

REGISTERED MAIL

Handelsgericht des Kantons Zürich

Hirschengraben 15

Postfach

8021 Zürich

Honourable President

Honourable judges, ladies and gentlemen

In the case of:

1. FNV, *Federatie Nederlandse Vakvereniging* (Naritaweg 10 1043 BX Amsterdam),
Plaintiff 1
2. Nadim Shariful Alam (Pathanpara 1, Barura Barura Comilla, Bangladesh), Plaintiff 2

Both represented by Prof. Liesbeth Zegveld, Prakken d'Oliveira, Amsterdam (the Netherlands) and RA David Husmann, Schadenanwalt AG, Alderstrasse 40, 8008 Zurich

against

FIFA, *Fédération Internationale de Football Association* (Fifastrasse 20, 8044 Zurich, Switzerland) defendant

Concerning

Tortious act and violation of personal privacy

We are instituting an action with following **applications**:

- I. To find that with the awarding of the World Cup to Qatar without simultaneously demanding minimum human rights and labour rights for World Cup-related migrant workers, the Defendant violated the personality rights of Plaintiff 1 as well as that of its members and that as a result, the awarding was wrongful.
- II. To order the Defendant to end the ongoing violation of personality rights of Plaintiff 1 in connection with the World Cup preparation, by encouraging labour reforms for World Cup-related migrant workers, calling Qatar not to apply the *Kafala*-system on the World Cup-related migrant workers, enforcing the right of World Cup-related workers to change employment as well as the freedom for them to leave Qatar at any time, and making it possible for migrant workers to realise their labour rights before an effective court;
- III. To establish that the Defendant violated the personality rights of Plaintiff 2 To order the Defendant to pay Plaintiff 2 damages in the amount of CHF 5,310.50 as well as a satisfaction for the the hardship suffered in the amount of CHF 5,000 plus 5% interest since 23 August 2014;

To order the defendant to bear all consequences as to costs and compensation.

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1. INTRODUCTION

1. This case is brought against the Fédération Internationale de Football Association ('FIFA') for its responsibility for the treatment of male migrant workers in Qatar employed in the construction of the infrastructure for the 2022 FIFA World Cup ('World Cup'). Plaintiffs are the Netherlands Trade Union Confederation (in Dutch: Federatie Nederlandse Vakvereniging, 'FNV') and one individual migrant worker who was recruited from abroad and set to work on 2022 World Cup-related construction projects in Qatar.
2. FNV (plaintiff 1) , brings this claim on behalf of thousands of male migrant workers in Qatar who are currently employed under dire circumstances as construction workers in connection with the World Cup in Qatar in 2022. The Plaintiff brings this suit in the interest of thousands of foreign workers who have to work in bad conditions in relation to the 2022 World Cup in Qatar.
3. The Bangladeshi Mr. Nadim Shariful Alam (plaintiff 2) is filing his claims on his own behalf.
4. Plaintiffs 1-2 shall also be collectively referred to hereafter as 'plaintiffs'.
5. Migrant workers in Qatar are subject to a sponsorship system, also called *kafala* system, which creates a profound power imbalance between employers and workers and allows for a whole range of abuses of workers, which in some cases amount to forced labour.
6. In 2010, FIFA awarded the 2022 FIFA World Cup to the State of Qatar. The country subsequently embarked on massive construction projects to build stadiums and other infrastructure necessary to host the tournament.
7. FIFA is the owner of the World Cup, which generates more than 90 percent of its revenue. It has full control over the tournament: it determines which countries can participate in the bidding process, which country is eventually chosen as World Cup host, and under what conditions the country will host the tournament. However, FIFA has failed – and is still failing – to take responsibility for its election of Qatar as host of the World Cup 2022 and for the harm caused by that decision.

8. By selecting Qatar for the World Cup 2022 and thereafter by failing to ensure the rights of migrant workers and to prevent that harm is caused to them as a result of the preparation for the World Cup – FIFA has violated applicable legal standards in Qatari and Swiss law protecting migrant workers from, among others, forced labour and other forms of exploitation.
9. Plaintiffs assert that FIFA should have required labour reforms both during the bidding process for the World Cup and after having selected Qatar as World Cup host. Alternatively it should not have selected Qatar for the World Cup 2022. Because of its selection of Qatar and its failure to demand labour reforms, it acted wrongfully.
10. By awarding the 2022 World Cup to Qatar without due regard for international minimum standards, the Defendant violated the personality rights of Plaintiff 1; the violation is ongoing. Plaintiff 1 therefore requests the court to establish that its personality rights have been violated, and to order the ending of that violation. Plaintiffs furthermore demand that, in the future, FIFA uses its power to ensure that the rights of migrant construction workers in Qatar whose work is related to the 2022 World Cup are safeguarded, by insisting on adequate and effective labour reforms in Qatar that are actually implemented.
11. As affected migrant worker, Plaintiff 2 requests the court to establish the violation of his personality rights. He also claims compensation and just satisfaction.
12. Hereafter plaintiffs will first present the parties and address the jurisdiction of the Swiss court. Thereafter the facts of the case will be discussed, the applicable law and FIFA's wrongful acts will be detailed. Plaintiffs will then discuss the two plaintiffs' claims against the Defendant.

2. PARTIES

2.1 Plaintiffs

2.1.1 Plaintiff 1: FNV

13. The Netherlands Trade Union Confederation (in Dutch: *Federatie Nederlandse Vakvereniging*, ‘FNV’) is the largest trade union of the Netherlands, representing 1.1 million members. One of the primary objectives of FNV, as set out in Article 4 of its Statutes, is to protect the material and immaterial interests of workers. International solidarity between workers lies at the heart of FNV’s work, and many of the goals of FNV are explicitly international in nature.
14. The international dimension of FNV is laid down in its Statutes,¹ and is also apparent from its membership of the International Labour Organization (‘ILO’), the European Trade Union Confederation (‘ETUC’), and the International Trade Union Confederation (‘ITUC’). Furthermore, FNV has two international branches – *FNV Internationaal* and *FNV Mondiaal* – that promote the objectives of FNV internationally and support trade unions and workers around the world.
15. To achieve its objectives, FNV promotes *inter alia*:
 - a) Democratization of social life in its entirety and at every level, so that each exercise of power is bound by a duty of accountability towards those involved;
 - b) that employees have a say in the companies and institutions of which they are a part, with due regard for the limits that society imposes on the actions by companies and institutions;
 - c) the right of everyone to social participation;
 - d) the right of everyone to meaningful paid work that fits each individual’s interests and capabilities as well as possible;

¹ Statutes FNV (‘Federatie Nederlandse Vakbeweging’) 11 March 2016 (**Annex 1**), articles 4(1), 4(2), 5(1), 5(3), 6(1), 8(1), 8(2), 23(3).

- e) working conditions which show respect for human dignity;
 - f) a just and equitable distribution of income and wealth;
 - g) social security for everyone, in order to ensure a dignified life;
 - h) education, training and development for everyone, with a view to full personal and social functioning;
 - i) the right to freedom of expression and the right to information;
 - j) a socially responsible and meaningful production and supply of goods and services;
 - k) responsible use of natural resources and the natural environment, whilst recognizing their frailty and finitude; and
 - l) the right of everyone to a mentally and physically healthy living- and work environment.²
16. As soon as Qatar was elected as host for the FIFA World Cup 2022, FNV, together with the Swiss international organisation *Building and Woodworkers International* (BWI)³, engaged with all stakeholders to seek a responsible implementation of the World Cup 2022 and to limit as much as possible the harm to migrant workers it was likely to cause. To this end, FNV, together with BWI, had several meetings with the Qatari authorities pointing them to their responsibilities.
17. On 25 January 2013 BWI filed a complaint against Qatar with the International Labour Organisation, concerning Qatar's failure to abide by the ILO Forced Labour Convention.⁴

² Statutes FNV, 11 March 2016 (**Annex 1**), Article 4(2) (a)-(l) [free translation].

³ Building and Woodworkers International (BWI) is a global union federation organizing more than 1210.5 million members and around 333279 trade unions in 13125 countries around the world in the building, building materials, wood, forestry and allied industry. BWI was established in 2005 by a merger of the International Federation of Building and Wood Workers ('IFBWW') and the World Federation of Building and Wood Workers ('WFBW').

⁴ BWI Connect 'BWI and ITUC Issue Legal Complaint to the ILO Presenting Evidence of Forced Labour in Qatar' 25 January 2013 (**Annex 90**).

18. FNV maintains extensive contacts with migrant workers and their relatives, surveying their treatment and workings conditions in Qatar. FNV, again together with BWI, also filed a complaint against FIFA with the Swiss National Contact Point (NCP) of the Organization of Economic Cooperation and Development (OECD) asking the NCP to offer its good offices for mediation.⁵

2.1.2 *Plaintiff 2: Nadim Shariful Alam*

19. Nadim Shariful Alam is a citizen of Bangladesh who was born on 5 December 1984; a copy of his passport is attached as **annex 130**.
20. He was recruited in Bangladesh by a company located in the Basundhara Complex (Shopping Mall Area) in Dhaka, Bangladesh to work as an unskilled laborer Hamad Bin Khalid Contracting Company (HBK) in Qatar. His Qatari work-visa, that specifies that HBK is his sponsor, is attached as annex 131. Whilst in Qatar, Alam lived in the *Ezdan Labour Camp Area* in Al Wukair, a place which houses 2,250 migrant workers, most of whom work on the Al Wakrah stadium construction project. *Ezdan Labour Camp* was built especially to accommodate 2022 World Cup-related migrant workers.
21. After his arrival from Bangladesh, and pending transferral to a stadium-construction site in Qatar, Alam worked as unskilled construction worker in a seaport in the North of Qatar. His work for HBK consisted mainly of unloading materials that came into Qatar by sea, and mixing materials such as sand and cement. Alam did this work from 23 August 2014 until his departure from Qatar on 19 January 2016. Plaintiff 2 is a union member of Plaintiff 1; a copy of his proof of membership is attached as

⁵ National Contact Point of Switzerland, Initial Assessment Specific Instance regarding the Fédération Internationale de Football Association (FIFA) submitted by the Building and Wood Workers' International (BWI), 13 October 2015 (**Annex 127**); for BWI's claim see: Building and Wood Workers' International (BWI), Specific Instance against the "Fédération Internationale de Football Association (FIFA) to the Swiss National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, 28 May 2015 (**Annex 128**).

annex 133. A copy of his return flight from Qatar to Bangladesh is attached as **annex 132.**

2.2 Defendant: FIFA

22. The *Fédération Internationale de Football Association* ('FIFA') is the world's governing body for the sport of football and is responsible for promoting football around the world through educational and developmental programs, as well as through promoting and supervising international games.
23. FIFA is an international federation registered in the Swiss Commercial Register in accordance with article 60ff of the Swiss Civil Code.⁶ The FIFA headquarters are located in Zürich, Switzerland.⁷
24. FIFA's membership consists of 209 national football associations, which are convened (each with one seat) in the FIFA Congress. The FIFA Congress is the FIFA's supreme and legislative body.⁸ The FIFA Executive Committee is the organization's main decision-making body.⁹ It consists of 25 members, some of whom are elected by FIFA Congress (such as the President of FIFA) and some by so-called Confederations (continental/regional football associations¹⁰).
25. FIFA furthermore consists of several judicial bodies (the Disciplinary Committee; the Ethics Committee; the Appeal Committee) and recognizes the independent Court of Administration for Sports (CAS).¹¹

⁶ FIFA Statutes Regulations Governing the Application of the Statutes Standing Orders of the Congress April 2015 edition (**Annex 3**), Art. 1(1).

⁷ FIFA Statutes 2015 (**Annex 3**), Art. 1(2).

⁸ FIFA Statutes 2015 (**Annex 3**), Art. 21(1).

⁹ See FIFA Statutes 2015 (**Annex 3**), Art. 21(2).

¹⁰ The Confederations are: UEFA (Europe), AFC (Asia), CONCACAF (North and Central America, Caribbean), CAF (Africa), CONMEBOL (South America), OFC (Oceania). See Art. 30(4) 2014 FIFA Statutes.

¹¹ FIFA Statutes 2015 (**Annex 3**), Art. 66(1).

3. JURISDICTION OF SWISS COURT

3.1 Plaintiff 1 (FNV) against FIFA

26. Plaintiff 1 has its domicile in the Netherlands; the Defendant has its domicile in Switzerland. As such, the Lugano Convention – to which Switzerland is a party – applies to the present case.
27. According to Article 2(1) of the Lugano Convention, the domicile of the defendant determines in which Convention State the defendant be sued.¹²
28. The domicile of a company or other legal person or association of natural or legal persons is defined in Article 60 of the Lugano Convention as being either the company's:
 - statutory seat (derived from the company's statutes); or
 - central administration (decision-making and corporate management – different from the registered offices of domicile companies); or
 - principal place of business (actual business centre, staff and facilities).
29. According to Article 1 paragraph 2 of its Statutes, FIFA's statutory seat is in Zürich, Switzerland. Zürich is also the place of FIFA's central administration and its principal place of business. This means that the Swiss court has jurisdiction to rule on the present claim.
30. Should FIFA wish to invoke the *forum non conveniens* argument, plaintiffs refer to the case of *Owusu* of the Court of Justice of the European Union (CJEU).¹³ In *Owusu* the CJEU ruled that Article 2 of the Brussels I/Lugano Convention precludes a court of a Contracting State from declining the jurisdiction conferred on it by Article 2 of that convention on the grounds that a court of a non-contracting state would be a

¹² 2007 Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ('The new Lugano Convention') (**Annex 4**), Art. 2(1): "Subject to the provisions of this Convention, persons domiciled in a State bound by this Convention shall, whatever their nationality, be sued in the courts of that State".

¹³ CJEU, *Owusu / Jackson and others*, 1 March 2005, C-281/02 (**Annex 5**).

more appropriate forum, even if no connecting factors other than the defendant's domicile exist.¹⁴ The CJEU's judgment has been confirmed in Swiss jurisprudence.¹⁵

3.2 Plaintiff 2 against FIFA

31. As plaintiff 2 is a citizen of Bangladesh, he cannot invoke the Lugano Convention; the present case shall therefore be governed by the Swiss Private International Law Act ('IPRG').
32. Plaintiff 2 has no contractual commitment with FIFA; his claim concerns tort law.
33. Article 129 paragraph 1 IPRG provides for the defendant's forum for tort complaints. As a result the Zürich courts have jurisdiction.

3.3 Local and subject-matter jurisdiction in Switzerland

34. The defendant has its headquarters in Zürich and is registered in the Chamber of Commerce. Plaintiff 1 is also registered in the Chamber of Commerce in the Netherlands.
35. The case between Plaintiff 1 and the Defendant is a matter of commercial law.
36. According to Article 6 paragraph 2 ZPO, the Commercial Court of the Canton of Zürich is competent. No negotiations are required for this legal process.

3.4 *Locus standi* of Plaintiff 1

37. The question of the *locus standi* of the FNV is judged according to the *lex fori*, which also includes procedural law.
38. On the one hand, FNV (Plaintiff 1) is suing in his own right for the infringement of personality rights.

¹⁴ CJEU, *Owusu / Jackson and others*, 1 March 2005, C-281/02 (**Annex 5**), para. 48.

¹⁵ See decision BGE 135 III 189 (**Annex 115**).

