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Wage Protection Systems and Programmes in the GCC

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Wage Protection Systems and Programmes in the GCC*

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Abstract: This paper is an assessment of the limitations of the electronic Wage Protection System (WPS) introduced in four of the six Gulf Cooperation Council (GCC) states. The widespread practice of withholding wages has led to the GCC states introducing a wage protection system where employers are required to make the payments to employees into their bank accounts to ensure an official record of payments that can be monitored. Relevant government authorities, with the cooperation of WPS banks, can monitor and take action against non-compliant employers in relation to wage payments. An overview of each country's wage protection system includes data, where available, on WPS coverage by employing firms, workforce coverage, and penalties for transgressions. In some cases, there is information on the number of violations and the penalties meted out. It is concluded that while WPS programmes are necessary and have provided for greater stability in wage payments, there are still serious limitations because of which a number of fraudulent practices by unscrupulous employers can go undetected. On the other hand, there are problems for employers who may be unfairly penalised. Until improved technological monitoring mechanisms are introduced covering more detailed elements of wage entitlements and access identity, the WPS programmes will only reveal late payment of wages and will be unable to discern whether the payments made are correct, or who is withdrawing the wages from automatic teller machines.

Keywords: Law and Regulations; Policy; Labour Rights; Work Conditions; Foreign Labour.

Introduction

The need for a wage protection system (WPS) in the GCC arises partly because of the vulnerability of migrant workers who can easily be exploited by unethical employers. The sponsorship or *kafala* system in the GCC states has come under sustained criticism primarily from Western labour

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and human rights advocates. A largely privatised system, it allows considerable control over the migrant labour workforce in that the sponsor, or *kafeel*, has decision-making power on their entry, residency, and sometimes exit. Foreign employees must only work for their sponsor, cannot change employers without the permission of their sponsor, and in the case of Qatar and Saudi Arabia, cannot leave the country without permission. Such control over non-nationals reduces competition between the major elite families, serves as a form of oil wealth distribution among nationals, and maintains structural exclusion of foreigners (Dito 2014). It is also explained by the demographics of nationals being outnumbered by non-nationals in four of the six GCC states; that is, as a measure to maintain “societal security” or “identity security” (Akkas 2017).

Although some reforms have been implemented to reduce or eliminate the *kafala* system in some GCC states, the sponsorship system of management remains one of the principle reasons for the vulnerability of migrant labour and contributes to conditions of forced labour and exploitation of wages which may be the result of contract substitution, underpayment, delayed payment or non-payment (Khan & Harroff-Tavel 2011; Jureidini 2016). As migrant workers from Asia go into debt to pay recruitment agencies for their jobs, they are forced to accept wages and conditions that are less than they may have been promised. In addition, workers’ access to grievance mechanisms, however meager, is complicated by a culture of fear that to complain may result in dismissal and repatriation or deportation (Gardner, Pessoa & Harkness 2014).

As a result of the kind of entrapment that migrant workers in the GCC face, there have been widespread incidents of employers using wages as a form of control over their workforce. Wage delays and promises are often used to prevent employees leaving, along with passport confiscation and limits to their freedom of movement (ILO 2017a).

One of the main complaints by all nationalities of workers in the GCC, particularly to their embassies, concerns wages – low payment (less than promised or less than specified in the contract), delayed payment, and non-payment (Impactt 2017; Wells 2014; Jureidini 2014; Gardner et al. 2013). Such practices are particularly hurtful because the vast majority of workers in the GCC are there to support their families’ daily subsistence back home as well as pay off their loans that usually have high interest rates. Labour strikes over wages are rare in the GCC because they are illegal if not authorized and often lead to arrest, detention, and deportation.

Non-payment of employees is, of course, an issue that resonates strongly within Islamic ethical principles. The Prophet stated, for example, “You should pay the labourer his wages before his sweat dries” (Sunan Ibn Mājah, 2443). Further, “I am the adversary of three people on the Day of Requittal: one who gave in my name and then was treacherous, one who enslaved free man and consumed the price and a man who employs a worker but does not pay him his rightful wages” (Bukhari, Hadith no. 2114).

Designed mainly for low-income migrant workers, WPS has been introduced in all the GCC countries, except Bahrain, where it is still under discussion by the Labour Market Regulatory Authority. The WPS is a mechanism mandating wage payments by bank transfer to provide an official record that can be monitored with penalties for non-compliance. As a measure for protection against non-payment of wages, WPS was formally presented and well received at the third meeting of the Abu Dhabi Dialogue (ADD) (2014). The first to implement a WPS was the United Arab Emirates (UAE) in 2009

(upgraded in 2016), followed by Saudi Arabia (2013), Oman (2014), Qatar (2015) and Kuwait (2015). Electronic transfers offered for the first time an efficient means for authorities to check compliance regarding wage payments by all employers enabling the monitoring of the timing of payments as well as reconciling payments with contracts. WPS also offers the potential for swift settlement of wage disputes between employers and employees.

