit from labor law reforms and employer-initiated codes of conduct.

### Request for information

Mott McDonald's reports make no reference to any sanctions imposed on contactors or subcontractors who did not comply with any of the 14 Points.

- Is there a formal penalty policy associated with "The 14 Points"? What precise sanctions, financial or otherwise, has the EAA imposed on contractors for failure to adhere to the terms of "The 14 Points" since its entry into force?

As you are aware, Ministerial Resolution No. 1283 of 2010 on the licensing and regulation of private recruitment agents gives the Ministry of Labour the power to force recruitment agents to "refund to the worker any amounts paid to any entity or person inside or outside of the country". In addition, according to Ministerial Resolution No. 788 of 2009, which provides for the UAE's wage protection system, the Ministry of Labor has the power to

"suspend the granting of any new work permits…and refer all those responsible for the violation to the judicial entities to take action".

- Has the EAA referred any contractors to the relevant authorities for their failure to adhere to regulations on recruitment fees, wage payments and other violations of the labour law? If so, what action did the authorities take?

Mott McDonald's 2013 Compliance Report is based on 76 labor monitoring reports that took place in 2013, yet it fails to make any reference to the deportation of several hundred BK Gulf workers after a work stoppage in September 2013.

- Did the EAA or Mott McDonald speak to the workers to determine the cause of the strike? Is the EAA Mott McDonald aware of any workers having been deported for involvement in the strike? Has the EAA or Mott McDonald made any attempt to ascertain if BK Gulf workers who took part in the work stoppage but who were not deported feel that they are now working involuntarily under menace of penalty of deportation and therefore in conditions of forced labor?

In reference to housing, Mott McDonald's January 2013 report gave the following reason as to why workers had not been housed in accommodations that met the stipulated standard in The 14 Points: "because of cultural issues it is deemed in the best interests of the employees that they remain in the accommodation."

- What were these "cultural issues"?

In 2006, the Abu Dhabi Water and Electricity Authority appointed Mott McDonald to oversee the development of water and electricity systems on Saadiyat Island. Reports in the media do not indicate the value of the oversight contract but state that the development would cost $27 billion.

- Was Mott McDonald acting as a contractor on the Saadiyat Island site at the same time as it was acting as third-party monitor on the NYU Abu Dhabi site? How many contracts with UAE state-entities has Mott McDonald secured since it was appointed as the third-party monitor for the Executive Affairs Authority and what is the collective value of those contracts?
- Has the Executive Affairs Authority re-examined its labor policies in light of standards such as the UN Guiding Principles on Business and Human Rights?

# Appendix III: Letter to the Tourism Development & Investment Company (TDIC) from Human Rights Watch

## cc'd to PwC, the French Government, Agence France-Muséums, the Solomon R. Guggenheim Foundation, Dated August 27, 2014

August 27, 2014

Ali Al Hammadi
Chief Executive Officer
Tourism Development and Investment Company
Abu Dhabi,
United Arab Emirates

Will Jackson-Moore
UAE Country Senior Partner
PricewaterhouseCoopers
Abu Dhabi
United Arab Emirates
Fax: +971 (0)2 645 6610

Dear Mr Al Hammadi:

I write to share with you a summary of findings of a Human Rights Watch investigation into the situation of migrant workers on the Saadiyat Island project in Abu Dhabi and to request further information on the steps TDIC is taking to ensure workers' basic rights.

Human Rights Watch has taken note of TDIC's implementation of its "Employment Practice Policy" (EPP) and PricewaterhouseCooper's candid assessment of contractor and subcontractor adherence to the EPP. As part of our commitment to fair and accurate reporting, we will continue to reflect positive developments in our report as well as identifying areas where we believe TDIC could strengthen its policies.

We wish to offer you the opportunity to respond to our findings so that we can reflect TDIC's position in our report, which we plan to release in New York in January 2015. We look forward to receiving your response and will reflect all pertinent information that we receive from you by November 18 in our public findings.