39. As a trade union and member of the international trade union movement, it is a matter of concern for FNV that employees around the world are able to form trade unions. It is also in its interest that FIFA, as international organisation and according to its own public statements wants to support human rights interests, does not hold any mega-events in countries where migrant workers are not allowed to unionise and where the minimum labour and human rights standards are not complied with.
40. In BGE 121 III 168, the Swiss Federal Supreme Court recognised the *locus standi* of a trade union. In invoking *locus standi*, the union in question asserted that, due to the behaviour of others (in this case it concerned another trade union), both its own interests were harmed, as well as the interests of its members. The latter in its capacity (personality) as professional body that, according to its statutes, pursues the professional, material, social, environmental and cultural interests of its members, *inter alia* through the further development of labour law and the protection of workers.¹⁶ The Federal Supreme Court recognised that the right to social respect and free economic development belong to the personality rights of a legal person.¹⁷ Thereupon the Federal Supreme Court dismissed the plea of the Defendant that the case in question was based on a contractual relationship in which the Plaintiff had no part. Instead, the Federal Supreme Court held that personality rights are of an absolute nature and that third-party contracts can have the effect of *de facto* attacking the personality in the meaning of Article 28 of the Swiss Civil Code (ZGB).¹⁸ In the aforementioned case, the trade union in question was granted *locus standi* on the basis of Article 28 ZGB; the *locus standi* is to be granted to Plaintiff 1 in the present case on the same grounds.
41. On the other hand, Plaintiff 1 is also filing suit for its members, including Plaintiff 2 (a copy of his membership to FNV is attached as **annex 133**). The Swiss Code of Civil Procedure (ZPO) provides for the right to file a private class action suit under Article 89, paragraph 1 ZPO. In accordance with that provision, associations

¹⁹ Not in 1942 and 1946.
05, C-281/02 (**Annex 5**), para. 48.
e decision BGE 135 III 189 (**Annex 115**).

and other organisations of Swiss national importance whose statutes authorize them to safeguard the interests of specific groups of persons in their own name, can file a suit for the violation of the personal privacy of those groups of persons.

42. Plaintiff 1 is also suing on behalf of other construction workers in Qatar. It cannot be set against them that the latter are not trade union members. This is because in Qatar it is forbidden for migrant workers to be members of a trade union. Significantly, Plaintiff 2 became members of Plaintiff 1 only after leaving Qatar.
43. Should the Defendant wish to challenge the legitimacy of the legal action of Plaintiff 1 with the argument that they FNV has no further members in Qatar, this would be abuse of the law/right.

3.5 *Locus standi* of Plaintiff 2: Nadim Shariful Alam

44. Alam, (Plaintiff 2) issuing in his own right, and as such by definition enjoys standing in this case.

3.6 Facts

45. Both Plaintiffs have in common that they are not in any contractual relationship with FIFA. The Plaintiffs base their claim on non-contractual liability. Both Plaintiffs have had their privacy violated through the actions of the Defendants as well as its failure to comply with international labour law standards. In order to comprehend the connections, it is indispensable to take a look at the actual circumstances prevailing in Qatar with regard to labour and human rights issues. This discussion will show that it is evident that the Defendants should not have awarded the 2022 World Cup to Qatar without demanding minimum international labour law and human rights guarantees from Qatar.

4. BACKGROUND: 2022 FIFA WORLD CUP IN QATAR

4.1 Introduction

46. The election of Qatar as the host state for the 2022 World Cup on 2 December 2010, was preceded by a bidding procedure that started in January 2009. No one had expected Qatar to win the bid and the eventual election was surrounded by controversy due to allegations of bribery. Criticism of the designation of Qatar focused on its climate in the summer – the average temperature in July is over 40 degrees Celsius – and on human rights. With respect to human rights, various NGO's expressed their concern that Qatar's economy depends on over one-million migrant workers, who work under unacceptable conditions and under complete control of their employer, a *kafeel*. This system, known as the *kafala* system, amounts to gross human- and labour rights violations, including forced labour. Plaintiffs will discuss the *kafala*-system in detail below.
47. In order to organize the 2022 World Cup tournament, Qatar – which has no significant football infrastructure in place – would have to build stadiums and an infrastructure consistent with FIFA's extensive requirements. This would lead to an influx of migrant workers who would become subject to the *kafala* system. NGOs therefore claimed that it was incumbent upon FIFA to demand labour reforms from Qatar. FIFA, however, did not demand any reforms: neither during the bidding procedure nor after it had elected Qatar as host. Instead, it pointed out that it was Qatar's own responsibility to improve labour conditions.
48. Below, plaintiffs will first describe FIFA's control over the World Cup and its power over the host state. Second, they will discuss the *kafala* system and how human rights violations are inherent to it. Finally, they will address the situation since Qatar's election as host state for the 2022 World Cup 2022, including the continued violations under the *kafala* system.

4.2 FIFA's control over the World Cup and its host state

49. In order for an action to be brought against the Defendants, it must be proven that FIFA was in a position to ensure that no such violations against the international rights in question occurred. This can be proven merely by the fact that the Defendant could have chosen not to select Qatar as location for the World Cup to be played without first ensuring compliance with minimum standards. It can also be proven by the fact that, even today, it is possible for the FIFA to insist on compliance with these minimum standards.
50. Since 1930, FIFA has organized twenty World Cups in sixteen different countries since 1930, usually every four years.¹⁹ The World Cup has become the biggest single-sport competition in the world and is broadcasted live in over 200 countries.
51. The World Cup is one of the fifteen international competitions organized by FIFA, but by far its most successful in terms of global impact and commercial value. For instance, the FIFA World Cup in South Africa in 2010 generated \$3.6 billion through TV and marketing, hospitality and ticketing, and licensing the FIFA brand.²⁰ This revenue is exclusively earned by FIFA as the owner of the World Cup and all associated rights.²¹
52. The host state bears the costs of organizing the tournament and is responsible for possible deficits. For example, FIFA's bidding process costs millions of dollars and requires competing nations to promise lavish stadiums and hotels for FIFA officials. According to FIFA, this is money well-invested. The organization argues that nations that host the famous tournament enjoy increased economic growth due to the tourist revenue as well as opportunities to host other sporting events in the new stadiums that the organization demands be built. For most countries, World Cup hosting is an impetus to conduct improvements on infrastructure, e.g. roads, subway construction,

¹⁹ Not in 1942 and 1946.

²⁰ See video 'Competition and Finances', available on FIFA's website: <http://www.fifa.com/about-fifa/videos/y=2014/m=11/video=competition-finances-2477120.html> (at 1m5s) (**not included**)

²¹ See See video 'Competition and Finances', available on FIFA's website: <http://www.fifa.com/about-fifa/videos/y=2014/m=11/video=competition-finances-2477120.html> (at 1m5s) (**not included**)

and airport renovation — in short, projects that have long-term benefits for the nation.²² However, for South Africa²³ and Brazil,²⁴ the last two organizing countries, hosting the World Cup has so far resulted in significant financial losses.

53. FIFA acknowledges that hosting the World Cup can have a huge impact:

“The economic impact of the FIFA World Cup on a host country is a hotly debated topic. While there is no overall consensus, the preparations for each tournament require substantial, long-term investments by FIFA, the government, and other stakeholders in the host’s economy and infrastructure, which live on beyond the competition. The impact varies from edition to edition and depends to a large extent on the host country and the way the event is organised. Staging the tournament entails transporting millions of people to the matches and Fan Fests, catering for their health and safety, dealing with waste from the stadiums, recruiting and training thousands of volunteers, providing an event that is accessible for everyone, and broadcasting the matches in over 200 countries and territories. This scale inevitably has an impact on society and the

²² M. Pasciuto ‘The Price of Hosting the World Cup’, *World Policy Blog*, 9 June 2014 (**Annex 6**).

²³ South Africa spent \$3,5 billion on the 2010 World Cup, while most people can't access the infrastructure built for the tournament; the newly constructed stadiums largely remain unused nowadays, see Gerald Imray ‘South Africa spent \$3 billion on 2010 World Cup’, *AP/Washington Post*, 23 November 2012 (**Annex 7**) and ‘South Africa still counting the cost of the 2010 World Cup’, *AFP / eNCA*, 10 June 2014 (**Annex 8**). An exception to this unequal balance for host countries is Germany. According to a German 2006 government report the hosting of the WC in 2006 is defined as an ‘economic and political success’. See ‘Germany's World Cup Report Hails Economic, Social Success’, *Deutsche Welle*, 7 December 2006 (**Annex 9**).

²⁴ FIFA’s 2014 financial report shows that the 2014 World Cup in Brazil generated \$4.8 billion in revenue for FIFA compared to \$2.2 billion in expenses. Over the four-year cycle, the event turned a \$2.6 billion profit. FIFA made \$2.4 billion in TV rights fees, \$1.6 billion in sponsorships and \$527 million in ticket sales. Much of FIFA’s WC spending went to participating teams and confederations (\$476 million) and TV production costs (\$370 million). FIFA contributed \$453 million to the local organizing committee between 2011 and 2014, and gave Brazil a \$100 million ‘legacy’ payment after the tournament. However, FIFA did not contribute to the real costs of staging the tournament — stadiums and transportation infrastructure. The tournament cost an estimated \$15 billion, a significant portion of which was public money. Brazil spent \$3.6 billion building and renovating 12 stadiums for the tournament. Less than a year later, some of those have turned into white elephants. The \$300 million Arena Amazonia in Manaus, for example, held just 11 events in the five months after the tournament. FIFA Financial Report 2014 (**Annex 10**). See also T. Manfred ‘FIFA made an insane amount of money off of Brazil's \$15 billion World Cup’, *Business Insider*, 20 March 2015 (**Annex 11**).

environment in the host country. As the organisers of this mega-event, we believe it is our responsibility to limit the negative impacts of the FIFA World Cup, while at the same time doing everything we can to maximise the positive impact it can have.”²⁵

54. Until 2011, FIFA’s Executive Committee decided on the place and dates of FIFA tournaments, including the World Cup.²⁶⁻²⁷
55. In order to host the World Cup, national member associations of FIFA must take part in a bidding procedure. In general, the bidding procedure for FIFA tournaments follows the following time frame and procedure:
 - FIFA sends out requests for expressions of interest
 - National Member Associations express an interest in bidding for a specific event
 - FIFA sends out bidding information, including the so-called Bidding Manual and supporting documents (Hosting Agreement etc.)
 - A FIFA-workshop takes place for interested bidders

²⁵ Frequently Asked Questions, 2. Competitions – F. ‘What is the socioeconomic impact of the FIFA World Cup?’ (**Annex 12**).

²⁶ This is now FIFA’s Congress, see Art. 31(11) 2010 FIFA Statutes: “The Executive Committee shall decide the place and dates of the final competitions of FIFA tournaments and the number of teams taking part from each Confederation.” FIFA Statutes 2010 edition (**Annex 13**). In 2011, FIFA’s Congress amended its Statutes to the effect that FIFA’s Executive Committee is no longer in charge of the decision for the FIFA’s World Cup host. Now art. 31(9) of the 2015 FIFA Statutes notes that “[t]he Executive Committee shall decide the place and dates of the final competitions of FIFA tournaments and the number of teams taking part from each Confederation. This shall not apply to decisions on the host Country of the FIFA WC™ final competition, which shall be voted on by the Congress”. Congress is responsible for adopting and amending the Statutes. According to Art. 27(1) FIFA Statutes elections are conducted by secret ballot. Art. 27(1) reads that “[a]ny other decision that requires a vote shall be reached by a show of hands or by means of an electronic count”.

²⁷ Art. 76(1) of the 2010 FIFA Statutes reads: ‘The Executive Committee shall decide the venue for the final competitions organised by FIFA. As a rule, tournaments may not be held on the same continent on two successive occasions. The Executive Committee shall issue guidelines in this connection.’ (**Annex 13**). Note that this Article has also been amended after the 61st FIFA Congress and now says: “The Executive Committee shall decide the venue for the final competitions organised by FIFA, with the sole exception of the venue for the final competition of the FIFA World Cup” (Art. 80(1) 2015 FIFA Statutes, **Annex 3**).

- National Member Associations return the so-called Bidding Agreement confirming compliance with bid requirements
 - National Member Associations submit bids in accordance with the Bidding Manual
 - FIFA evaluates the bid submissions and identifies selected candidates for approval.
 - FIFA makes a recommendation
 - FIFA announces the successful host for the event.²⁸
56. According to FIFA's website, potential World Cup hosts "must show that they are able to deliver a successful tournament and meet a range of strict criteria, from stadium and environmental standards to legacy and security".²⁹ The bidding procedure includes inspection visits and an assessment by a special FIFA Evaluation Group. Article 37 of the 2010 FIFA Statutes makes clear that states wanting to participate in the bidding contest have to comply with "the provisions of the regulations applicable to this competition, the List of Requirements and the so-called Organizing Association Agreement".³⁰
57. During the bidding procedure, Organizing Association Agreements are signed with the national football associations of all potential host states to ensure compliance with FIFA's requirements would they be selected as the host state.³¹ In fact, the agreement, which also contains the 'List of Requirements', is a compulsory

²⁸ 'Bidding process' (**Annex 14**).

²⁹ Frequently Asked Questions, 2. Competitions E. 'How are FIFA World Cup Host Countries selected?' (accessed 11 April 2016) (**Annex 12**).

³⁰ Now Art. 38 of the 2015 FIFA Statutes says: "The Organising Committee for the FIFA WC™ shall organise the FIFA WC™ in compliance with the provisions of the regulations applicable to this competition, the List of Requirements and the Organising Association Agreement" (**Annex 3**). Reference is made to the 2010 Statutes, since the selection of Qatar took place in 2010, when the 2010 version of the Statutes were in force.

³¹ Organising Association Agreement between FIFA and South African Football Association regarding 2010 FIFA World Cup. A part (101 pages) of this Agreement was leaked on the internet (**Annex 15**). Organising Association Agreement, p. 21 para. 2.1.1: "By duly executing this Organising Association Agreement and returning it to FIFA, the Organising Association makes the unconditional and irrevocable offer to FIFA to organise, stage and host the final competition of the Championship in accordance with the terms of the Agreement"; para. 2.1.2: "The Organising Association shall be bound to its offer until 31 December 2004 or the date of the appointment of the Organising Association of the Championship, whichever is the later".

requirement for continued participation in the bidding procedure.³² The national football associations are called national Organising Associations in those agreements and are charged with the organization of the tournament.

58. The List of Requirements and the Organising Association Agreement are kept confidential by FIFA. However, information on the extent of these requirements can be drawn from the Organizing Association Agreement between FIFA and the South African Football Association (SAFA) regarding the 2010 FIFA World Cup, part of which has been leaked. This 145-paged agreement (not including its 24 annexes)³³ includes, *inter alia*, provisions on stadiums, official training sites, broadcasting rights, marketing rights, intellectual property rights, and taxes. Notably, demands imposed by human rights standards are – as far as plaintiffs can ascertain – absent from the list of requirements.
59. The agreement stipulates that “FIFA owns the World Cup and all rights relating thereto on an exclusive worldwide basis, including all organization, marketing, broadcast and other rights to the matches and other events”.³⁴ It is FIFA that “appoint[s] a bidding National Association as host of the Championship and entrust[s] such National Association with the organization, staging and hosting of the Championship in accordance with the Agreement and under the guidance of FIFA”.³⁵
60. The importance of FIFA’s requirements³⁶ and the Organizing Association Agreement cannot be underestimated, as:

“[t]he [national] Organising Association accepts all rights and obligations for the Championship in accordance with the Agreement and undertakes

³² Organising Association Agreement (**Annex 15**), p. 21.