While the WPS systems installed are a much needed means of protection for migrant workers, they do not address the lack of minimum wages for the private sector or the practice of linking wage differentials to nationality. For example, despite multilateral talks and agreements between the major Asian labour-origin countries and the GCC states, such as the Abu Dhabi Dialogue, there has been very little cooperation in the standardisation of wage levels and minimum wages by occupation (Dito 2014). Wage levels have been largely left to the international labour market or recommendations from embassies of individual labour origin countries (Jureidini 2014).

In relation to the UAE, and repeated in other countries, the strengths of the WPS have been summarised as follows:

1. Reiterating the commitment to protect workers' wages;
2. Providing innovative solutions that help employers safeguard their own interests, reducing the time and effort needed to pay workers' wages, and offering employers a clear track record of salary payment which enables them to demonstrate compliance with the labour law and safeguards their interests in case of labour disputes;
3. Taking serious steps to improve job security in order to strengthen work relationships in the UAE and safeguard the rights of all parties concerned;
4. Entrenching transparency and competitiveness;
5. Ensuring that the UAE Ministry of Labour is regularly and constantly updated on wages data in the private sector in order to guarantee that employers fulfill their salary obligations;
6. Taking protective and proactive measures to reduce labour disputes pertaining to wages. (ILO 2016a).

The WPS can also force sponsors involved with visa trading ("free visas") to regularise their circumstances by registering workers as having absconded, providing NOCs for workers who are employed elsewhere, or ensuring they leave the country (Jureidini 2017). Besides, labour supply firms that "warehouse" migrant workers can presumably be kept in check by the WPS. Though labour supply firms are the formal employers of migrant workers and hire them out on short-term basis to contractors and subcontractors alike. It is common practice, however, for these firms to not pay them or reduce their wages and allowances if they are not being hired out and remain idle (Jureidini 2014). Such wage discrepancies, without adequate justification, should raise red flags with the ministries for checking, inspection, and remedial action.

This paper will provide a brief overview of WPS in four GCC countries that have implemented it. Bahrain has been excluded because it has not yet implemented WPS. Kuwait is excluded because there

is insufficient material available in the media, or government websites. The overview will be followed by a critical assessment showing some limitations and abuses of WPS in practice. Finally, it is suggested that WPS can be rendered redundant, or indeed be used maliciously, when employing companies themselves throughout the supply chain have not been paid by their clients. Without financial reserves, they may be unable to pay their workforce and the payment disruptions in the supply chain may result in bankruptcy where clients are no longer obligated to pay and employees also remain unpaid.

UAE

In 2007, a UAE Federal Cabinet decision proposed the implementation of an electronic wage payment system, to be implemented from January 2008. The proposal was put on hold because of objections by businesses that banks were unwilling to open bank accounts for low-income migrant workers. It was not until the Central Bank became directly involved that a system could be put in place (Absal 2009).

Specifically targeting low-wage migrant workers, the WPS in UAE came into force on September 1, 2009 under Ministerial Decree 788. The Ministry of Labour obliged employers to pay employee salaries by means of an electronic transfer system that allowed the tracking of salary payments to monitor the amount and timeliness of payments. All salaries were to be paid in dirhams and payments to foreign bank accounts were forbidden. Thus, the WPS did not apply in the “Free Zones” where some employers pay salaries in currencies other than dirhams (DLA Piper 2010).

The WPS requires all employers to pay workers’ wages via banks, exchange bureaus, and financial institutions approved and authorised to provide the service. The UAE Central Bank designed the system with a database to record all payments from the private sector. Having chosen a financial institution, employers are required to allocate the day and month that salaries will be paid setting the benchmark for all subsequent payments that can be checked. Each payment requires the employee’s account number, salary, allowances and the number of days of leave taken in the month (UAE Ministry of Labour 2010).

The Ministry of Labour advised employers to lodge a new standard contract if the wages had reduced to ensure payments (forwarded by the Central Bank) would match with contracts that were in the Ministry’s database. Introduced gradually, as of October 2015, around 3.5 million foreign workers (out of 4.6 million migrant registered workers) were being paid through the WPS (ILO 2016a).

Companies that do not enroll in the WPS or do not transfer the wages on time are not allowed new work permits until all outstanding payments have been proven as settled. If a company’s delayed payment exceeds one month, their right to new work permits would be cancelled, including all organisations of the offending company.