We would welcome the opportunity to engage with TDIC to discuss this issue in order both to enable us to duly reflect your progress on labor rights and to identify areas where further steps could be taken to improve living and working conditions for the migrant workers on your projects. We would be available for such a meeting prior to the release of our report at a time and location of your preference.

I look forward to receiving a response at your earliest convenience. You can reach us by contacting my colleague Nicholas McGeehan at mcgeehn@hrw.org or on +39 366 417 3277.

Yours sincerely,

Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

**Summary of Human Rights Watch 2014 findings on the situation of migrant workers on Saadiyat Island.**

Nearly five years after we first documented systematic human rights violations of migrant workers on Abu Dhabi's Saadiyat Island, a new investigation by Human Rights Watch has found that workers continue to be subject abuses that can lead to conditions of forced labour. This is despite significant and laudable labor law reforms by the government, as well as important policies for labor protections implemented by the companies involved in the development project. When completed, the project is due to host branches of the Louvre and Guggenheim museums and New York University, Human Rights Watch conducted the research for its new report between January and July 2014. The research involved interviews, in the field and by telephone, with five groups of workers who worked on the Saadiyat Island site but either lived elsewhere in the UAE or had been deported to either Pakistan or Bangladesh when they spoke to Human Rights Watch.

Workers reported that their employers had failed to pay their wages for months at a time, and that they faced arrest and summary deportation when they went on strike. They described the unwillingness of their employers to renew work permits and residence visas, leaving them vulnerable to arrest and deportation by the UAE authorities, or to pay end of service benefits due to them. Workers said that their employers continued to retain their passports and failed to reimburse them for recruitment fees that they had paid initially to secure employment on the island. Some Saadiyat workers continue to be housed in cramped and unsanitary housing.

One employee of a contractor working on the Louvre site on Saadiyat Island told Human Rights Watch that he fears arrest and deportation because his employer has refused to renew his work and residence permits, and that he is owed over $7000 in unpaid wages and end of service benefits, dating back to 2005. One of his colleagues reported that he had experienced similar problems. Neither man had filed a labor complaint, as their employers, they said, had threatened that they would "not see a single penny" if they did.

Human Rights Watch spoke to a group of 12 men working for the same company on the Louvre site on Saadiyat who filed a complaint in February 2014 against the company in a Dubai labor court for unpaid wages. The Dubai labour court adjourned the case in April and in August, and at time of writing it remains unresolved.

Three workers from Bangladesh, working for a contractor on the New York University (NYU) site on Saadiyat, but who live two hours' drive away in Dubai, told Human Rights Watch that they have been on a basic salary of $190 per month – half of the amount of wages that recruitment agents in Bangladesh said they would be paid when they agreed to travel to the UAE to work – and that the company did not give them promised annual pay increases. They said they had paid approximately $2,570 in recruitment fees and that, despite their unhappiness regarding their pay and working hours, about which they had complained to their employer, they could not return home to Bangladesh until they had repaid the debts they had accrued in order to pay their initial recruitment fees.

All of the workers we asked said they had paid recruitment fees to secure employment in the UAE. None had received reimbursement.

Human Rights Watch also spoke with seven former employees of another contractor on the NYU site on Saadiyat Island, who said they had participated in a strike to protest low pay, which led to the deportation of over 200 workers. Four of the men were among 40 whom police arrested, and two of the seven interviewed by Human Rights Watch said that police had mistreated them during their detention.

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The research does not examine to what extent the abuses documented in this report reflect general living and working conditions for workers on the Saadiyat site or to determine how widespread such abuses are: government authorities there do not allow us to conduct research openly and our findings of necessity reflect the experiences of the workers with whom we were able to speak. They do indicate, however, that problems persist on the country's most highly scrutinized project. In principle, workers on this project enjoy the protection of laudable codes of conduct put in place by the two quasi-governmental developers that are responsible for Saadiyat Island projects - the Tourism Development and Investment Company's (TDIC) "Employment Practices Policy", whose implementation is monitored by PwC, and the Abu Dhabi Executive Authority's (EAA) "14 Points," whose implementation is monitored by Mott McDonald. These codes of conduct cover issues including passport confiscation, recruitment fees, payment of salaries and overtime, working hours and accommodation. If properly enforced, these codes of conduct should guarantee that workers are not subject to the sort of abuses that Human Rights Watch's investigation uncovered. Our report again details the important steps forward these codes of conduct represent.