³³ Only 101 pages of the Organising Association Agreement were leaked.

³⁴ Organising Association Agreement (**Annex 15**), p. 11. See also Art. 15(1) of the Regulations of the FIFA World Cup in Brazil (**Annex 16**): “FIFA is the original owner of all of the rights emanating from the FIFA WC™ and any other related events coming under its jurisdiction, without any restrictions as to content, time, place and law.”

³⁵ Organising Association Agreement (**Annex 15**), p. 11.

³⁶ This includes, *inter alia*, the List of Requirements, FIFA Regulations, Technical and Marketing Annexes, and other FIFA directives, guidelines and circulars possibly defining additional requirements (Organising Association Agreement, p. 23) (**Annex 15**).

and guarantees that the organization, hosting and staging of the Championship will at all times comply with the terms of this Agreement.”³⁷

61. This demonstrates that FIFA defines the terms for participation in the bidding procedure and is able to create legally binding obligations of the host state *vis-à-vis* FIFA. FIFA has the power to unilaterally decide what is included in the List of Requirements and whether the bidding State meets those requirements. If the requirements are not met, FIFA can decide to bar a state from admission into the bidding procedure. For example, in the past, Indonesia and Libya were excluded from the bidding procedure as they did not meet FIFA’s requirements.
62. This means that FIFA has complete liberty to decide on what terms its World Cup is organized. In addition, and at its sole discretion, FIFA can amend, delete or supplement its requirements at all times.³⁸ The national Organising Association is then obliged to adhere to such amendments, deletions, supplementations and additions.³⁹ The national Organising Association is also bound by any promises made in its bid.⁴⁰
63. During the bidding procedure, the preparation of the tournament, and the tournament itself:

“[T]he [national] Organising Association is subject to the control of FIFA, represented by the Organising Committee for the Championship. FIFA has the last and final decision power on all matters relevant to the hosting of the Championship.”⁴¹

³⁷ Organising Association Agreement (**Annex 15**), p. 22 (para. 3.1.4). Other obligations binding upon the Organising Association are the Bidding Agreement, the FIFA Requirements, the bid, and several policy guidelines and directives (*idem*, para. 3.2.1).

³⁸ Organising Association Agreement (**Annex 15**), p. 24 (para. 3.3.2). The Organising Association Agreement adds that “FIFA Requirements may need to be modified by FIFA as a result of technological *and other changes*” (*idem*, emphasis added).

³⁹ Organising Association Agreement (**Annex 15**), p. 24 (para. 3.3.2).

⁴⁰ Organising Association Agreement (**Annex 15**), p. 24 (para. 3.5.1).

⁴¹ Organising Association Agreement (**Annex 15**), p. 25 (para. 4.6). See also Organising Association Agreement, p. 24 (para. 4.5): “FIFA does not recognise any third parties or organizations apart from the

64. The National Association charged with the organization of the World Cup thus remains subordinate to FIFA throughout the course of the organization of the tournament. This conclusion is confirmed by Article 37 of the 2010 FIFA Statutes, which ensures that a FIFA Organization Committee is set up, which is responsible for the organization of the World Cup and supervises the process.⁴²
65. The national Organising Association has the duty to submit annual, written progress reports describing the complete status of its plans for organizing and staging the World Cup. It must report any problems in connection with the World Cup to FIFA.⁴³ It also has the duty to “undertake to obtain in a timely manner all necessary governmental decrees, licenses, permits, grants, orders, decisions and other acts required for the organization, staging and hosting of the Championship in accordance with this Agreement”.⁴⁴
66. In order to implement FIFA’s requirements, host states are sometimes obliged to adopt special legislation that sets aside domestic law. An example is the 2010 FIFA World Cup South Africa Special Measures Act No. 11 of 2006, which was implemented

“to give effect to the Organising Association Agreement between FIFA and SAFA [South African Football Association] and to the guarantees issued by the Government to FIFA for the hosting and staging of the 2010 FIFA World Cup South Africa.”⁴⁵

67. The following view on the amendments demanded by FIFA was posted on the *Berkeley Journal of International Law Blog*:

Organising Association and the Government of the Host Country. Any problems connected with the organization of the Championship shall therefore be dealt with by the Organising Association”).

⁴² Now Art. 38 of the 2015 FIFA Statutes says: “The Organising Committee for the FIFA WC™ shall organise the FIFA WC™ in compliance with the provisions of the regulations applicable to this competition, the List of Requirements and the Organising Association Agreement” (**Annex 3**). See also Organising Association Agreement (**Annex 15**), p. 27 (para. 7.3).

⁴³ Organising Association Agreement (**Annex 15**), p. 26 (paras. 6.1.1-6.1.3). FIFA also has the right to inspection (paras. 6.1.2, 6.2.1, 6.2.2).

⁴⁴ Organising Association Agreement (**Annex 15**), p. 28 (para. 8.3).

⁴⁵ 2010 FIFA World Cup South Africa Special Measures Act 11 of 2006 (**Annex 17**).

“In 2006 the South African Parliament passed a special law, the 2010 FIFA World Cup Special Measures Act 11 and 12 [...]. For the duration of the tournament, South Africa suspended some of its constitutional rights. Critics argued this was ‘to protect FIFA’s cash cow’. These critiques contend that FIFA’s heavy involvement in the management of the World Cup infringes on national sovereignty in the domains of security and infrastructure for the purposes of sponsorship product promotion. Many stadiums are renovated and fenced off so that only FIFA approved products, like hot dogs and Budweiser, can be sold in stadiums, instead of allowing local vendors to sell their products. Aside from the commercial element, the temporary suspension of laws, and more shockingly, constitutional rights, which are usually only suspended in state of war or national emergency, can be a dangerous precedent.

In addition to these preparations, at the request of FIFA, South Africa also created World Cup specific FIFA World Cup courts. 56 World Cup Courts were established across South Africa, staffed with 1,500 personnel including magistrates, prosecutors, public defenders, and interpreters. These courts had jurisdictions over all crimes arising out of the World Cup tournament. These courts had an expedited trial process, in contrast to South Africa’s normal court system, which faces long delays. One case involved two Zimbabweans who robbed a foreign journalist on a Wednesday, were arrested on Thursday, stood trial, and then began 15-year jail sentences on Friday. The National Prosecuting Authority defended the courts, stating it was possible to mount a fair trial in 24 hours. This begs the question—if South Africa has proven that it can hold 24 hour trials for a man who stole two cans of Coke from a

FIFA supported lounge, why can't it do so for the many South African citizens who have to wait years for their day in court?"⁴⁶

68. Another example is the implementation of the so-called 'Beer Law' or 'Budweiser Law' by Brazil during the World Cup of 2014. Brazil had prohibited the sale of beer in football stadiums in 2003 in order to prevent violent and often deadly incidents in football stadiums. However, in order to secure the interests of Budweiser, one of FIFA's main sponsors, Brazil was forced to adopt a special beer law, allowing beer sales in FIFA World Cup stadiums.⁴⁷
69. FIFA thus has (and uses) the power to demand law reforms from (potential) host states in order to bring them in accordance with FIFA's requirements. These law reforms also pertain to visas and work permits.
70. By signing the Organising Association Agreement the bidding state also promises to provide for eight to twelve stadiums, all complying with FIFA's requirements. These requirements are extensive. Stadiums must have a spectator capacity of least 40,000 for group matches, the 'round of 16', and quarter finals, and at least 60,000 for the opening match, the semi-finals and finals.⁴⁸
71. Additional requirements are imposed that pertain to each stadium's facilities, infrastructure and perimeter, but also to training sites, parking facilities, office space and conference rooms, hotels, official vehicles, VIP boxes, and media infrastructure and facilities.
72. As the Regulations of the 2014 FIFA World Cup in Brazil make clear, the Organising Association of the host state remains under supervision and absolute authority of FIFA from the start of the bidding procedure until the event has taken place:

⁴⁶ Kathleen Tang, 'The World Cup: Changing Country's Laws, One Tournament at a Time', *Travaux: The Berkeley Journal of International Law Blog*, 26 October 2013 (**Annex 18**).

⁴⁷ 'Brazil World Cup beer law signed by President Rousseff', *BBC News*, 6 June 2012 (**Annex 116**).

⁴⁸ Organising Association Agreement (**Annex 15**), p. 52 (para. 14.5.1). See also Art. 33, Regulations of the FIFA World Cup in Brazil (**Annex 16**).

“The Organising Association shall be subject to the supervision and control of FIFA, which has the last word on all matters relevant to the 2014 FIFA World Cup™. The decisions of FIFA are final and not subject to appeal.”

73. FIFA maintains ultimate control over the organisation of the tournament through its own ‘FIFA Organising Committee’. Decisions by this committee cannot be challenged by the host state.⁴⁹ Furthermore, the national Organising Association is required to ensure that any decision taken by the FIFA Organising Committee relating to its duties and responsibilities is enforced immediately.⁵⁰
74. In conclusion, FIFA is the owner of the World Cup and has complete control over the bidding procedure and the selection of a World Cup-host. It also determines the requirements for participation in the bidding procedure and the eventual hosting of the tournament. In addition, FIFA has final and unlimited discretion about all matters relevant to the hosting of the World Cup.
75. On 2 December 2010 Qatar was elected as host state for the 2022 World Cup. The bidding procedure for the 2022 World Cup started on 15 January 2009, when potential host states were formally invited to apply. The closing date for registering an intention to bid was 2 February 2009 and on 16 March 2009 candidates were due to submit their bid-registration form. The deadline for submission of the full details of the bid was 14 May 2010. The period of 19 July 2010 until 17 September 2010 was reserved for inspection visits of the bidding states by a special FIFA Evaluation Group. In 2010, FIFA awarded the World Cup 2022 to Qatar.
76. The country subsequently embarked on enormous construction projects to build the stadiums and other infrastructure necessary to host the tournament.

⁴⁹ Art. 3(4), Regulations of the FIFA World Cup in Brazil (**Annex 16**).

⁵⁰ Art. 2(4), Regulations of the FIFA World Cup in Brazil (**Annex 16**).

4.3 FIFA, Qatar: 2010 – present

4.3.1 Organization

77. Qatar registered and established a Local Organising Committee ('Local Committee') in 2010, the main task of which is preparing Qatar for the 2022 World Cup in accordance with FIFA requirements. In addition, a *Qatar 2022 Supreme Committee* was founded in April 2011. In January 2014, Sheikh Tamim Bin Hamad Al Thani, the Emir of the State of Qatar, issued a decree changing the name of the aforementioned committee to the *Supreme Committee for Delivery & Legacy* ('Supreme Committee').⁵¹⁻⁵²
78. The Local- and the Supreme Committees have undertaken the operational preparations for the tournament. The Supreme Committee/Local Committee have taken over responsibility for event planning, promotion and marketing, as well as operations and all related tournament duties. According to FIFA, "the Supreme Committee will continue to deliver all tournament related infrastructure and coordinate with various government bodies to ensure all related projects are delivered to leave a lasting legacy beyond the tournament."⁵³

4.3.2 Migrant workers

79. As a result of Qatar winning the FIFA 2022 hosting bid, billions of dollars are being invested into developing the State of Qatar's infrastructure including significant construction projects. This has generated a boom in construction work and, accordingly, a dramatic influx of migrant workers to work on these projects. The number of male migrant workers in Qatar has more than doubled since 2010, the year in which Qatar was elected as 2022 World Cup-host (800,000 in 2010 to 1,700,000 at present).

⁵¹ Supreme Committee for Delivery and Legacy Frequently Asked Questions (**Annex 20**).

⁵² AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**), p. 5.

⁵³ FIFA.com 'Qatar 2022 Local Organising Committee holds second board meeting' 8 December 2015 (**Annex 21**).

80. Additionally, the number of migrants working in construction increased sharply since 2012. For expatriates, the construction sector stands out by far as the main employer. In 2006, 125,000 workers were recorded in that sector, amounting to a quarter of all employed foreign nationals. In 2013, the sector employed 39.2 per cent of all foreign labourers⁵⁴ and has been gaining in absolute size as a sign of the construction fever ahead of the 2022 World Cup.⁵⁵ Furthermore, the proportion of Qatar's total male population living in labour camps in 2010 (71%) nearly doubled the 2004-figures (39%).
81. The majority of the migrant workers presently in Qatar are there on invitation by the Qatari Government.⁵⁶ They received work permits in order to satisfy Qatar's labour needs, which were generated by Qatar's thriving economy and the massive construction projects that are currently underway. Aside from the existence of several Qatari recruitment agencies in India, Nepal and the Philippines, Bangladeshi people are specifically recruited to labour in 2022 World Cup projects by not charging migration fees. Qatar Expatriates' Welfare and Overseas Employment Minister Khandker Mosharraf Hossain confirms that, in March 2015, the
- “Qatar government has approved the visas of 50,000 Bangladeshi workers in the last two months ... we will be able to send another 150,000 workers to the country this year.”⁵⁷
82. In 2015 Qatari Minister for Labour and Social Affairs Abdullah Saleh Mubarak Al Khulaifi, said that Qatar would recruit more workers for implementing different development projects ahead of 2022 World Cup . Regarding the procedure, recruiting companies will submit requisitions to the government through the embassy, and the government will then select workers from its database.

⁵⁴ Françoise de Bel-Air, Gulf Research Center ‘Gulf Labour Markets and Migration – Demography, Migration, and Labour Market in Qatar’, 2014, with reference to the Qatar Information Exchange Labour Force Surveys, 2006 to 2013 and the Qatar Information Exchange Census, 2010, p. 8 (**annex 22**)

⁵⁵ F. de Bel-Air, Gulf Research Centre ‘Gulf Labour Markets and Migration – Demography, Migration, and Labour Market in Qatar’ 2014 (**Annex 22**), p. 8.

⁵⁶ 2014 DLA Piper report (**Annex 23**), p. 2, par 4.

⁵⁷ ‘Qatar to recruit 1.5 lakh more Bangladeshi workers this year’, *DhakaTribune*, 3 March 2015 (**Annex 119**)

83. According to the Secretary-General of the Supreme Committee, for main construction works, local contractors are invited to bid and are encouraged to enter into joint ventures with international contractors, to be led by local contractors. For other works and services, where demands can be met by the local market, the Supreme Committee directs its procurement accordingly.⁵⁸

4.3.3 2022 World Cup infrastructural projects

84. There are currently five stadiums being built specifically for the 2022 World Cup; they are in various phases of construction: Al Wakrah Stadium, Al Rayyan Stadium, Qatar Foundation Stadium, Al Bayt Stadium, Al Khor City and Khalifa International Stadium. The Khalifa International Stadium (hereafter also: 'Khalifa-project') is an extensive refurbishment of one of Qatar's main sporting venues. It is situated in the Aspire Zone, also known as Sport City, a public area that has a number of sporting fields and facilities.⁵⁹

85. The Supreme Committee determines which contractors are assigned contracts.⁶⁰

86. Currently, a system of four metro lines is being built in Doha for the purpose of connecting Doha's centre with its suburbs (Doha Rail Project). According to the plans, the first three lines will be open to the public late 2019. In 2026, the lines will be extended and a fourth line will be added to the metro system. In total, there will be 109 metro stations.⁶¹ The expected completion date of the project in 2019 is not a coincidence: the subway lines will have stations at all the planned World Cup stadiums in Doha.