In 2016, the Ministry of Human Resource and Emiratization replaced the 2009 decree with a new Ministerial Decree (No. 739) strengthening the penalties for non-compliance. Firstly, the Ministry of Labour will not have any dealings with companies not registered with the WPS. Further, instead of one month’s delay, any company with over 100 workers is now banned from getting further work visas after 16 days’ payment delay. After one month’s delay, the employing company will be assumed

to have “refrained” from paying (instead of two months under the previous legislation) and the judicial authorities will be notified for punitive action, including:

... a complete strike against the other companies owned by the same employer, plus prohibiting the employer the ability of registering any new companies ... take necessary measures to use the bank guarantee, in addition to downgrading the company into the third category and enable workers to move to another company [facilitated by approval from the Ministry of Labour]. (UAE Ministry of Human Resource and Emiratization 2016; see also Mehta 2017)

After 60 days of non-payment, additional fines will be imposed of Dh5,000 (\$1,362) per worker to a maximum of Dh50,000 (\$13,612) where multiple workers are involved. However, once the wage payments have been restored by the employer (within 60 days), the visa bans and fines are lifted. If non-payment extends beyond 60 days, the bans and fines will continue for another two months (Isgar and Singh 2016).

In a study assessing the impact of migrant labour reforms in the UAE since 2011, it was concluded that the monopsony power of firms had been reduced, wages for workers in the country had increased by 10 per cent, changing employers had doubled, there was a significant reduction in the numbers exiting the country, and up to 6 per cent reduction in the number of employees leaving their employers. New workers hired, however, did not get increased wages, and fewer workers were recruited (Suresh, Yaw & Shing-Yi 2016).

Considerable praise for UAE’s WPS has been forthcoming (ILO 2016a) but there is also criticism that, while WPS has acted as a deterrent against wage violations, penalties have been largely administrative with relatively low level fines and conciliation rather than criminal prosecution that would be a more powerful deterrent (US Department of State 2013). This is difficult to judge since there is no data available to show whether actions taken have resulted in greater or lesser levels of employer compliance over time. In 2012, there were 300 group and 1,985 individual complaints regarding delayed wage payments (UAE Ministry of Human Resource and Emiratization 2012). In 2015, the UAE Ministry reported that since 2009, it had carried out 8,391 site visits to companies suspected of failing to pay employees and issued orders to 4,383 companies to pay within five days. Further, between 2011–2015, as a direct consequence of complaints made by individual workers, the Ministry recovered Dh289,577,385 (\$78.8 million) in unpaid wages from employers and distributed this to 42,510 workers. In the same period, there were 169 complaints of unpaid wages from groups of workers that led to the Ministry recovering Dh13,708,276 (\$3.73 million) in unpaid wages on behalf of 4,443 workers (UAE Ministry of Human Resource and Emiratization 2015).

Saudi Arabia

In August 2013, the Saudi Ministry of Labour in conjunction with the Saudi Arabian Monetary Authority (SAMA) began the phased introduction of a WPS, beginning with private sector establishments of more than 3,000 employees. Wages were to be paid electronically into approved local banks and in

Saudi riyals. In December of the same year, WPS was extended to establishments with more than 2,000 employees and then in March 2014, to establishments having more than 1,000 employees, and in November 2014 to establishments with 500 employees. In February 2015, WPS was further extended to establishments having 320 employees, in April 2015 to establishments with 240 employees, in June 2015 to establishments with 170 employees, in August of the same year to establishments with 130 employees, and in November 2015 to establishments with 100 employees. Between February 2016 and August 2017, there was a further extension of WPS to companies with 10-99 employees (Saudi Ministry of Labour and Social Development 2016).

Companies failing to register with the WPS within two months of the appropriate phase are fined SAR10,000 (\$2,666). After two months delay in payment, all Ministry services to the company cease except for the issue and renewal of work permits and licenses. If payment has not been made by three months, all Ministry services are stopped and employees are allowed to transfer sponsors/employers (*naqala kafala*) without consent, even if the work permit has not expired. Any company delaying payment is fined SR3,000 (\$800) per employee, so that a firm delaying payment for 3,000 employees faces a fine of \$2.4 million (Saudi Ministry of Labour and Social Development 2016).

Each month, employers must submit their payroll file to the Ministry specifying the net wage transferred to the employees' bank account, the basic salary, and information on allowances and deductions. What is not clear is whether the Ministry keeps the information on wage levels and allowances according to the employment contract that can be independently verified with the information provided through the WPS. By November 2015, some 12,000 establishments accounting for around 5.6 million workers had been covered by the WPS (*Saudi Gazette* 2015). The tenth phase for firms with 80 or more employees scheduled for February 2016 brought 4,087 companies covering 362,000 workers into the WPS system (*Arab News* 2016).