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### Request for Information

TDIC issued an updated version of the EPP in February 2012. It differs from the earlier version in that it states that TDIC may "impose financial penalties" according to the terms of a Penalty Policy included in an annex. PwC's December 2013 report includes details of serious violations of workers' rights. For example 86 percent of workers interviewed reported having paid fees to recruitment agencies, and in one case PwC found that "all of the workers interviewed for one subcontractor informed us that they had not been paid wages for six months."

- What precise sanctions, financial or otherwise, has TDIC imposed on contractors for failure to adhere to the terms of the Employment Practice Policy since its entry into force?

The penalty policy states that any contractor who records more than two audit scores in the "black zone" of compliance – the worst of five compliance zones – has committed a material breach of contract but it does not describe what steps TDIC can take in such cases.

- Has TDIC found any contractors to be in material breach of contract as a result of poor compliance with the EPP and, if so, what action did TDIC take?

According to your press release of March 17, 2011, "TDIC has in place a robust mechanism to ensure workers do not pay recruitment fees to work on Saadiyat. TDIC recently expanded this to include that contractors must reimburse workers for any recruitment fees they might have paid." In your letter to Human Rights Watch on March 2011, you stated that "the EPP compels contractors to only engage reputable recruitment agencies who are contractually bound not to impose recruitment fees on workers." However, PwC's September 2012 and December 2013 reports found that, respectively, 77 and 86 percent of workers interviewed had paid recruitment fees. PwC stated in December 2013 that ""it is widely acknowledged that the full resolution of this issue is beyond TDIC's direct influence and also requires action outside of the UAE."

- What steps has TDIC taken to address the issues that are within TDIC's direct influence? For example, what steps has TDIC taken to ensure the reimbursement of workers who, through no fault of their own, cannot produce any documentary evidence of the fees they paid? How many recruitment agents has TDIC referred to the authorities under the terms of Ministerial Resolution No. 1283 of 2010, which enables the Ministry of Labor to force recruitment agents to "refund to the worker any amounts paid to any entity of person inside or outside of the country."

In your letter March 14, 2011 to Human Rights Watch, you stated that TDIC would "work closely with the relevant government entities to aim for 100% compliance with the UAE Labour Law and the EPP." PwC's December 2013 report found that "all of the workers interviewed for one subcontractor informed us that they had not been paid wages for six months." TDIC's response was to issue official letters "enforcing payment of wages to the workers".

- What sanction did TDIC impose on that contractor under the terms of the EPP? Did TDIC refer the company, and any others who failed to pay wages, to the Ministry ofLabour given that Ministerial Resolution No. 788 of 2009 gives the MOL the power to "suspend the granting of any new work permits…and refer all those responsible for the violation to the judicial entities to take action". What actions did the authorities take in these cases?

Human Rights Watch spoke to workers deported for going on strike to protest low pay and poor working conditions in October 2013. The details of their complaints and the response of the authorities is consistent with media reports of a similar strike in May 2013, when the authorities reportedly arrested and deported several hundred employees of Arabtec, the main TDIC contractor. PwC's 2013 report states that "These incidents have been subject to investigation by the relevant UAE authorities and were not within the scope of the monitoring programme."

- Did TDIC or PwC speak to Arabtec workers to determine the cause of the strike? Is TDIC or PwC aware of any workers having been deported for allegedly taking part in the strike action? Has TDIC or PwC made any attempt to ascertain if Arabtec workers who took part in the work stoppage but who were not deported feel that they are now working involuntarily under menace of penalty of deportation and therefore in conditions of forced labor?
- Has the Executive Affairs Authority re-examined its labor policies in light of standards such as the UN Guiding Principles on Business and Human Rights?