⁵⁸ Interview with Hassan Al Thawadi, Secretary-General, Supreme Committee for Delivery & Legacy, 2015 (**Annex 24**).

⁵⁹ The recent 2016 Amnesty International report focuses on the Khalifa-project which began in 2014 as well as on the landscaping of the Aspire Zone green areas around the stadium. The former is a World Cup project, the latter is not an official WC project. Amnesty International report March 2016: 'The Ugly Side of the Beautiful Game: Exploitation of Migrant Workers on a Qatar 2022 World Cup Site' ('AI, 'The Ugly Side of the Beautiful Game' (03-2016')) (**Annex 19**).

⁶⁰ Supreme Committee for Delivery and Legacy Frequently Asked Questions (**Annex 20**).

⁶¹ Qatar Rail <http://www.qr.com.qa/English/Projects/Pages/DohaMetro.aspx> (accessed 25 April 2016) (**not included**).

87. An additional construction development project is aforementioned city of Lusail, which has yet to be built. Lusail is a massive planned community set to be completed by 2020 to the tune of an estimated \$45 billion.⁶² Aside from a new World Cup stadium, the city will include an 180,000 m² area called *Entertainment City Qatar*, which is allotted to entertainment activities. *Entertainment City Qatar* will include an aqua park, game parks, a theatre, hotels, residential areas and a snow dome. One of the stated goals of Lusail is to show the world that Qatar is an advanced society.
88. Furthermore, a new, ambitious highway network is currently being built in Qatar, among which is the *Doha Expressway System*. New roads are *inter alia* constructed from Doha to the yet-to-be-built coastal city Lusail City. The goal of *Ashghal* (Qatar's public works authority) is to finish a large part of this project in 2021, right on time for the influx of tourists expected at the 2022 World Cup.⁶³
89. Another prestigious Qatari building enterprise is the \$5 billion Sharq Crossing project, previously known as the Doha Bay Crossing- and Expressway Project. The project will navigate Doha Bay and consist of bridge sections interconnected by an immersed tube tunnel to create a new passageway beneath the waters of Doha Bay. Completion of the project is expected by 2020 to support the run-up to the World Cup event.⁶⁴ Furthermore, in view of the upcoming World Cup event, a new harbour is being built as well as shopping malls, hotels, housing, and parkings. These projects are all related to the 2022 World Cup.
90. Alongside the prestigious construction enterprises such as stadiums and infrastructure, the 2022 World Cup preparations in Qatar also included the construction of large facilities for (migrant) workers. One example is the 'Labour City', which was erected in the *Sanaya Industrial Area* just outside of Doha and fits 70,000 people. The complex was built especially to house the thousands of (migrant)

⁶² Tony Manfred 'Qatar Is Building A \$45 Billion City From Scratch For The World Cup That It Might Lose' Business Insider 22 September 2014 (**Annex 26**).

⁶³ S.S. Kathri 'Ashghal: 'No respite from Qatar roadworks even after 2022 World Cup' 22 September 2015 (**Annex 25**).

⁶⁴ 'Sharq Crossing-Doha Bay crossing' <http://www.infoqat.com/projects/34/sharq-crossing-doha-bay-crossing> (accessed 25 April 2016) (**not included**).

workers employed on World Cup 2022 construction projects.⁶⁵ Another example is the *Ezdan Labour Camp* where Plaintiff 2, Alam, lived during his time in Qatar. *Ezdan Labour Camp* was also constructed especially to accommodate the 2022 World Cup migrant workers.

91. Whereas many of the migrant workers flocking to Qatar are put to work directly on the building of those 2022 World Cup-related mega infrastructural projects, others are put to work facilitating the construction of those projects. Plaintiffs assert that in principle all construction-related work conducted by migrant workers in Qatar – particularly when they are employed by companies with contracts for World Cup-related projects – must be considered to be work connected to the World Cup event. An example is the work that Plaintiff 2, Alam, was set to do in the Sea Port for HBK. His work consisted of unloading materials that arrived in Qatar by sea and mixing materials such as sand and cement. HBK is involved in several World Cup-related mega-projects, such as Al Wakrah stadium and the Green Line (north-south through the city of Doha) as part of the Doha Rail Project.⁶⁶ As such, it can be assumed that the work Alam conducted for HBK served to facilitate the construction of those mega-projects.
92. The World Cup 2022 is the motivating force behind all these vast infrastructural projects, and Qatar is relying on the shifting of the world's attention to Qatar in order to render these investments worthwhile.

4.4 Conclusion: 2022 FIFA World Cup in Qatar

93. In conclusion, the prospective hosting of the FIFA 2022 World Cup has vastly accelerated Qatar's construction development efforts. The mega infrastructural projects that are being realized in preparation for the tournament have resulted in a sweeping increase of migrant workers in the country.

⁶⁵ 'Qatar opens 'Labor City' for 70,000 migrant workers', *RT*, 2 November 2015 (**annex 134**).

⁶⁶ 'Doha rail project contracts awarded as Qatar ramps up 2022 Fifa World Cup preparations' *The National*, 31 May 2013 (**annex 135**)

94. Though FIFA makes great demands of even potential World Cup host states, demands imposed by human rights standards are absent during the bidding procedure. The official FIFA's Evaluation Report of the Qatari bid reveals that FIFA was mainly concerned with Qatar's ability to meet the FIFA's commercial goals; no reference is made to human rights and labour conditions.⁶⁷
95. By selecting Qatar for the 2022 World Cup, and by subsequently failing to insist on adequate and effective labour reforms in Qatar because of serious harm that was done to migrant workers as a consequence of the World Cup, FIFA has violated legal standards protecting migrant workers from, among others, forced labour and other forms of exploitation. Plaintiffs assert that FIFA should have required labour reforms both during the bidding process for the World Cup and after having selected Qatar as World Cup host, or alternatively it should have excluded the country from the bidding procedure.
96. For a sound understanding of the wrongful acts committed by FIFA however, it is crucial to understand the dire position of migrant workers in Qatar. This position is a direct result of the so-called *kafala*-system, or 'sponsorship' system that enables migrant workers to work in Qatar. Before detailing FIFA's wrongdoing in chapter 6, plaintiffs will therefore first describe the system of *kafala* and the fundamental rights violations that are inherent to it in chapter 5.

5. BACKGROUND: QATAR'S *KAFALA* SYSTEM

5.1 Introduction

97. The *kafala* system emerged in the 1950's to regulate the relationship between employers and migrant workers in many countries in West Asia.⁶⁸ Aside from some regional variations, it remains the routine practice in the Cooperation Council for the Arab States of the Gulf (Gulf Cooperation Council, hereafter: 'GCC'). To wit, all

⁶⁷ See 2022 FIFA World Cup Bid Evaluation Report Qatar (**Annex 27**).

⁶⁸ International Labour Organization Migrant Forum in Asia, 'Responding to emerging and critical issues 1 Policy Brief No. 2: Reform of the *kafala* (sponsorship) system' (**Annex 28**).

Member States of the GCC (Bahrain,⁶⁹ Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) as well as the Arab states of Jordan and Lebanon adhere to this system for migrant workers.

98. The *kafala* system, is in fact a sponsorship system that functions as a form of guarantee for a broad variety of migrant worker obligations. It regulates the framework of migrant workers' activities whilst in Qatar. The economic objective of the *kafala*-system is to provide temporary, rotating labour that can be brought into the country rapidly during periods of economic boom and easily expelled during less affluent periods.
99. *Kafala* requires that foreigners who want to reside and work in Qatar be sponsored by a local citizen or employer, known as a *kafeel*.⁷⁰ The *kafeel* grants permission for foreigners to enter the country, monitors their stay and approves their exit. Because the *kafeel* is responsible for all aspects of the foreigner's stay, the foreigner has no legal right to stay in the country if the *kafeel* withdraws his sponsorship. If the *kafeel* decides not to allow the migrant worker to exit Qatar, that worker will effectively remain trapped inside the country. Disputes over wages, accommodations, working conditions or other work-related issues can prompt a *kafeel* to withdraw sponsorship.⁷¹ After signing with a *kafeel*, the migrant worker is only allowed to work for that person and is therefore bound to a single employer. The *kafeel* assumes

⁶⁹ However, in 2008, Bahrain was the first country in the GCC to claim to repeal the *kafala* system, Mohammed Harmasi (6 May 2009) 'Bahrain to end "slavery" system' *BBC News Arabic Service Radio* 6 May 2009 (**Annex 29**).

⁷⁰ Hala Al Ali Workers Rights Handbook 2009 (**Annex 30**).

A migrant worker's designated 'sponsor' can often, although not always, be synonymous with their employer. See 2014 DLA Piper report, (**Annex 23**) p. 48. See also the UN Special Rapporteur's Report on the Human Rights of Migrants (Special Rapporteur F. Crépeau) draft dated 10 November 2013 and full report dated 23 April 2014, (A/HRC/26/35/Add.1) ('2014 Report by SR Crépeau') at p. 7, Annex F (**Annex 31**). While it is theoretically possible to acquire a work permit without sponsoring, the only persons eligible for this are "investors subject to law No. (13) of 2000, concerning non-Qatari capital investments in economic activities"; "owners and benefactors of real estates and residence units according to law No. (17) of 2004 concerning the organization and benefit of non-Qataris from real-estates and residence units"; and "any other categories decided by a ruling from council of ministers" (in Art. 43 sub 3 Qatar Domestic Law No. 4 of 2009 Regarding Regulation of Expatriates' Entry, Departure, Residence and Sponsorship (the Sponsorship Law) (**Annex 32**), see H. Al Ali Workers Rights Handbook 2009 p. 61-62 (**Annex 30**). The vast amount of unskilled migrant workers are generally not investors or owners and benefactors of real estate and residence.

⁷¹ Migration News January 2012, Volume 19, Number 1 GCC: *Kafala*, UAE (**Annex 33**).

the legal and financial responsibility for the migrant worker during a certain period, ordinarily around two years.⁷²

100. Since 2000, Qatar has seen a significant influx of low-skilled migrant workers from low-wage countries, most notably in the construction sector. The workers predominantly come from Bangladesh, India, Nepal, Sri Lanka and the Philippines.⁷³ Figures show that the number of migrant workers has swelled significantly since the election of Qatar as host state for the 2022 World Cup.
101. According to a 2014 report by DLA Piper, an international law firm commissioned by Qatar to investigate allegations and make recommendations, it was estimated that in 2014 there were 1.39 million migrant workers in Qatar.⁷⁴ Amnesty International reported that in 2015, 1.7 million migrant workers, mainly from South Asia, live in Qatar, accounting for more than 90% of the country's workforce.⁷⁵
102. François Crépeau, United Nations Special Rapporteur on the Human Rights of Migrants, concludes that the *kafala* system "is a source of abuse and there is no valid justification for maintaining this system".⁷⁶ However, due to its customary and lawful status⁷⁷ and widespread application, migrant workers in Qatar cannot avoid subjecting themselves to the *kafala* system.

⁷² H.E. Murray, 'Hope for Reform Springs Eternal: How the Sponsorship System, Domestic Laws and Traditional Customs Fail to Protect Migrant Domestic Workers in GCC Countries' (2013) 45 *Cornell International Law Journal* 2, 467 (**Annex 34**).

⁷³ Alam (plaintiff 2) is from Bangladesh.

⁷⁴ 2014 DLA Piper report (**Annex 23**) p. 86, para 233. "The representatives from the Embassy of Nepal who confirmed that there are currently more than 400,000 Nepalese migrant workers in Qatar (out of a total migrant population of 1.39 million)."

⁷⁵ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 13; Qatar Ministry of Development Planning & Statistics, Labour Force Sample Survey: The first quarter of 2015, Table 6 (accessed 25 April 2016) (**Annex 35**).

⁷⁶ 2014 Report by SR Crépeau (**Annex 31**) para. 32.

⁷⁷ The *kafala* system is entrenched in Qatari domestic law, in particular in Qatari Domestic Law No. 4 of 2009 Regarding Regulation of Expatriates' Entry, Departure, Residence and Sponsorship (the 2009 Sponsorship Law) (**Annex 32**) and the updated version of that law which is due to enter into force in December 2016 (2015 Sponsorship Law (**Annex 44**)). Abuses of migrant workers that violate this law are tolerated by Qatar. The domestic regulations pertaining to the *kafala* system in Qatar are among the most restrictive in the Gulf region.

103. In the form it's applied in Qatar, the *Kafala* system violates international Labour Law and universal human rights. As will be explained below, the system leads to violations against a number of fundamental rights.. In addition, the migrant workers do not have effective and accessible (legal) remedies to address their situation.
104. Plaintiffs will first outline how they investigated Qatar's violations of workers' rights which, as indicated, are the result of the *kafala*-system as it applies in Qatar (paragraph 5.2, 'Research method'). They will then provide the legal framework within which the abuses are to be assessed (paragraph 5.3, 'Law binding on Qatar') and finally they will describe the human and labour rights violations to which migrant workers are subjected (paragraph 5.4: 'Prohibition of forced labour'; paragraph 5.5: 'Freedom of movement'; paragraph 5.6: 'Freedom of association'; paragraph 5.7: 'The right not to be discriminated against'; paragraph 5.8: 'Right to an effective remedy').

5.2 Research method

105. Plaintiffs have drawn on a variety of sources for their research of migrant workers' treatment in Qatar. For the purpose of this writ, the period of assessment is the period after 2010 until present, when Qatar was selected as host for the 2022 FIFA World Cup.
106. The facts presented hereafter are primarily based on first-hand accounts by migrant workers from Nepal, India and Bangladesh who arrived in Qatar in order to work on the construction projects in preparation for the 2022 World Cup. Plaintiff FNV maintains extensive contacts with migrant workers in Qatar and their relatives abroad. The individual case of plaintiff 2 migrant worker Alam, falls squarely into the pattern of unlawfulness/abuse detailed in the other sources consulted in preparation for this writ of summons.

107. The main sources corroborating FNV's findings and the assertions made by plaintiff 2 are reports by the ILO, the UN, the International Trade Union Confederation, international law firm DLA Piper and by several NGO's, i.e. Amnesty International and Human Rights Watch.⁷⁸
108. Plaintiffs also draw upon the work conducted by Amnesty International as detailed in its March 2016 report on the violation of migrant workers' rights in Qatar (the research took place between February 2015 and February 2016). Researchers visited Qatar three times and interviewed 234 migrant workers (all men) working for companies carrying out work on Khalifa International Stadium and green spaces in the Aspire Landscaping Zone (a public area that has a number of sporting fields and facilities). Interviews were conducted in English, Hindi, Nepali and Bangla. Researchers also visited the labour camps where the men were living. All of the men reported being exploited in some way.⁷⁹
109. Together, this complex of information and sources offers keen insight into the trying working conditions for migrant workers in Qatar today.