Towards the end of 2015, the Ministry of Labour announced in a report that it had "shut down" 1,441 firms because of WPS violations, with 48 per cent of total establishments non-compliant. Eighty nine firms that did not respond to workers' wage complaints had their computer services closed. Six hundred and seventy five disputes were resolved, but 121,000 remained pending in the courts, an increase of 91 per cent from 2014. Clearly, the WPS had created an improved complaints mechanism. In total, 530,000 wage complaint cases (including that of 6,329 female workers) were registered in the two years following the implementation of the WPS (Tago 2015).

The fate of employees following the closure of defaulting companies was not made clear in the report. For example, there was no information on how many workers were affected and how many were able to find alternative employment. It would seem rather paradoxical that if workers are not paid properly they can lose their jobs.

The large number of complaints should have sounded a warning bell for the widespread strikes (including nationals and non-nationals) that occurred in February 2016 because of unpaid wages (up to seven months), primarily by the Saudi Oger (owned by Saad Hariri, the Lebanese Prime Minister) and construction conglomerate, the Saudi Binlادن Group. The strikes turned violent with the burning of buses and security forces took strong action that resulted in many arrests and the flogging of some 49 foreign workers (*Middle East Eye* 2017).

Importantly, the two companies placed the blame for their inability to pay their workforce on the government, which due to low oil prices and increasing state debt, had not met its financial obligations towards them and other contractors working on government projects (Wells 2016). Foreign governments whose nationals were deprived of wages, such as Bangladesh, the Philippines, and France demanded that the Saudi government relieve the aggravating situation. Many thousands of workers were laid off by these large companies and by the many smaller subcontractors who were in turn affected (Wells 2016). In August 2016, Saudi Arabia's King Salman announced the allocation of SAR100 million (\$266.5 million) to be placed in the Saudi Arab Fund to assist in the payment of salaries (Gulf Business 2016). Curiously, however, the government refused to pay the companies until the Ministry of Labour had verified that the unpaid salaries had been rectified. This was important, because many companies can typically hold workers to ransom. If they have not been paid for some time, the employer can argue they do not have the finances and pay them less than they are owed. The same occurs in the cutthroat construction industry between clients, contractors, and subcontracting companies.

Oman

The Ministry of Manpower and the Central Bank of Oman introduced the Wages Protection System in January 2014. Article 53 in the Labour Law (Decree 35, 2003) was amended to make it compulsory for salaries to be paid into a locally approved bank account. Justifications for WPS included the possibility of reducing labour disputes relating to wages that may result in work stoppages or labour strikes. WPS was also intended to protect employers by ensuring proof of payment against allegations of non-payment (Oman Ministry of Manpower, nd). Based on Article 116 of the Labour Law, the penalty for non-compliance was set at OMR100 (\$260) for each employee affected.

By late 2016, it was acknowledged that companies in Oman were facing considerable difficulties with the WPS regulations and that the Omani government had not been strict in enforcing compliance (Global Insights, 2016). In June 2017, the Ministry announced a “new” WPS for all private sector companies, using an automated clearing house payment system with a trial phase to begin on November 18, 2017 (Filaferro 2017).

Interestingly, amidst concern over the large volume of remittances leaving Oman, during a session of the Oman Shura Council in January 2017, the Minister of Manpower announced a plan to introduce a new database to track black money from leaving the country. The tracking would involve access to employee salary payments with the amounts they were remitting home to determine whether they were earning more than their legal salary (Gulf Business 2017; Migrant-Rights.org 2017a).

Qatar

Qatar's WPS came into effect in August 2015 under Law No. 1 of 2015, with a deadline of November 3 for all companies to register with the system. With arrangements made by the Ministry of Labour and Social Affairs and the Qatar Central Bank, all employers were required to pay wages either monthly or fortnightly to approved Qatari banks and in Qatari Riyals. All wages are to be deposited by the seventh day of each month. The Ministry set up a special inspection unit to monitor compliance called

Department of Wage Protection. Penalties for non-compliance could be up to QR6,000 (\$1,644) per violation, with visa quota reduced or blocked, bans on future hiring, and possible imprisonment (David 2015).

By October 2016, the Ministry of Administrative Development, Labour and Social Affairs announced that 37,916 companies covering around 85 per cent of the workforce (1.8 million) were fully compliant with the WPS. In the first year, 385 violations were registered against companies that failed to pay wages on time with fines ranging between QR2,000-QR6,000 (\$548- \$1,644) and prison terms up to one month, or both. Between January and October 2016, the number of wage complaints by workers dropped by 30.4 per cent (from 3,845 to 2,676), leading the Minister Dr. Al Nuaimi to state: “We are pleased to observe the very positive impact that recent government initiatives are having on protecting migrant workers in Qatar” (Qatar News Agency 2016).