# Appendix IV: Response from Tourism Development & Investment Company to Human Rights Watch

## Dated November 23, 2014

November 23, 2014

Dear Sarah,

Thank you for your letter dated 4 Nov 2014, and for giving us the opportunity to comment on the mentioned findings. We take this opportunity to confirm that TD1C is committed to continuously reviewing and updating regulations to guarantee the welfare of workers. In this regard, TDIC welcomes collaboration with all parties genuinely interested in this matter, working without an agenda and following a scientific methodology for their research.

However, we see from the way the information has been gathered and analyzed in your letter that there is substantial confusion in TDIC's role and responsibility as a developer in Abu Dhabi.

We would like to clarify the following points:

1) It is very misleading to attribute every incident that you report on Saadiyat to the island overall. As mentioned several times before, Saadiyat is witnessing the construction of a number of developments. These projects are developed by various contractors; some of them are appointed by TDIC and many others are contracted by other developers or investors. It is important to emphasize that the Employment Practices Policy (EPP) is a TDIC document and therefore only applies to TDIC projects which requires workers on our Saadiyat projects to be housed at the Saadiyat Accommodation Village. Therefore, it is true to say that every worker working on TDIC projects on Saadiyat is housed at SAV, but it is not accurate to say that every worker on Saadiyat is living at SAV. TDIC is responsible for its own housing facilities and regulations and not for all projects on the island.
2) As stated previously, all the workers on Louvre Abu Dhabi site are living in Saadiyat Accommodation Village as this is mandatory by the EPP. However, we would like to point out that due to a confrontation between two different ethnic groups of

workers on August 20, 2013, and as a precautionary measure to ensure the safety and well-being of the individuals involved in the brawl, a decision was made to relocate one ethnic group temporarily outside of SAV to another location. The alternative accommodation facility was of no less quality than SAV. The contractors were asked then to accordingly act and a plan was developed for the gradual return of the previously relocated workers into SAV, which was done and completed in Nov 2013. This was the result of a fight among the two groups as opposed to what you referred to as a strike. It is important to make that clear differentiation.

3) We wish to point out the projects such as Louvre Abu Dhabo have hundreds of subcontractors and thousands of workers involved in the delivery of the project which means if the pool of workers you have interviewed is not of specific ratio, the findings would not truly reflect the reality on the ground. That does not mean that we do not believe in the importance of the rights of individuals you've interviewed but you stated that have interviewed a small number of workers which we believe hardly reflects a true picture of the situation at SAV. We are keen to understand how you conducted the interviews, and in what languages were they conducted and how you're been able to verify that the information that has been given to you is accurate. Last year, PwC interviewed 565 workers out if 2,412 to come out with respectable results that can be shared and findings that can be addressed.

4) On the issue of delayed wages by one of the subcontractors, we would like to inform you that these findings had been mentioned in PwC's 2013 report (on page 14 of the report) and the issue was immediately addressed and the back salaries were paid. According to the EPP, TDIC could penalize and terminate the subcontractor. However, we realized that won't serve the benefit of the workers or solve the issue. Instead, TDIC obliged the subcontractor to complete their scope of work and made sure that payments were made directly to the workers' accounts by the main contractor. That not only benefited the employees of the subcontractor on Louvre Abu Dhabi but the employees of the subcontractor on other non-TDIC projects as well. The scope of work of this subcontractor was completed in August of 2014 and TDIC confirms that all the delayed payments were settled at that time. Further to this, the subcontractor has been financially penalized.

5) On the issue of reimbursement of recruitment fees, TDIC has applied strict regulations in the EPP obliging contractors to reimburse their workers who have proof of payment of any recruitment fees even before being assigned to TDIC

projects. According to PwC many workers have claimed that they have paid recruitment paid. We do realize that this practice occurs in workers' home countries and requires a concerted effort by several governments and international organizations to combat.