⁷⁸ The reports used are:

1. The ILO Report of the Director-General on the alleged non-observance by Qatar of the Forced Labour Convention, 1930 No. 29, 24 March 2014 (Session 320th, Geneva, 13-27 March 2014) (**Annex 37**) ('2014 ILO Report');
2. The Amnesty International 2013 report "'Treat us like we are human", migrant workers in Qatar' (**Annex 38**) ('AI, 'Treat us like we're human' (2013)');
3. The Amnesty International report (November 2013) 'The Dark Side of Migration' (**Annex 39**) ('AI, 'The Dark Side of Migration' (11-2013)');
4. The Amnesty International 2015 report 'Promising little, delivering less – Qatar and migrant labor abuse ahead of the 2022 football world cup' (**Annex 40**) ('AI 2015, 'Promising little, delivering less'');
5. The Qatar-commissioned 2014 report by international law firm DLA Piper (**Annex 23**) ('2014 DLA Piper report');
6. The Human Rights Watch report 'Building a Better World Cup - Protecting Migrant Workers in Qatar Ahead of FIFA 2022' (2012) (**Annex 41**) ('HRW, 'Building a Better World Cup' (2012)');
7. UN Special Rapporteur's Report on the Human Rights of Migrants (Special Rapporteur F. Crépeau) draft dated 10 November 2013 and full report dated 23 April 2014, (A/HRC/26/35/Add.1) (**Annex 31**) ('2014 Report by SR Crépeau');
8. The International Trade Union Confederation report March 2014 (**Annex 42**) ('2014 FNV Report');
9. The John G. Ruggie 2016 Harvard Kennedy School report 'For the game. For the World. FIFA & Human Rights' ('2016 Ruggie Report, 'For the game') (**Annex 96**)

⁷⁹ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 17.

5.3 Law binding on Qatar

110. Relevant to the assessment of working conditions in Qatar is domestic law as well as regional- and international law.

5.3.1 Domestic law

111. The two domestic laws most relevant to migrant workers are the Law No. 4 of 2009 Regarding Regulation of the Expatriates Entry, Departure, Residence and Sponsorship 4/2009 (the '2009 Sponsorship Law')⁸⁰ and the Law No. 14 of 2004 (the '2004 Labour Law').⁸¹ The Sponsorship Law prohibits workers *inter alia* from changing jobs without their sponsoring employer's consent⁸² and it requires workers to secure entry and exit visas from their sponsors before they can enter and leave the country.⁸³
112. The Qatari domestic law prescribes the *kafala* system and therefore entails intrusion of basic rights of migrant workers. At the same time, it should be noted that treatment of migrant workers also often violates Qatar domestic law. However, in practice Qatar tolerates these violations.
113. In response to international criticism on the *kafala* system, the Qatari government recently introduced new labour laws. In October 2015 the Emir of Qatar approved Law No. 21 of 2015 'On the Entry, Exit and Residency of Foreign Nationals' (the

⁸⁰ Law no. 4 of 2009 (**Annex 32**).

⁸¹ Qatar Domestic Law No. 14 of 2004 ('the Labour Law') (**Annex 43**).

⁸² Law No.4 of 2009 Artt.11 and 15 (**Annex 32**).

⁸³ Law No.4 of 2009 Regulating the Entry and Exit of Expatriates in Qatar and their Residence and Sponsorship, Art.26. According to Art. 18 of Law no. 4 of 2009 (**Annex 32**), "all Expatriates may only leave the country temporarily or permanently on submission of an exit permit granted by the residence sponsor."

‘2015 Sponsorship Law’),⁸⁴ which by means of its Article 45 will replace the 2009 Sponsorship Law. It will come into effect in December 2016.⁸⁵

114. The new law refers to ‘recruiters’ instead of ‘sponsors’ but this new word signifies the same concept: namely the *kafeel*. The scope of the 2015 Sponsorship Law again largely consists of the sponsorship of foreign nationals (migrant workers). The purpose of the labour reforms is to make it easier for migrant workers to both leave the country and change their jobs in Qatar. Among other things, the new law creates a system for migrant workers to appeal a *kafeel*’s decision to refuse them a permit to leave the country and increases the State’s oversight of the process by which workers seek to change jobs or leave Qatar.⁸⁶ As indicated, the 2015 Sponsorship Law will only enter into force at the end of 2016, and as such does not affect the position of Plaintiff 2.
115. More importantly however, it is unlikely that these reforms will have any real impact the nature of the *kafala* system. As the ILO Committee of Experts on the Application of Conventions (‘ILO Committee of Experts’) recently concluded during its 105th session in 2016: the changes are too insignificant.
116. In its new report on the 2015 Sponsorship Law, the Committee of Experts observed that under the new law, it is still the employer (*kafeel*) who, by virtue of sections 8 and 9 thereof, is responsible for completing the procedures relating to the residence permit and for returning the passport or travel document to the expatriate worker, except upon the written request of the worker.⁸⁷

⁸⁴ 2015 Sponsorship Law (**Annex 44**)

⁸⁵ According to <http://gulfmigration.eu/law-no-21-of-2015-regulating-the-entry-exit-and-residence-of-expatriates/> the new law was adopted and published in the Official Gazette on 27 October 2015 and the entry into force will be ‘in a year’. According to <http://dohanews.co/report-changes-qatars-kafala-law-take-effect-dec-14-2016/>, the 2015 Sponsorship Law will enter into force on Dec. 14, 2016’ (source: <http://www.al-sharq.com/news/details/393748#.VnzmTJN95E4> (Arabic language)) (**sources not included**).

⁸⁶ 2015 Sponsorship Law (**Annex 44**), Art. 7.

⁸⁷ ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint under article 26 of the ILO Constitution concerning non-observance of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81) (**Annex 45**).

117. The ILO Committee of Experts also noted that, pursuant to section 21(1), an expatriate worker may transfer to another employer (*kafeel*) before the end of the labour contract with the approval of the employer (*kafeel*), the competent authority and the Ministry of Labour and Social Affairs. However, it also observed that similar provisions already exist under the current law that regulates the *kafala* sponsorship system (2009 Sponsorship Law), without resulting in an improvement in the situation of migrant workers. In its comparison of the 2009 and 2015 Sponsorship Laws, the ILO Committee of Experts noted the following main features.

- An expatriate worker may transfer to another employer (*kafeel*) immediately after the end of a contract of limited duration, or after a period of five years if the contract is of unspecified duration (section 21(2)), without the employer's (*kafeel's*) consent. Under Law No. 4 of 2009, the worker could not return to work in Qatar for two years in the event that the sponsor (*kafeel*) refuses such a transfer.
- Under the 2015 Sponsorship Law, an expatriate worker must notify the competent authority at least three days prior to the departure date (section 7(1)) while under the 2009 Sponsorship Law, the exit permit had to be signed by the sponsor (*kafeel*).⁸⁸
- The Committee nevertheless observed that even under the new law, the employer (*kafeel*) may object to the expatriate worker's departure from the country, in which case the latter shall have the right to appeal to an Appeals Committee (section 7(2) and (3) 2015 Sponsorship Law).⁸⁹ The Committee further noted that the requirement by the employer (*kafeel*) to reimburse the recruitment fees incurred by the worker by virtue of section 20 of the 2009 Sponsorship Law appears not to have been left out of the 2015 Sponsorship Law.⁹⁰ Additionally, the new law does not provide for termination by the expatriate worker before the expiry of the initial contract (that is, with a notice

⁸⁸ ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint (**Annex 45**).

⁸⁹ ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint (**Annex 45**).

⁹⁰ ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint (**Annex 45**).

period) without the approval of the employer (*kafeel*), nor does it set out reasons and conditions for termination generally, other than in a few very specific cases.⁹¹ The Committee of Experts also noted the absence of information in the Government's report on the frequency of transfers to a new employer under the 2009 Sponsorship Law and the number of cases of passport confiscation.

- Furthermore the Committee of Experts considered that a number of provisions in the 2015 Sponsorship Law (which still places restrictions on the possibility for migrant workers to leave the country or to change employer) prevent workers who might be victims of abusive practices from freeing themselves from these situations. The same applies to the practice of withholding passports.⁹²
- The most significant change under the new 2015 Sponsorship Law is the removal of the 'two year rule', by which migrant workers who left Qatar upon completion of their contract were not allowed to return to Qatar for the next two years.⁹³

118. In sum, employers (*kafeels*) will continue to play a significant role in regulating the departure of their employees under the 2015 Sponsorship Law. On 23 March 2016 the ILO decided to establish a Commission of Inquiry in March 2017. This means that the ILO has given Qatar twelve months to reform its labour laws and ensure effective labour inspection, or face the prospect of an ILO Commission of Inquiry to be launched in March 2017.⁹⁴

119. With regard to the efficacy of legal reform however, plaintiffs note that improving the position of migrant workers in Qatar not only requires more rigid law reforms coupled with tougher implementation, but quite simply also requires more time. The

⁹¹ ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint (**Annex 45**).

⁹² ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint (**Annex 45**).

⁹³ Law no. 4 of 2009 Art. 4 (**Annex 32**).

⁹⁴ ILO Decision on the eighth item on the agenda: Complaint concerning non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference under Art. 26 of the ILO Constitution (**Annex 46**).

kafala system is entrenched in Qatari society to such a degree that significant changes cannot be expected to be realized overnight, or even a few years for that matter.

120. In conclusion, plaintiffs assert that the violations of the rights of migrant workers are ongoing. As such, any defense by FIFA that it will, in future, work to improve the legal situation is insufficient to exclude its liability in this case.

5.3.2 *Non-binding domestic law*

121. With regard to non-binding rules in Qatar, Qatar's Supreme Committee for Delivery and Legacy, the Qatari body overseeing World Cup projects in February 2014 established 'Workers' Welfare Standards'⁹⁵ which are aligned with Qatari labour law and theoretically aim to improve workers' rights; however, the Supreme Committee struggles to enforce these standards without government effort.

5.3.3 *International law*

122. According to article 6 of Qatar's Permanent Constitution (2005), "the State shall respect international charters and conventions and strive to implement all international agreements, charters and conventions to which it is a party."⁹⁶
123. Qatar has been a Member State of the League of Arab States since 1971 and became a party to the Arab Charter on Human Rights in 2009.⁹⁷

⁹⁵ Supreme Committee for Delivery and Legacy, 'Workers' Welfare Standards' 2014 (**Annex 47**).

⁹⁶ The Permanent Constitution of the State of Qatar, 2004 (**Annex 48**).

⁹⁷ League of Arab States, Arab Charter on Human Rights, May 22, 2004 (**Annex 49**). Art. 68 of the Permanent Constitution of the State of Qatar (**Annex 48**) attributes the power to conclude treaties and agreements by a decree and refer them to the Shura Council accompanied with appropriate explanatory notes, to the Emir. The treaty or agreement shall have the power of law after ratification and publication in the official Gazette; however, reconciliation treaties and treaties pertaining to the territory of the State or those relating to the right of sovereignty or public or private rights of the citizens, or those that involve an amendment of the laws of the State shall come into force when the same are issued as a law. See also B.C.N. Ghanea 'The Domestic Effects of International Human Rights Treaty Ratification in the Member States of the Cooperation Council for the Arab States of the Gulf (GCC)' Qatar National Research Fund National Priority Research Program (**Annex 50**)

124. Qatar is also party to the International Convention on the Elimination of All Forms of Racial Discrimination ('CERD') and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('CAT').⁹⁸
125. Qatar became a member of the International Labour Organization (ILO) in 1972 and has since ratified six out of the eight ILO Conventions: (1) the 1930 Forced Labour Convention (Convention No. 29)⁹⁹ (ratified on 12 March 1998); (2) the 1957 Abolition of Forced Labour Convention (Convention No. 105)¹⁰⁰ (ratified on 2 February 2007); (3) the 1958 Discrimination (Occupation and Employment) Convention (Convention No. 111)¹⁰¹ (ratified on 18 August 1976); (4) the 1973 Minimum Age Convention (Convention No. 138)¹⁰² (ratified on 3 January 2006); (5) the 1999 Worst Forms of Child Labour Convention (Convention No. 182)¹⁰³ (ratified on 30 May 2000); and (6) the 1947 Labour Inspection Convention (Convention No. 81)¹⁰⁴ on 18 August 1976.
126. Though Qatar has not ratified the Freedom of Association, Collective Bargaining and Equal Remuneration Conventions, it is bound to uphold the rights guaranteed by those conventions by virtue of its membership of the ILO. More specifically Qatar has to uphold fundamental principles and rights such as the freedom of association and collective bargaining. These are outlined in the ILO 1998 Declaration on Fundamental Rights and Principles at Work and its Follow-Up (1998);¹⁰⁵ the ILO 1919 Constitution;¹⁰⁶ and the 1944 Declaration of Philadelphia annexed to the ILO Constitution.¹⁰⁷

⁹⁸ International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (**Annex 51**) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (**Annex 52**). Qatar has not ratified the Optional Protocols to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁹⁹ ILO 1930 Forced Labour Convention (Convention No. 29) (**Annex 53**).

¹⁰⁰ ILO 1957 Abolition of Forced Labour Convention (Convention No. 105) (**Annex 54**).

¹⁰¹ ILO 1958 Discrimination (Occupation and Employment) Convention (Convention No. 111) (**Annex 55**).

¹⁰² ILO 1973 Minimum Age Convention (Convention No. 138) (**Annex 56**).

¹⁰³ ILO 1999 Worst Forms of Child Labour Convention (Convention No. 182) (**Annex 57**).

¹⁰⁴ ILO 1947 Labour Inspection Convention (Convention No. 81) (**Annex 58**).

¹⁰⁵ ILO 1998 Declaration on Fundamental Rights and Principles at Work and its Follow-Up, 1998 (**Annex 59**).

¹⁰⁶ ILO 1919 Constitution (**Annex 60**).

¹⁰⁷ 1944 Declaration of Philadelphia annexed to the ILO Constitution (**Annex 61**).

127. Qatar is also a party to the United Nations 2000 Convention against Transnational Organized Crime¹⁰⁸ (ratified on 10 March 2008) and to its supplement, the 2000 (2003) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (referred to as the Palermo Protocol);¹⁰⁹ Qatar acceded to the Protocol on 29 May 2009).
128. Qatar is furthermore bound by obligations of customary international law, in particular peremptory norms (*jus cogens*) which constitute obligations *erga omnes*.¹¹⁰ According to customary law, the prohibition of slavery, torture or other cruel, inhuman or degrading treatment or punishment and systematic racial discrimination are *erga omnes* obligations. A State violates those obligations if, as a matter of State policy, it practices, encourages or condones them
129. These various legal obligations of Qatar clearly outline minimal duties Qatar must fulfil with regard to its migrant workers; they do not allow for a lax approach towards the general prohibition of forced labour.
130. Plaintiffs will now outline the specific norms that Qatar, nonetheless, violates. As will be argued in Chapter 7, though FIFA is uniquely positioned to ameliorate the dire working conditions of the migrant workers, it instead condones the systemic and flagrant violation of workers' rights in and by Qatar.

5.4 Prohibition of forced labour

131. Forced labour is prohibited by the ILO 1930 Forced Labour Convention no. 29 (Articles 1, 2 and 25),¹¹¹ the ILO 1957 Abolition of Forced Labour Convention no.

¹⁰⁸ UN 2000 Convention against Transnational Organized Crime and the Protocols Thereto (Palermo) (**Annex 62**).

¹⁰⁹ **Annex 62**.

¹¹⁰ The International Court of Justice stated in the Barcelona Traction case (1970) that obligations *erga omnes* concern all States by their very nature. International Court of Justice (ICJ), 'Case Concerning the Barcelona Traction, Light and Power Company, Limited (*Belgium v. Spain*) Second Phase, Judgment of 5 February 1970 (**Annex 63**).