In November 2015, the International Labour Organisation (ILO) required the Qatari authorities to provide evidence of labour rights reform under threat of a Commission of Inquiry regarding complaints of forced labour (ILO 2017b). Following the implementation (on December 13, 2016) of the reform Law No. 21 of 2015 relating to the entry, exit and residence of expatriates, the ILO gave Qatar 12 months to provide evidence that reforms were being carried out.

In its report to the ILO in March 2017, reference to the WPS showed that by February 2017, 44,245 establishments (i.e., 81 per cent) had registered for it, covering approximately 2.094 million employees. As Table 1 shows, the vast majority (39,737) were firms with less than 50 workers which covered only around 24 per cent of employees. The 362 firms registered with more than 500 employees (from a total of 365 firms of this size) accounted for approximately 45 per cent of employees covered.

Table 1: Qatar Wages Protection System coverage, December 2016, firms and employees

No. of Employees in Firm	No. of Firms	No. of Firms Registered	No. of Employees included in WPS
> 500	365	362	935,817
101 -500	1,564	1,626	438,407
51- 100	2,623	2,520	208,184
11 -50	18,842	16,319	383,611
<11	31,251	23,418	127,593
Total	54,735	44,245	2,093,612

Source: Modified from ILO 2017b: p.11, Table 6.

In 2016, some 617 companies were referred to the police for violations of the WPS, with a further 75 between January 1 and February 19, 2017 (Qatar Ministry of Administrative Development, Labour and Social Affairs 2017).

Limitations of WPS

While there are many advantages of the WPS for employees, employers, and the state, there are limitations in the ability of governments to properly monitor and verify that workers are receiving the wages that are due to them. Among the problems discussed in this section are company insolvency and the inability to pay employees.

All WPS programmes require strict adherence to the information and format required for banks to accept and register wage payments. For example, employers need to lodge a Salary Information File (SIF) on employee salaries. This requires the employee's residency ID, visa ID, name, bank name and account number, frequency of payment (for example, monthly or fortnightly), number of working days for the wage period, net salary paid, basic salary (according to the contract), extra hours worked, extra income (allowances, such as transport, housing, food, bonuses, back-pay, advanced payments for vacation, etc.). Deductions also need to be listed and these could include: loan payments, charges for damages caused by employee, salary cuts (e.g., for sick leave), and payments for fines stemming from legal violations (such as traffic violations).

Firstly, while the amount and time of payment is formally registered in bank accounts, there remains the problem of reconciling the wage paid (net) and the contract agreement (basic salary). The SIF relies on the employer to register the basic salary that is on the contract, rather than making an independent verification. It is not clear in any of the GCC states with WPS that the basic salary and other allowances (such as food), as may be stated in the employment contract, can be independently and electronically matched with the actual wages paid. Such independent or government verification has always been an expectation of WPS, but there is no clear evidence that it is being done. For example, published figures on wage complaints and penalties, as cited previously, do not provide any details as to how the wage dispute arose and whether the authorities themselves have found discrepancies between the net salary lodged and the basic salary as stated in the actual contract.

For example, when an employee withdraws his salary from the bank, the only information he receives is on the net wage. All other information required by the SIF does not appear in a bank statement for the employee. Those details require a separate pay-slip, which many employees do not receive for their own verification. Where pay-slips are not provided, the employer can underpay basic salary, overtime, food allowances, etc. and overstate deductions. According to an employee of a Qatari cleaning company, overtime is never paid on time (it is usually two to three weeks late) and is always paid in cash.

In the WPS, the basic salary and other allowances cannot be electronically verified with what is actually in a worker's signed labour contract. For example, employers can manipulate wages in the WPS in order to pay workers less overtime. A labour contract which shows a basic wage of, say, \$300 plus a food allowance of \$50 (total \$350) can be manipulated by the employer in the WPS as a basic wage of \$270 plus food allowance of \$70 and a phone allowance of \$10 (total \$350). When it comes to paying overtime hours, the payment would be calculated on the reduced basic salary. The same kind of savings for employers can be made on annual leave payments and end of service gratuities.

Such discrepancies are unlikely to be revealed by the WPS. Banks themselves have no idea or interest in the details of workers' basic wages, allowances, overtime or deductions. Time card scanning

or electronic attendance/absence records of employees are not linked to the generation of the SIF files submitted to the WPS. Thus, the reasons for absence cannot be properly accounted for. Currently, it would seem that the WPS only indicates violations in relation to non-payment or late payment of wages.