We understand the seriousness of this issue and it is not solely a TDIC challenge alone, but rather an international matter that needs to be addressed on a wider level including that home countries of the workers. Given that this is taking place outside the borders of the UAE it is only fair to ask HRW what they have done to resolve this issue from its root rather than painting a misleading picture to show that is a TDIC or Saadiyat problem in isolation.

We are aware that the United Arab Emirates Ministry of Labour continues to prioritize this aspect in its bilateral discussions with home countries of guest workers in the UAE.

With regard to the person you interviewed from Louvre Abu Dhabi, should you share more information with us we would be willing to investigate this further ad take the appropriate actions.

We demand accuracy in your reporting and information, utilizing a clear methodology. While we recognize that TDIC needs to constantly review its regulations and improve them, a simple visit to SAV and conversations with the workers always shows how comfortable the accommodation and services at the village are and how respectful TDIC is of workers' rights and welfare.

We take this opportunity to once again restate that workers' welfare is matter of top priority to us. We extend arms to any organization or institution that is interesting in making a difference.

Regards,

Ali Al Hammadi
CEO

# Appendix V: Response from New York University to Human Rights Watch

Dear Ms. Whitson,

Thank you for writing. As you know, for the construction of NYU Abu Dhabi's campus, NYU and our Abu Dhabi partners put in place a clear set of standards for the treatment of workers (set forth in the "Statement of Labor Values" and the "14 Points") and a compliance process to monitor their implementation. We and our Abu Dhabi partners view with seriousness and concern and claim, reports, or accounts that allege that some of those built our campus may have been treated in manner that was out-of-step with those standards.

I appreciate that in the documents you have shared with us, HRW is not claiming that the incidents you have documented are representative of workers' treatment on the construction project overall – a large, complex, project involving thousands of workers over a period of four years. Indeed, on any project of this size, it is inevitable that there would be instances when standards were not met; that was why we and our Abu Dhabi partners put a compliance regime in place.

As you know, after receiving your letter with HRW's findings, we emailed your staff asking for further information. In particular, we asked if you could provide the names of the relevant contractors, the time period during which they worked in NYU's site (many individuals who worked on the site only did so for short periods of time), and the kind of work they were doing. While your staff initially indicated that such information would be forthcoming, we have been notified that HRW will be unable to provide us any detailed information prior to the deadline that you have given us to respond. As a result, we are unable to provide a comprehensive response to your findings.

As you are aware, our Abu Dhabi partners have retained Nardello & Co., a firm led by a former U.S. federal prosecutor, to conduct an independent review of the labor compliance issues raised by view reports. I would like to reiterate our request for further information about our findings, as we would like to share it with Nardello & Co., so that they can look into them in their review.

The bottom line is that NYU and our Abu Dhabi partners take labor compliance seriously. While construction is over, we don't see this as a close issue. We want to identify any shortcomings, determine how we may be able to remedy them, and draw lessons learned to strengthen labor compliance going forward.

Thank you again for writing me and for sharing your concerns.

Yours,

John Sexton

# MIGRANT WORKERS' RIGHTS ON SAADIYAT ISLAND IN THE UNITED ARAB EMIRATES

## 2015 Progress Report

Nearly five years after Human Rights Watch first revealed systematic human rights violations of migrant workers on Abu Dhabi's Saadiyat Island, a development project that will host branches of the Louvre and Guggenheim museums and New York University, there remain serious concerns about violations of workers' rights on the island. Although the institutions involved have overseen the institution of codes of conduct, some employers involved in the construction of these projects continue to confiscate passports and withhold salaries, and their workers still pay exorbitant recruitment fees to secure low-paid work in one of the wealthiest countries in the world. The report also describes how major contractors on the Saadiyat Island site conspired with the authorities to have large numbers of workers summarily deported after strikes in protest at low pay and poor conditions. It calls on the institutions involved in the project to make their continued engagement contingent on meaningful reforms, including serious penalties for partners who breach labor commitments, and compensation for workers whose rights have been violated.

*Drawn by the promise of jobs, thousands of men from India, Pakistan, Bangladesh, Sri Lanka, and Nepal are working on Saadiyat Island in the United Arab Emirates.*

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