¹¹¹ **Annex 53**.

105 (Article 2),¹¹² and by the Arab Charter on Human Rights, in which Article 10(1) refers to slavery and trafficking and Article 10(2) to forced labour.¹¹³ Forced labour is both conceptually and legally closely linked to slavery, debt bondage, trafficking, and (lack of) freedom of movement.

132. International law defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”¹¹⁴ The definition thus contains three basic elements: (i) some form of work or service must be provided by the individual concerned to a third party; (ii) the work is performed under the threat of a penalty; and, (iii) the work is undertaken involuntarily.¹¹⁵
133. Plaintiffs observe that regarding this second criterion of “forced or compulsory labour”, (i.e. “work or service which is exacted (...) under the menace of any penalty”), the penalty need not be in the form of penal sanctions, but may also take the form of a loss of rights or privileges.¹¹⁶ Such privileges include loss of legal

¹¹² **Annex 54.** The 1930 ILO Forced Labour Convention, which Qatar has ratified, states that: “The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.” In addition, the 1957 ILO Abolition of Forced Labour Convention requires state parties to “take effective measures to secure the immediate and complete abolition of forced or compulsory labour”.

¹¹³ **Annex 49.** Article 10 of the Arab Charter on Human Rights notes that all forms of slavery and trafficking in human beings are prohibited and are punishable by law, and that no one shall be held in slavery and servitude under any circumstances. Moreover, the second paragraph of this article prohibits forced labour or any other form of exploitation.

¹¹⁴ ILO 1930 Forced Labour Convention (Convention No. 29) art. 2 (**Annex 53**). The ILO Committee of Experts on the Application of Conventions and Recommendations has stated that a penalty “need not be in the form of penal sanctions, but might take the form also of a loss of rights or privileges”. ‘Voluntarily’ is less clearly defined but the ILO Committee of Experts has stressed that “considering the freedom to ‘offer oneself voluntarily’ for work or service, account must be taken of the legislative and practical framework which guarantees or limits that freedom. International Labour Conference, 1979 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, 65th Session, Geneva, 1979, Report III, para. 21, as cited in the International Labour Conference, 2007 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, 96th Session, Geneva, 2007, Report III in Chapter 1, sub-chapter 1 (‘Definition of forced or compulsory labour’), pp. 19-21 (**Annex 64**).

¹¹⁵ International Labour Office, ‘A Global Alliance Against Forced Labour: Global Report under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work’, 2005, p. 6 (**Annex 65**).

¹¹⁶ International Labour Conference, 2007 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the

residency status and the ability to work legally, as well as the loss of the right to return to one's own country.

134. The following is a non-exhaustive list of factors that is used in practice to identify forced labour as a result of actual presence of threat of a penalty:

- Physical or sexual violence
- Financial penalties (such as non-payment of wages)
- Loss of rights or privileges
- Denunciation to authorities and deportation
- Dismissal from current employment or exclusion from future employment
- Deprivation of food, shelter or other necessities
- Lack of consent to work, including: restriction of freedom of movement, physical confinement in the work location
- Psychological compulsion
- Induced indebtedness (by falsification of accounts, reduced value of goods or services produced, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages

Committee of Experts on the Application of Conventions and Recommendations, 96th Session, Geneva, 2007, Report III, para. 37 (**Annex 64**). See also ILC, 14th Session, Geneva, 1930, Record of Proceedings, p. 691 (**Annex 67**); see also Forced Labour, General Survey of 1968, para. 27, as cited in the International Labour Conference, 2007 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, 96th Session, Geneva, 2007, Report III in Chapter 1, sub-chapter 1 ('Definition of forced or compulsory labour'), pp. 19-21 (**Annex 64**); and see Abolition of Forced Labour, General Survey of 1979, para. 21, as cited in the International Labour Conference, 2007 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, 96th Session, Geneva, 2007, Report III in Chapter 1, sub-chapter 1 ('Definition of forced or compulsory labour'), pp. 19-21 (**Annex 64**).

- Confiscation of identity documents¹¹⁷

135. An external constraint or indirect coercion interfering with a worker's freedom to "offer himself voluntarily", the third criterion, "may result not only from an act of the authorities, such as a statutory instrument, but also from an employer's practice, e.g. where migrant workers are induced by deceit, false promises and retention of identity documents or forced to remain at the disposal of an employer; such practices represent a clear violation of the Convention."¹¹⁸ Passport retention is explicitly mentioned as a criterion for forced labour.

5.4.1 *Forced labour in Qatar*

136. Work on all World Cup sites is carried out under the auspices of the Supreme Committee for Delivery and Legacy, the body set up by the Government of Qatar to deliver the World Cup. Often, this work is carried out through a chain of subcontractors. The work on the Khalifa Stadium refurbishment for example involves a string of contractors reporting ultimately to a single client. That client is the *Aspire Zone Foundation*, which, on the Khalifa Stadium project, operates on behalf of the Supreme Committee. The Foundation was created by Emiri decree in 2008 with the aim of establishing Qatar as a global centre for elite sporting events. *Aspire Zone Foundation* appointed a main contractor for Khalifa Stadium, a joint venture company involving *Midmac*, a Qatari construction company, and *Six Construct*, a subsidiary of the Belgian company *Besix*. While the *Midmac-Six Construct* joint venture (JV) has overall responsibility for the work on Khalifa

¹¹⁷ International Labour Office, 'A Global Alliance Against Forced Labour: Global Report under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work', 2005, p. 6 and para. 14 (**Annex 65**). International Labour Conference, '1979 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations,' 65th Session, Geneva, 1979, Report III, para. 21 (**Annex 64**).

¹¹⁸ International Labour Conference, 2007 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975, (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, 96th Session, Geneva, 2007, Report III, para. 39 (**Annex 64**).

Stadium, other companies are employed on the site to carry out specific elements of the refurbishment. One of these companies is *Eversendai Qatar*, a subsidiary of the Malaysian company *Eversendai*. For the work on Khalifa, Eversendai used at least two labour supply companies: *Seven Hills* and *Blue Bay*.

137. *Seven Hills*, *Blue Bay* and the like are small companies that bring migrant workers to Qatar for the sole purpose of hiring their labour out to other companies. Generally, labour supply companies are small operations in which a sponsor brings a number of migrant workers to Qatar and then hires them out to other companies to do work. Labour supply companies generally do not engage in specific commercial activity themselves; essentially their business is the hiring out of people.¹¹⁹
138. During the course of its investigations in Qatar, Amnesty International found evidence that several of the 132 interviewed workers employed on the Khalifa-project were subjected to forced labour.
139. All of the cases involved men employed by the small labour supply company *Seven Hills*. Of the 132 Khalifa Stadium workers Amnesty International interviewed, 108 said their direct employer was a labour supply company, and they worked on Khalifa Stadium for periods ranging from one to eight months. In all of the 132 cases the men appear to have been brought in to work on the Khalifa site by a company that was contracted to work on Khalifa Stadium, though not all of the men were able to identify the contractor for whom they worked.¹²⁰
140. The company that employed Alam (plaintiff 2) is called *Hamad Bin Khalid Contracting Company W.L.L.* (HBK). It was established in 1970 to undertake civil construction projects in Qatar. The company is involved in various World Cup-related projects, such as for the Green Line (north-south through the city of Doha) as part of the Doha Rail Project.¹²¹ On 14 April 2014, the Supreme Committee for

¹¹⁹ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 5.

¹²⁰ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 30.

¹²¹ 'Doha rail project contracts awarded as Qatar ramps up 2022 Fifa World Cup preparations' *The National*, 31 May 2013 (**annex 135**)

Delivery & Legacy awarded HBK the enabling works contract for Al Wakrah Stadium.¹²² The press release related to this construction Al Wakrah-project states:

“The 40,000-seat stadium, future home of Al Wakrah Sports Club, was the first of Qatar’s FIFA World Cup™ proposed venues to be revealed. The stadium will be surrounded by approximately 560,000 m² (60-hectare) of legacy precinct with a new sports centre and community hub. The precinct will deliver a range of community facilities, including a park, mosque, school, hotel, wedding hall, vocational training centre and retail outlets.”¹²³

141. The Business & Human Rights Resource Center¹²⁴ invited HBK to respond to questions concerning the welfare of its migrant workers in Qatar, but to date the company has yet to respond.¹²⁵
142. Plaintiffs assert that the work conducted by Alam (Plaintiff 2) in the sea port facilitated the mega-projects that his employer HBK was contracted to do in preparation for the 2022 World Cup.
143. Below plaintiffs detail how Qatar facilitates exploitation and forced labour. Five interrelated ways are distinguished:
 - a) By prohibiting workers to switch employer and employers’ control over residence permits
 - b) By allowing abusive contracts
 - c) By allowing high recruitment fees

¹²² ‘HBK named Al Wakrah enabling works contractor’, 19 April 2014, available on the website of the Supreme Committee for Delivery & Legacy (SC) (**annex 136**); ‘Enabling works package for Al Wakrah Stadium and Precinct’, available on the website of HBK Company (**annex 137**).

¹²³ ‘HBK Contracting Company to start enabling works for Al Wakrah 2022 FIFA World Cup™ stadium’, press release by Supreme Committee for Delivery & Legacy (SC) (**annex 138**).

¹²⁴ The *Business & Human Rights Resource Center* is an NGO that “[tracks] the human rights policy and performance of over 6000 companies in over 180 countries, making information publicly available. We engage with companies and governments to urge them to share information publicly.” (<https://www.business-humanrights.org>).

¹²⁵ ‘Migrant Workers in Gulf Construction: HBK Contracting Company’, Business & Human Rights Resource Center (**annex 139**) [accessed 5 September 2016].

- d) By not effectively opposing passport confiscation
- e) By the lack of effective redress and legal enforcement of the protection of workers' rights.

(a) Prohibition to change job and employer's monitoring of residence permits

144. Migrant workers are not allowed to freely choose their work. As they arrive in Qatar under the *kafala*-system, they cannot legally switch employers or end their employment¹²⁶ (2009 Sponsorship Law, Article 15¹²⁷). A migrant worker can only switch employers without consent of the employer (*kafeel*) if the Minister of Interior transfers the migrant worker, which happens rarely. Furthermore, in practice, employers (*kafeels*) rarely consent to their employees quitting their jobs.
145. Exploitation of migrant workers by their *kafeels* is widespread. For example, as will be presented under (b) in this chapter, foreign employees are routinely paid less for their work as previously agreed upon and made to do different work during longer hours than promised under brutal circumstances. For example, despite Qatar's legal standards on workplace safety, workers reported inadequate protection.¹²⁸ Some workers reported that their employers (*kafeels*) blatantly disregarded risks to their

¹²⁶ UN General Assembly Special Rapporteur François Crépeau reported that the *kafala* system “enables unscrupulous employers to exploit employees’ and concluded the system amounts to forced labour, since the migrants are not allowed to leave their employer without the latter’s consent and run the risk of losing their residence permit, fines, and imprisonment if they do so, see 2014 Report by SR Crépeau (**Annex 31**), p. 7, paras. 26, 32, 33.

¹²⁷ 2009 Sponsorship Law (**Annex 32**)

¹²⁸ Under the provisions of the 2004 Labour Law (**Annex 43**) and the Qatar Resolution of the Minister of Civil Service & Housing Affairs No. (20) of 2005 Regarding Necessary Precautions & Requirements in Work Areas & Places to Protect Workers & Operators therein & Visitors against Risks of Work (**Annex 70**), each employer (*kafeel*) must i.a. take all precautionary measures for protecting the workers, during employment, from any injury or disease that may result from the work performed on the employer’s (*kafeel*’s) premises or from any accident, defect or breakdown in the machinery and equipment therein or from fire (Labour Law Art 100, **Annex 43**); ensure that the workplace is not subject to sudden temperature change, extreme heat or cold, unpleasant smells or excessive humidity (of Decision 20 of 2005 Art.52, **Annex 70**); ensure that the workplace has an adequate level of cleanliness, has suitable ventilation, lighting, drinking water and bathroom facilities (2004 Labour Law Art. 103, **Annex 43**); and provide workers with adequate protective clothing as needed depending on the work performed and the temperature and environment in which the work is performed. Artt. 48 sub 4, 108 and 115 of Qatar’s Labour Law (**Annex 43**) require employers (*kafeels*) to report workplace deaths and injuries to the Labour Department and the police.

health and safety, demanding dangerous tasks that the workers had little choice but to perform. As a second example, construction workers in Qatar also face high risk of heatstroke and dehydration, with temperatures reaching up to 50 degrees Celsius (122 degrees Fahrenheit) in the summer months. In 2007 Qatar passed a ban on midday work between June 15 and August 15 (Qatar Ministerial Decree No.16 of 2007).¹²⁹ The decree prohibited outdoor work between the hours of 11:30 and 15:00, and required employers to provide workers with a shady place to rest. However, in 2012 Human Rights Watch reported that during its June 2011 visit, it saw workers at work during these hours on several sites after the ban went into effect. While some of the workers interviewed said their employers (*kafeels*) gave them a midday break, others said that they continued to work during these hours, even in hot summer months.¹³⁰ A third example is quite simply that the level of accidents on construction sites and hazardous working conditions resulting in injury or death are a matter of concern that workers have no possibility to allay.¹³¹

146. Alam (Plaintiff 2) was also aware that he was not allowed to switch employers. As such, he did not attempt to do so, even after he had been fired by HBK and therefore had to return to Bangladesh involuntarily prior to the end of his contract. Though Alam would have wanted to stay in Qatar and continue working, he was not free to make that decision and was instead entirely dependent on his employer (*kafeel*) in the matter.

¹²⁹ Qatar Ministerial Decree No. (16) of 2007 Determining the Working Hours in Exposed Work Places During the Summer (**Annex 71**).

¹³⁰ See HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 68. Many migrants cannot obtain health cards to access subsidised health care. This is a consequence of the fact that they do not have an identity card, because their employer (*kafeel*) either did not provide them with one or did not extend its validity. In May 2015 Amnesty International still reported that migrant workers generally lacked access to health care in Qatar. See AI 2015, 'Promising little, delivering less' (**Annex 40**) p. 5. See also S. Devi 'Concerns over mistreatment of migrant workers in Qatar' *The Lancet* Vol. 383, No. 9930, p. 1709, 17 May 2014 (**Annex 72**).

¹³¹ As is the lack of data on accidents and deaths, despite anecdotal evidence that several, mostly young, migrant workers returned home in a coffin. 2014 Report by SR Crépeau (**Annex 31**) para. 46; Qatar currently publishes no national data on workplace injuries or deaths, and the Labour Law does not require employers or government authorities to make this information publicly available, see HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 67.