The use of electronic contracts (e-contracts), however, does offer the possibility that an independent matching between basic salaries, as deposited in the bank, and basic salary as stated in the contract can be achieved. From December 13, 2016, electronic contracts, which cannot be amended or deleted, became mandatory in Qatar, but only for newly recruited workers and is still being tested (Qatar Ministry of Administrative Development, Labour and Social Affairs 2016; Paandu 2016). While initially voluntary for companies with existing employees, the Ministry has indicated that registering e-contracts on the government's Hukoomi website will become mandatory and must be in Arabic as well as the language of the employee. More worrying, perhaps, is the ability, or opportunity, for employers to update contracts or create new contracts on the website (Al-Jundi 2017) for it is not clear whether this would be to the employees' detriment or requires employee agreement.

The second limitation concerns those unscrupulous employers who withdraw the salaries deposited by using the employees' wage or pay cards. Anecdotal evidence suggests that employers (or managers) convince employees that they will save them the time it takes to wait in line at an ATM. They take the wage cards with the pin numbers and withdraw the cash that they then give to the workers. Obviously, it is not certain if the workers are given the full amount owed, or if they are charged for the service. These employers are more likely to be subcontractors and the procedure allows them to delay the cash payment of salaries for weeks or months (Migrant-Rights.org 2017b). The WPS cannot reveal this kind of practice, unless employees themselves make a formal complaint, but this is rare because they generally fear confrontation and losing their jobs (ibid). In Qatar, it was initially recommended that the ATM require an employee's thumb impression. Biometric identification measures should prevent employers seizing workers' pay cards and withdrawing their salaries.

In addition, sponsors who do not employ those they recruit (for example, those who entered on a "free visa") can register with the WPS, obtain the bank paycard, deposit the money, and withdraw it. Others can simply demand the salary from the worker, deposit the money into the bank, and have the worker take it back out. This can be done on a monthly basis and go undetected by the WPS.

Inability to Pay Wages

The third limitation of the WPS concerns the inability of employers to pay the wages because of their lack of financial capacity. Where employers are unable to pay wages, they are in breach of WPS regulations and thus subject to the penalties that will ensue.

On May 7, 2017, a construction contractor in Qatar, responsible for a half billion QR project related to the 2022 World Cup called a meeting of its subcontractors. The project manager informed the subcontractors that the company had not been paid anything for more than one year, adding that the government, however, expected them to pay for the project. One observer noted that some of the subcontractors at the meeting were almost in tears, saying, "We have not been able to pay our workers this month. We have no money." The main contractor denied responsibility saying it was not their problem because their payments too had not been made by the government.

The contractor, however, said that materials for the project were needed. The subcontractors argued that they had supplied materials costing millions of dollars but as the contractor had not paid them, they were unwilling to provide any further materials. In response, the main contractor said they would be paid for the materials supplied and currently needed. If the other subcontractors did not complete the work required, they would simply find others – and they are legally able to do so.

When the WPS was introduced in Qatar the previous year, it was immediately acknowledged as a problem for the construction industry.

“When the contractor runs dry on funds due to payment delays, he doesn’t have any choice in not paying the workers. They simply can’t pay money they don’t have. Bank finances have a limit and wages [are] mostly financed by the project cash flow,” said Zeyad Al Jaidah, managing director of Qatar-based systems integrator TechnoQ (Editorial, *People Management Magazine*, August 17, 2016)

Payment disruptions create crisis for the contractors and the whole supply chains in the construction industry. Contractors and subcontractors with independent resources to draw upon to maintain liquidity, such as transnational corporations that can bring money in from other markets, are in a better position as compared to those who are dependent upon being paid and who most likely have also borrowed money to maintain their operations in Qatar. In these cases, they face bankruptcy. When that happens, the contractor no longer has an obligation to pay and employees – at the end of the chain – remain unpaid. Recent events in Saudi Arabia described earlier are a case in point.

In a research report on wage protection in the construction industry, Wells (2016) goes so far as to suggest that this industry in particular is vulnerable to these kinds of practices. Construction is highly labour intensive, price sensitive, sensitive to economic swings, and typically uses precarious or flexible labour arrangements that make them easily dispensable (Wells 2016: 9). Governments in the GCC also rely upon the main contractors to shoulder the burden of investment; they in turn shift the responsibility of the work and employment to others (there could be anywhere between 5 and 15 tiers), a process referred to as “externalisation” of labour through subcontractors and labour suppliers (Jureidini 2016).