147. However exploited, if workers quit their jobs without permission they are considered ‘absconders’ and their employers (*kafeels*) have the competency to report them as such. In fact, employers (*kafeels*) generally feel obliged to report absconding workers to the authorities because they would otherwise remain legally responsible for them.¹³² Absconsion is a criminal offence in Qatar: being branded an absconder renders the worker an illegal Qatari resident who risks arrest, detention without trial and/or deportation to their country of origin. In fact Qatar’s Sponsorship Law makes it illegal for anyone to shelter workers who have left their employer (*kafeel*) without permission. As R.N., an expatriate who has been helping members of his community for more than 25 years and observed companies’ reactions to worker complaints explains to Human Rights Watch: “No one will accept [to shelter them] because then [they] would go to jail (...) You see some people sleeping in the park. In some cases, I saw workers sleeping near their embassies.”¹³³
148. Article 21 of the 2015 Sponsorship Law provides that migrant workers no longer need to seek their sponsor’s (*kafeel*’s) permission to switch jobs if they reach the end of a fixed-term contract, but not before. However, migrant workers whose contracts do not stipulate an end date and who wish to switch jobs will continue to be dependent on permission from their employer (*kafeel*), ‘the competent authority,’ as well as the Interior, and Labour and Social Affairs Ministries until they have completed five years of work.¹³⁴ Likewise, workers who want to change employers (*kafeels*) before the end of their contracts require permission from the same people and entities. In other words, even under the new Sponsorship Law, migrant workers are not allowed to change jobs (except for the situation described in Art. 21) and are therefore effectively bound to their employer (*kafeel*).¹³⁵
149. Moreover, workers risk prosecution and other legal problems if they decide to quit exploitative jobs without the necessary consent. Even if they are exploited by their

¹³² HRW, ‘Building a Better World Cup’ (2012), p. 75 (**Annex 41**).

¹³³ HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) pp. 82.

¹³⁴ 2015 Sponsorship Law (**Annex 44**) Art. 21. The law does not define who ‘the competent authority’ is.

¹³⁵ 2015 Sponsorship Law, (**Annex 44**) Artt. 4 and 16.

employers (*kafeels*), the system effectively prohibits them from seeking better conditions elsewhere as Qatari law does not recognize abuse or failure to pay wages by an employer (*kafeel*) as a legal defence against the crime of absconion.¹³⁶ This practice violates the prohibition of arbitrary detention binding on Qatar, which is laid down in Article 14 paragraph 1 of the Arab Charter on Human Rights.¹³⁷

150. There are countless examples of situations that workers are trapped in as a result of the kafala system. Migrant workers are also trapped in exploitative jobs because they are dependent on their employer (*kafeel*). In order to demonstrate their right to work and live in Qatar and to allow them access to a range of basic services including health care, migrant workers must have valid residence permits, which take the form of ID-cards (for 2009 Sponsorship Law, Article 9). The *kafeel* is responsible for providing the worker with this residence permit.¹³⁸

151. Article 9 stipulates that:

“Any Expatriate who is resident in the State of Qatar shall obtain a permit from the appropriate competent authority. The sponsor shall comply with the formalities for the required residence permit and the renewal thereof, provided that the application for renewal is made within a period that shall not exceed ninety days from the date of the expiry of the said permit. The sponsor shall deliver to the sponsored person his passport or travel document after finalizing the residence formalities or after applying for the renewal thereof.”¹³⁹

¹³⁶ HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) pp. 75-77.

¹³⁷ Article 14 paragraph 1 of the Arab Charter on Human Rights (**Annex 49**) guarantees that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest, search or detention without a legal warrant; Art. 36 of the Qatar Permanent Constitution (**Annex 48**) states that “personal freedom shall be guaranteed and no person may be arrested, detained, searched; neither may his freedom of residence and mobility be restricted save under the provisions of the law”.

¹³⁸ 2009 Sponsorship Law, Art.9 (**Annex 32**)

¹³⁹ 2009 Sponsorship Law, Art.9 (**Annex 32**)

152. However, many employers (*kafeels*) fail to provide their workers with valid permits¹⁴⁰ which leaves the migrant workers vulnerable to abuse. Just like workers who quit their job without permission, workers without valid residence permits may be suspected of having ‘absconded’ and face arrest, prosecution and detention.¹⁴¹
153. Employers (*kafeels*) who do not provide or renew the residence permit of a migrant worker or even cancel the permit, thus render the migrant worker vulnerable to arrest by the police. Moreover, if residence permits are not renewed on time migrant workers are fined for not having valid permits. These penalties must be paid in order for the migrant workers to be able to leave Qatar.¹⁴² When employers (*kafeels*) can or will not pay these fines, migrant workers have to pay the fines themselves when they want to leave Qatar.
154. The legal reforms that will take effect in December 2016 will not change this situation: the 2015 Sponsorship Law still dictates that the employer (*kafeel*) is responsible for the residency of migrant worker (Articles 8, 10 and 17).¹⁴³ As such, migrant workers will still face the aforementioned risk of being reported as ‘absconders’ if their employers (*kafeels*) do not provide them with valid residence permits.
155. This is not a frivolous concern. Many of the 132 men working on the Khalifa-project who were interviewed by Amnesty International between March and June 2015 said they had problems with their residence permits. Some said they did not receive the permits at all, while others said there were several months’ worth of delays in obtaining their first residence permit or getting a permit renewed. Issues with

¹⁴⁰ Human Rights Watch has interviewed migrant workers who were already waiting for their work permit (in the form of an ID card) for six months to a year. HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) p. 74.

¹⁴¹ See HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) p. 74.

¹⁴² AI, ‘The Dark Side of Migration’ (11-2013) (**Annex 39**) p. 101.

¹⁴³ 2015 Sponsorship Law (**Annex 44**), Artt. 8, 10, 17.

residence permits were cause for significant anxiety amongst the workers; it made them constantly fearful of travelling beyond the stadium work site or their camps.¹⁴⁴

156. In sum, the fact that the *kafala* system gives employers (*kafeels*) an extraordinary amount of control over migrant workers, puts these workers at high risk of forced labour. As will be discussed under Chapter 5.5 ('Freedom of movement') the failure by employers (*kafeels*) to issue and renew work- and residence permits for their employees in Qatar also greatly inhibits the migrant workers' right to freedom of movement.

(b) Abusive contracts, contract substitution and delays in payment

157. Qatar allows for migrant workers to be subjected to abusive contracts and contract substitution. Abusive contracts are when, upon arrival, migrant workers learn that they are to receive lower wages than originally agreed upon. Contract substitution is when, upon arrival, a migrant worker is forced to do a different kind of job than he was promised back home.
158. Abusive contracts are prohibited by Article 65 of the 2004 Labour Law,¹⁴⁵ which provides that an employee is entitled to the wages designated in his work contract. Contract substitution is prohibited by Article 45 of the 2004 Labour Law¹⁴⁶, which forbids the employer from charging the employee to do work different from the work agreed upon. However, violations of these rules are widespread and not penalized.
159. All but six of the 234 migrant workers interviewed by Amnesty International in 2015 recounted that, upon arrival in Qatar they learned that their salaries would be lower than the amount they were promised, either verbally or in writing, in their home country. Some workers were also misled about the type of work they would do in Qatar. A common experience for workers is that recruiters made vague promises to

¹⁴⁴ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 25: "I am very worried about the police because without a valid ID at any time if they stop me I could be arrested and put in prison," stated a Khalifa Stadium worker.

¹⁴⁵ **Annex 43.**

¹⁴⁶ **Annex 43.**

them about salaries and conditions that ultimately proved false.¹⁴⁷ Many of the workers interviewed by Amnesty International said they told their employers (*kafeels*) in Qatar about the discrepancies in their pay and conditions, but that their employers (*kafeels*) took no responsibility for the situation.¹⁴⁸ Furthermore, none of the companies contacted by Amnesty International had taken any effective action to combat this problem.¹⁴⁹

160. Another wage-related problem workers experience, is the arbitrary deduction of significant amounts from salaries, Aside from irregular payment of wages, some employers deduct wages to pay costs including visa fees, food, and medical insurance. supposedly in order to pay for the workers' visas.¹⁵⁰ This occurs even with the prevailing low salary levels the workers face in Qatar to begin with.
161. A separate but related form of exploitation is the delay in the payment of wages. Art. 66 of Qatari Law No. 14 of 2004 (the Labour Law)¹⁵¹ dictates that the wages of employees are paid once every two weeks at a minimum. Arrears and delays in payment of wages constitute an abuse of labour rights, in particular the right to just and favourable remuneration. However, in practice breaches of this provision also do not lead to penalization for the perpetrator (*kafeel*).
162. Despite official policy guidelines, companies practice the policy of withholding between one and three months' wages at the outset of workers' employment. This

¹⁴⁷ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) pp. 21-22. For example, Nepalese migrant worker Tek Thapa who was interviewed in May 2015, said his agent in Nepal promised him scaffolding work in Qatar as he had three years' experience doing scaffolding work in Saudi Arabia. Tek was promised a salary of 1,400 Qatari riyal (US\$380) and a monthly meal allowance of 300 Qatari riyal (US\$80). But instead of being offered a contract with these terms of employment, the agent told him to sign a blank piece of paper. He recounts: "After signing the paper the recruiter showed me a [separate] piece of paper and he said this was my agreement. But I didn't get a chance to properly read it, or ask questions, nothing like that". He described what happened when he arrived in Qatar in January 2015: "A man from my employer met me at the airport, he took me with others through immigration and then we were driven by bus to our camp in Al Wakrah. Once we arrived at camp the boss there told me I would be doing steel work, not scaffolding work, and my pay would be 1100 riyal (\$300) plus 200 riyal (\$50) for meals per month. I was in shock but did not know what to do. The other men in the camp with me told me to keep quiet, stay calm. At least I would make some money and after two years I could leave."

¹⁴⁸ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 23.

¹⁴⁹ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 6.

¹⁵⁰ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) pp. 57, 58, 63.

¹⁵¹ Annex 43.

money is withheld as a 'deposit salary' and aims to prevent workers from quitting their jobs early. Employers (*kafeels*) will commonly inform the workers that they will receive the withheld wages at the end of their contract term.¹⁵²

163. In the most recent Amnesty International report, 132 men carrying out construction-related work on the Khalifa-project stated they had problems receiving salaries from their employers (*kafeels*). Other workers report that their employers had not paid them for months.¹⁵³ Workers reported facing delays for periods ranging from one to ten months beyond the monthly due date. Others were paid salaries three to six months in arrears.¹⁵⁴ Several workers described how they were not paid for the first three or four months after arriving in Qatar. Although they were subsequently paid on a monthly basis, their pay was permanently several months in arrears.
164. The majority of workers receive payments in cash, rather than through bank accounts, making it significantly more difficult to monitor whether employers paid wages as required by law.¹⁵⁵ In 2011, 33.9 percent of workers surveyed by the Qatar Human Rights Committee said they were not being paid on a regular basis.¹⁵⁶ This situation is of significant concern because it can be used as a threat to compel

¹⁵² See Human Rights Watch interview with Abdul H., Doha Industrial Area, May 25, 2011; Human Rights Watch group-interview with seven Nepali workers in ASPIRE Zone, June 12, 2011; Human Rights Watch interview with Ajit T., labour camp near al-Khor, June 17, 2011; Human Rights Watch interview with Bhanu K., labour camp near al-Khor, June 17, 2011. All interviews were published in HRW, 'Building a Better World Cup' (2012) (**Annex 41**).

¹⁵³ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) pp. 57, 58, 63.

¹⁵⁴ Hrishikesh, a 28-year-old metal worker from India who was working on Khalifa Stadium in May 2015 when Amnesty International met him, described his situation. "My salary is not very big, but at least it is something (...) I have not received anything from my company for the last ten months. Now, I just want the money still owed to me and then I want to return home to India. My manager says he will help me to get a [exit] permit [to leave the country]. He said the company will pay for my airfare and give me 90 riyals (\$25), nothing more (...) I did not complain to any officials, who would I speak to? I am too scared the company will punish me [if I do]." Prem, a metal worker and father of three who carried out work on Khalifa Stadium between February and May 2015, faced a persistent delay of three months in receiving his salary since September 2014. As a consequence of the delays in his salary payment, Prem's family was unable to keep up with loan and rental repayments and lost their home. All interviews were published in AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 24.

¹⁵⁵ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 64.

¹⁵⁶ Business for Social Responsibility ('BSR') October 2012 Report 'Migrant Workers and the FIFA World Cup 2022 in Qatar: Actions for Business', p. 10 (**Annex 73**); HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 63.

migrant workers: either they continue working, or they face the loss of significant amounts of back pay.¹⁵⁷

165. Prolonged delays or payment of wages many months in arrears are not only abuses in themselves, they can be disastrous for low-income migrant workers, who are left unable to pay for food, send money to their family or afford phone calls home. Workers who do not receive their salary from the beginning of their employment must borrow money or purchase items on credit in order to pay for living expenses. As described below, also their debts resulting from mandatory recruitment fees mount as they cannot make payments and additional interest accrues, while their families in their home country go without support.
166. Combined with the inability to change jobs or leave the country because of Qatar's *kafala* sponsorship system, uncertainty over when, or if, they will be paid for their work can push workers to the point of desperation.¹⁵⁸

(c) Recruitment fees and loan dependency

167. Another way in which Qatar facilitates exploitation and forced labour is by condoning that migrant workers are obliged to pay recruitment fees in order to be able to work in Qatar. This is an abusive practice that manoeuvres workers into a vulnerable and dependent position.
168. Demanding recruitment fees is technically prohibited by means of Articles 28 and 33 of the 2004 Labour Law¹⁵⁹, which lay out conditions for recruiting workers. They furthermore stipulate that employers (*kafeels*) must recruit workers through a licensed recruitment agent, unless they have approval from the Department of

¹⁵⁷ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 24.

¹⁵⁸ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 24.

¹⁵⁹ **Annex 43.**

Labour directly. However, the practice of recruitment fees is still widespread and is not opposed effectively by the government of Qatar.¹⁶⁰

169. Recruitment agents in Qatar receive between US\$17 million and \$34 million in commissions from Nepal each year.¹⁶¹ Nepali recruitment agencies regularly send commissions to agencies in Qatar through informal transfers so as to avoid payment records. This is possible because, among other things, some Qatari recruiting agencies deliberately hide their profits to evade penalties under the 2004 Labour Law.
170. Legally, employers (*kafeels*) and agents can agree that the employer (*kafeel*) will pay all recruitment expenses. However most employers (*kafeels*) make the worker pay these expenses by having him take out loans to pay for his ticket and agency recruitment fees.¹⁶² Even in some cases where employers (*kafeels*) do pay recruiting fees, they shift recruitment costs to workers by deducting these fees from their wages upon arrival, leaving many workers with debts on top of those incurred in their home countries.¹⁶³
171. To illustrate, in 2012 Human Rights Watch reported that of the 73 workers the NGO interviewed, 69 said they paid recruitment fees ranging between US\$726 and \$3,651 in order to obtain their jobs in Qatar, borrowing from private moneylenders at interest rates that ranged from three to five percent interest per month to 100 percent

¹⁶⁰ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 6.

¹⁶¹ Isaku Endo Gabi G. Afram 'The Qatar-Nepal Remittance Corridor: Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process' World Bank Study 2011 Washington DC, p. 34 (**Annex 74**).

¹⁶² Human Rights Watch interview with Ramsi G., Doha, May 30, 2011 in HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 54.