The power differentials between the state, principal contractors, and subcontractors means that those lower down the chain are vulnerable to exploitation. That vulnerability is enhanced by the common but risky contractual agreement to “pay when paid.” Typically, clients do not pay on time and neither do main contractors which “may be a deliberate policy to reduce their financing costs by shifting the burden to contractors” (Wells 2016: 3) and as “the flow of cash dries up the only option for these firms with limited cash reserves is to borrow from the bank or renege on their debt to the workers” (Wells 2016: 19).

Even when principal contractors have received payment they may choose to withhold the money that is owing to their subcontractors. It has been estimated that in good times contractors may be able to generate cash of up to 15% of turnover in this way – money which they may invest in housing or property development. (Wells 2016: 19)

Although there are large variations in the reliance upon subcontractors to employ workers for projects (8-80%), if the state or clients of the state in the GCC do not pay, or do not pay on time, contractors and subcontractors unless they have sufficient financial reserves to draw upon may ultimately close shop. Indeed, it is suggested that withholding payment can be a deliberate strategy to force companies into bankruptcy, at which point they no longer have to pay, at least not without long, drawn out and expensive legal procedures that have no guarantee of success. In turn, the bankrupt companies can default on their payments to workers, who, in their frustration may opt for public demonstrations and make formal complaints, ending up ultimately without jobs and in time without accommodation and food and forced to return to their home countries, making it even less likely they will be paid. All WPS regulations, however, do provide that non-payment of wages after one or two months allows employees to transfer to other employers without permission, but this assumes they are able to find alternative employers offering appropriate work visas (by gender, nationality and occupation) and with the same or better wages and conditions.

Such issues, of course, would seem to be beyond the scope of the current GCC wage protection systems currently in place. That is, unless complementary legislation is enacted requiring all companies to show or lodge sufficient funds in an escrow account or as bank guarantees for wages to ensure payment for their employees for the duration of a project as a mandatory provision to conduct business in the construction sector. Insurance policies may also be used for employee wages against the risk of bankruptcy or a government tax on work visas may be earmarked for such contingencies. Employers may view such conditions as unworkable, given the knife-edge competition in these industries; it may make even tendering for projects financially untenable. However, in the UAE, companies have for many years been required to provide bank guarantees in the event that they default on paying their employees (Ministerial Decree 14, 2001, Ministerial Decree 26, 2010 and Article 131 of Labour Law 8, 1980). From 2001, all companies employing more than 100 workers have had to lodge bank guarantees of Dh3,000 (\$816) per employee (Wells, forthcoming). As of 2015, UAE companies had set aside Dh22 billion (\$6 billion) in bank guarantees. Between 2009 and 2015, 371 companies had defaulted and the Ministry recovered Dh40,737,898 (\$11 million) from the bank guarantee fund and distributed this to 16,497 workers (UAE Ministry of Human Resources and Emiratization 2015: 15).

In organisations like the Qatar Foundation, the welfare audits, designed to check compliance with the QF Worker Welfare Standards, conduct substantial checks on WPS compliance. Auditors check the salary payment, pay-slips, timesheets and overtime, worksite injuries, and the penalty registers (deductions from wages imposed by the employer for various types of infringements, but which cannot exceed five days pay per month – see Labour Law Articles 58-64) which are crosschecked with the approved penalty list from the Ministry. A register that documents these elements is mandatory in accordance with the Labour Law (Article 48). Wage levels are also checked by nationality to determine whether the minimum wages set by some countries of origin are being paid. A comparison is also made between the original job offer and the contract. If there are still ambiguous elements in the audit, worker interviews are conducted. These are a kind of third party inspection, but may only be for a relatively small sample of the workforce.

Employers can also be disadvantaged by the technical lack of sophistication of WPS. In one example in Qatar, an employee had completed the term of his contract and wanted to change employers.

His residency was still valid and he had three months to find another employer. Though he was no longer employed, the WPS threw up a red light that the employer had not paid the wages. There was no correspondence by the ministry alerting the employer. However, when the employer sought another work visa, he discovered he had been placed on a recruitment ban list. After another month, he discovered that his company's cheque account had also been frozen, although he was still able to withdraw cash from an ATM. It took several months to finally resolve the issue. In another recent case, a local Qatari sponsor faced the same sanction when his Pakistani partner left the country owing creditors and wages for several employees. All of the sponsor's other (unrelated) companies are also frozen until he is able to resolve the problem.

Conclusion

It may be argued that the wage protection systems in the GCC states are not yet designed to protect wages. They operate to ensure that there is a record that workers' wages have been paid and on time. It may be that most employees are paid properly and on time. The system, however, leaves a number of doors open for unscrupulous employers to manipulate the system for their own benefit and to the detriment of their employees.

WPS could not have been implemented without the relatively recent electronic developments in banking and record keeping. However, the limitations that have been identified in this paper suggest a more extensive electronic system of integration of all aspects of remuneration is required for proper verification. In the absence of protection from trade, industry or enterprise unions, and where individual employees are unable or unwilling to bring complaints about unpaid work, it is the government's responsibility to ensure that verifiability covers more than the basic salary being paid on time.

This would require an electronic means of linking actual contract details regarding basic wage, food allowances and any other allowances, hours of work including a means to calculate overtime, employee verified deductions (such as advanced wages payments, penalties and so on). Though it was expected that wages paid into WPS would be linked to contracts, to date there is no evidence that it is being done (Wells forthcoming). In addition, a fingerprint or retina scan mechanism for ATMs could ensure that only employees can access their wages through the WPS. For example, in late 2016, the Qatar National Bank introduced iris-scanning ATMs while the Commercial Bank of Qatar introduced "finger vein-scanning terminals" (Biometrics 2016). While some banks in most GCC countries have applied or are considering applying biometric access to accounts, including voice recognition, it is still not clear to what extent this has been, or will be, applied to low-income worker pay card ATMs. It is also unclear whether the WPS is being applied to migrant domestic workers living and working in households. For example, the recent new domestic workers' law in Qatar (Law no.15/2017) mandates regular monthly payment of salary. With government records of all domestic workers, the WPS should be used to ensure compliance (Human Rights Watch 2017).

Besides, employers should be required to provide a detailed pay-slip each month so that employees can verify their remuneration. Perhaps more effectively, simple cooperation by the banks would allow the pay details provided to the WPS by the employer to be printed from the ATM along with the withdrawal receipt.

Finally, the non-payment of worker wages through the WPS is also linked to insufficient cash reserves, particularly among subcontractors in the construction sector, when their debtors through the supply chain do not pay them. There need to be guarantees in the law that prioritises employee wages as independent from the business cash flows of an employing company. In the GCC, this could be in the form of state guarantees where the state ultimately benefits from the work done; escrow accounts or bank guarantees (as in the UAE) that cover wages for the life of a project; insurance policies or other measures. Such guarantees against risks of non-payment of wages, particularly for low-skill, low-income workers, are critical not just for those who provide the labour, but also for their families at home who depend upon them on a daily basis.

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Endnotes

1. The approximate proportion of foreigners in GCC populations are: Qatar 91 percent, UAE 89 percent, Kuwait 70 percent, Bahrain 53 percent, Oman 46 percent and Saudi Arabia 37 percent. See <http://gulfmigration.eu/gcc-total-population-percentage-nationals-non-nationals-gcc-countries-national-statistics-2010-2017-numbers/>.
2. Ministerial Order No. 4 of 2015 provides the rules pertaining to the WPS.
3. ILO commissions of inquiry are rare. Only 13 have been conducted since the ILO was established in 1919. This complaint was lodged by the International Confederation of Trade Unions (ITUC).
4. In the first quarter of 2017, the number of salaried workers in Qatar was estimated at 2,105,000 (<http://www.mdps.gov.qa/en/statistics1/pages/topicslisting.aspx?parent=Social&child=LaborForce>) but February 2017 saw a record high population of 2,673,022, due mainly to the increase of blue-collar workers for World Cup 2022 construction (Khatri 2017).

About the Author



Ray Jureidini is an Australian professor of migration ethics and human rights at the Center for Islamic Legislation and Ethics at the Hamad Bin Khalifa University, Doha, Qatar. His human and labour rights based research and activism centres on migrant labour exploitation, human trafficking, racism, debt bondage and slavery-like practices in the Middle East. After teaching Sociology in several universities in Australia, he spent six years at the American University of Beirut from 1999 where he began researching and publishing on human rights issues concerning migrant domestic workers and conducted the first survey of domestic workers in the region. At the American University in Cairo from 2005–2011, he became director of the Center for Migration and Refugee Studies and conducted a number of research projects on migrant and refugee issues. In 2012, Dr. Jureidini spent a year as research consultant for the Center of Design Innovation at Qatar Foundation in Doha. He was one of the authors of the Qatar Foundation’s 2013 Mandatory Standards for Migrant Worker Welfare and the author of a 2014 report, Migrant Labour Recruitment to Qatar for the Qatar Foundation. More recently, he authored the ILO White Paper publication, Ways Forward in Fair Recruitment of Low-skilled Migrant Workers in the Asia-Arab States corridor. Dr. Jureidini is also a consultant and advisor on human trafficking, labour recruitment, labour supply chain evaluations and migrant labour reform advocacy.

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