¹⁶³ In order to pay recruitment fees in their home countries, workers sell valuable assets or mortgage family property, taking loans at high interest rates from private money lenders, see HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 56. Even workers who migrated through personal contacts said they paid recruitment fees, as their contact either arranged their migration through a recruitment agency that charged fees, or asked for money in exchange for facilitating the worker's placement, see HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 52.

interest on their debt per year. Moreover, in some cases workers report that employers deduct the cost of recruitment fees from their salaries.¹⁶⁴

172. In order to pay these recruitment fees, migrant workers in Qatar generally have to take out loans. To illustrate, most of the men working on the Khalifa-project and Aspire Zone who were interviewed in 2015 by Amnesty International said they had to take out loans from agents in their home country to pay for large recruitment costs in order to get a job in Qatar.¹⁶⁵
173. These patterns of abuse are evident in the case of Plaintiff 2, Alam. He paid his recruitment agency in Bangladesh a recruitment fee of BDT 350,000 (approximately US\$4,400). As he did not have the money to pay this fee himself, he took out a loan and mortgaged his agricultural land. His employer (*kafeel*) HBK reimbursed only US\$400 (QAR1,400), less than 10% of the recruitment fee, when Alam returned to Bangladesh. To date however, Alam has not managed to repay the loan or pay the mortgage on his land.
174. Measures taken by the Qatari government are ineffective in combating these practices. For example, Qatar carried out over 1,800 inspections of Qatar-based recruitment agencies in 2015 to ensure they are not charging recruitment fees from migrant workers, and signed bilateral agreements with 35 countries from which migrant workers originate with provisions seeking to prevent 'malicious recruitment practices'. Even so, in 2016 Amnesty International reported that all of the 234 men it interviewed in 2015 still had to pay recruitment fees in their home countries.¹⁶⁶
175. As indicated, the circumstances force migrant workers to take out loans in order to pay the recruitment fees. Ironically, the migrant labourers subsequently need to repay these loans from salaries that are insufficient to support either themselves or their families back home. It is especially sour when many workers indeed came to Qatar in the first place to try to provide a better life for their family. Loan repayments place a

¹⁶⁴ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 53.

¹⁶⁵ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 19.

¹⁶⁶ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) pp. 19, 56.

heavy financial and emotional burden on migrant workers, taking up a huge part of their income and rendering them incapable of sending enough money back home.

176. A migrant worker's obligation to pay recruitment fees coupled with an extreme dependency on low wages that are consistently not paid on time increases the risk of their being subjected to forced labour. Workers can feel they have no choice but to accept lower wages than they were promised, poor conditions and other ill treatment because they have large loans to pay off.¹⁶⁷ Additionally, recruitment fees combined with the consistent late payment of salaries means that workers generally have significant amounts owed to them. As a consequence, they are anxious about complaining about their conditions or seeking to leave their employer (*kafeel*) for fear of losing the income owed to them altogether.¹⁶⁸
177. In sum, recruitment fees and the compulsory loans workers have to take out constitute a major factor keeping workers trapped in jobs where employers abuse their rights and subject them to conditions amounting to forced labour and human trafficking.¹⁶⁹ The detrimental effects of recruitment fees for migrants are exacerbated by the often abusive and deceptive labour contracts they sign. The combination of the arbitrary adjustment of contracts (contract substitution) by employers (*kafeels*) and the obligation to pay high recruitment fees thereby form an

¹⁶⁷ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 19. For example, 30-year-old Bushal was a metal worker on Khalifa Stadium in early 2015. He paid 110,000 rupees (\$1,030) to a recruiter in Nepal to secure his job in Qatar. In order to cover this fee he took out a loan at 2.5% monthly interest. He told Amnesty International about the financial pressures he faces to service his debt on a small salary: "The loan keeps me in tension all the time (...) My salary is 910 riyals (\$250) per month, but with that money I have to cover my family's costs like my children's education. After paying my loan repayments there is nothing left in savings. But even if my pay is delayed I still have to cover my loan." See AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 20.

¹⁶⁸ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 25.

¹⁶⁹ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 55. See also ILO Eighth Supplementary Report: Report of the committee set up to examine the representation alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), made under Art. 24 of the ILO Constitution by the International Trade Union Confederation and the Building and Woodworkers International, 13-27 March 2014 (**Annex 75**). According to the 2012 report by Human Rights Watch, "conditions of forced labour are not obviated by the right of a worker to breach his contract and return home. When workers owe thousands in recruiting fees, are not free to find new employers, and do not have custody of their passports, they are, in fact, in conditions of forced labour." See HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 7.

exploitative system which increases the amount of control employers (*kafeels*) have over migrant workers.

(d) Passport retention

178. Forced labour is also facilitated by the failure of Qatar to effectively oppose passport confiscation by employers. Research by Qatar University revealed that employers (*kafeels*) retain passports in approximately 90% of the cases, allegedly for ‘security reasons’.¹⁷⁰ Though Article 9 of the 2009 Sponsorship Law forbids passport retention, in practice that provision is not effectively enforced, if at all.¹⁷¹

179. In November 2011 officials of the Ministry of Labour stressed that:

“[While] employers previously held the passport of migrant workers (...) this phenomenon has ended after the issuance of the law on the entry, exit, sponsorship, and residence of foreigners [2015 Sponsorship Law,] which requires the sponsor to return the passport to the worker after the conclusion of all necessary measures.”¹⁷²

180. However, the Sponsorship Law 2015, in particular Article 8, is only a slight improvement over the previous sponsorship law 2009. The new article stipulates that:

“[t]he employer must give the Passport or Travel Document to the Foreign National after completing the licensing or renewal procedures,

¹⁷⁰ HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) p. 73; 2014 FNV Report (**Annex 42**), p. 29. In 2011, Qatar University’s Social and Economic Survey Research Institute found that 91% of foreign migrant workers surrendered their passports to their employers (*kafeels*). The reason employers (*kafeels*) withhold passports is to maintain control over workers, as they would easily be able to send the passport to the Ministry of Interior and report the worker as having absconded in case the worker were to complain or escape an abusive situation. See Qatar University Social & Economic Survey Research Institute (SESRI) Annual Omnibus Survey: A survey of life in Qatar 2011, Executive Summary Report, Doha, Qatar November 2011 (**Annex 76**), p. 17.

¹⁷¹ Article 9, 2009 Sponsorship Law (**Annex 32**). Little is done by Qatari officials to prevent this practice, see Qatar University Social & Economic Survey Research Institute (SESRI) Annual Omnibus Survey: A survey of life in Qatar 2011, Executive Summary Report, Doha, Qatar November 2011 (**Annex 76**), p. 17.

¹⁷² Letter from the Qatari Ministry of Labour to Human Rights Watch, November 1, 2011, p. 4 (**not included**), as referred to in HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) p. 73

unless the Foreign National has requested in writing that the employer retain the Passport or Travel Document. However the employer must give the Foreign National his Passport or Travel Document upon request.’¹⁷³

The fine for a violation of this provision can be up to 50,000 Qatari riyals (QR) (US\$13,740).

181. However, labour inspectors do not monitor passport confiscation, and Labour Ministry officials continue to show little concern for curbing this widespread practice.¹⁷⁴ The penalties for employers (*kafeels*) who retain passports are minimal and enforcement of the prohibition is weak.
182. In fact workers almost universally report that their employers (*kafeels*) continue to hold their passports. This practice, aside from restricting migrant workers’ freedom of movement, limits their access to health care and banking services to a significant degree. In other cases, employers (*kafeels*) will extort the workers for money in order to grant them permission to leave.¹⁷⁵ The retention of passports enables employers (*kafeels*) to wield significant influence over their workforce, e.g. by threatening not to return them and preventing workers from leaving Qatar. Retention of passports can stop workers from exercising their right to leave a country and makes them more vulnerable to forced labour.
183. To illustrate, all 234 workers interviewed by Amnesty International between March and June 2015 said their employers (*kafeels*) confiscated their passports, in violation of Qatari law.¹⁷⁶ Though some of the employers (*kafeels*) subsequently returned

¹⁷³ 2015 Sponsorship Law , (Annex 44) Art. 8 .

¹⁷⁴ HRW, ‘Building a Better World Cup’ (2012) (Annex 41) p. 73.

¹⁷⁵ 2014 FNV Report (Annex 42) , pp. 28-29

¹⁷⁶ AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (Annex 19) p. 17. For example, 28-year-old Aspire Zone gardener Rasool from Bangladesh described how he was met by a representative of his employer at the airport on his arrival in Qatar and was immediately asked to hand over his passport, see *idem* p. 23. Kul Bhatta, who was working as a metal worker on Khalifa Stadium when Amnesty International met him in May 2015, said: “My passport is still with the company, they took it from me as soon as I arrived. They didn’t make me sign anything they just took the passport and I haven’t seen it since, except when I went on holiday to Nepal,” he explained. Suriya, another metal worker from Nepal who worked on Khalifa Stadium, faced an

passports to their employees, this appears to have taken place only after Amnesty International wrote to the companies concerned. One of the construction companies stated that workers had signed a release form to allow the company to hold passports. However that is not a satisfactory explanation, as the current law does not provide for employers (*kafeels*) to hold workers' passports under *any* circumstances. Additionally, workers may not be in a position to refuse to sign such a release form in the first place.¹⁷⁷

184. Individual plaintiff 2, Alam, had his passport confiscated by his employer (*kafeel*) HBK when he arrived in Qatar in August 2014. It was only returned to him when he left in January 2016.
185. A relatively recent incident illustrates furthermore the unacceptable practice of passport retention. In April and May 2015 earthquakes hit Nepal, killing more than 8,000 people. However, Nepalese construction workers building stadiums in Qatar were not allowed to return home (even temporarily) to attend funerals or visit relatives. According to Nepal's labour minister Tek Bahadur Gurung:

“[Nepal had] requested all companies in Qatar to give their Nepalese workers special leave and pay for their air fare home after the earthquake of 25 April. While workers in some sectors of the economy have been

almost identical situation: “When I arrived in Qatar [from Nepal] one of the men from the company met us at the airport and took us to the camp. As we departed the airport and went to the company bus in the parking lot they took our passports. Nothing was explained to us, he just demanded our passports.” *idem*, p. 23.

¹⁷⁷ AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (**Annex 19**) p. 6. Human Rights Watch also presented reports of wide-scale passport confiscation in HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) p. 51. Workers face obstacles in presenting complaints of violence or abuse to Qatar’s Labour Complaints Department. The first stop for workers who wish to pursue complaints against their employer (*kafeel*) is a dispute-resolution centre under the authority of the Labour Ministry. This Department does not publish data on complaint resolution outcomes, nor does it publish the decisions themselves. Expatriates who assisted workers in distress emphasise that workers who brought complaints before the Labour Department faced serious impediments to doing so. R.N., an expatriate who has helped members of his community for more than 25 years and observed companies’ reactions to worker complaints told Human Rights Watch: “For the period after complaining, the worker will not get one single riyal [of his] salary, no food, no place to stay,” (...) Once they go to [the] Labour Department, the company won’t keep them anymore. So they are ready to suffer [their problems, rather than filing a complaint]” See HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) pp. 81, 82.

given this, those on World Cup construction sites are not being allowed to leave because of the pressure to complete projects on time.”¹⁷⁸

The workers were even incapable of leaving Qatar on their own initiative because their passports were being held by their sponsors (*kafeels*).

186. These events are backed up by the recent Amnesty International report. In 2015, 88 men told Amnesty International that they were denied the right to leave Qatar. after the earthquakes. For example, seven of the men interviewed, who were employed by the previously mentioned labour supply company *Seven Hills*¹⁷⁹, and were working on the Khalifa project for subcontractor *Eversendai*, told Amnesty International that they wanted to return home to check on families after the earthquakes that hit Nepal in April and May 2015, but *Seven Hills* denied them permission to do so. These men recounted the despair they felt about not knowing if their families were still alive and not being able to return home to see them.¹⁸⁰
187. In conclusion, even though Qatar claims that migrant workers will be better protected by the 2015 Sponsorship Law reforms, in reality Article 8 of this new law will not improve the situation of migrant workers. Passport retention was already prohibited under the 2009 Sponsorship Law, but was nonetheless widespread.
188. Withholding the passports of employees not only subjects them to a great degree of control which renders them defenceless to forced labour. It also inhibits there freedom of movement (as will be discussed in Chapter 5.5 below).

¹⁷⁸ V. Chaudhary ‘Qatar refuses to let Nepalese workers return to attend funerals after quake’ *The Guardian* 24 May 2015 (**Annex 36**). See also N. Bhalla ‘Gulf States Must Allow Nepali Workers to Return After Quake: Trade Union’ *Reuters/ New York Times* 28 April 2015 (**Annex 77**); and M. Leftly ‘Nepal earthquake victims’ families prevented from leaving Qatar Fifa World Cup building sites to attend funerals’ *The Independent* 7 May 2015 (**Annex 78**).

¹⁷⁹ See para. 115 above; all of the 132 workers interviewed by Amnesty International in 2015 were employed via *Seven Hills*

¹⁸⁰ AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (**Annex 19**) p. 7.

(e) Qatar offers insufficient access to legal redress and fails to enforce legal protection of migrant workers

189. The problems created by the practices detailed under (a) through (d) are compounded by the fact that migrant workers have no information on how to execute their formal rights. Moreover, the lack of effective legal redress in Qatar – a problem that will be described in further detail in chapter 5.9 – leaves them powerless to escape their subjection to forced labour. The right of legal redress and access to justice is *inter alia* guaranteed by Article 12 of the Arab Charter on Human Rights.¹⁸¹ Additionally, though Qatar is bound by both its own laws, such as the 2004 Labour Law, and its obligations under international law to enforce protection of migrant workers it is wholly failing to do so.
190. One of the ways in which Qatar is bound to protect migrant workers, is through labour inspections; this is required by Article 10 of the ILO Labour Inspection Convention No. 81 which furthermore stipulates that, “the number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate,”¹⁸²
191. Qatar is in breach of this obligation, as that the number of inspections and the manner in which they are conducted is insufficient to effectively guarantee the rights of migrant workers. Labour inspectors are not in a position to investigate thoroughly the working conditions or living conditions in labour camps, due to their small numbers and the lack of interpreters.¹⁸³ In 2011 Qatar’s labour inspections unit employed a mere 150 labour inspectors to monitor compliance with Qatar’s 2004

¹⁸¹ Arab Charter on Human Rights (**Annex 49**) Article 12: “All persons are equal before the courts and tribunals. The States parties shall guarantee the independence of the judiciary and protect magistrates against any interference, pressure or threats. They shall also guarantee every person subject to their jurisdiction the right to seek a legal remedy before courts of all levels.”

¹⁸² International Labour Organization (ILO) Labour Inspection Convention No. 81, 1947, Art. 10 (**Annex 58**). See also Amnesty International November 2013 report AI, ‘Treat us like we’re human’ (2013) (**Annex 39**) p. 112.

¹⁸³ 2014 Report by SR Crépeau (**Annex 31**) para. 45.

Labour Law and accompanying regulations.¹⁸⁴ This is a quite small number considering the 800,000 male migrant workers already present in Qatar in 2010 and the 1,700,000 male migrants working in Qatar today.

192. In 2015, the government of Qatar hired 375 additional labour inspectors to investigate housing and working conditions. That year over 56,000 inspections were carried out, resulting in 923 companies being banned from doing business in Qatar. However, these figures tell us very little as the Qatari government has not provided any details about the focus of the inspections or remedies (if any) that were made available to workers whose rights were abused.
193. Even including the new inspectors hired in 2015, plaintiffs assert there are simply not enough people to conduct the amount and scale of investigations necessary to effectively protect workers' rights. The astonishing figure of 56,000 inspections in 2015 means that each inspector conducted approximately 150 inspections that year. Assuming each inspector works five days per week and takes four weeks of vacation per annum, which means that each inspection took a mere 1.5 days (including all the paperwork). As no information about the inspections is provided, it is also unclear whether the inspections involved visits to e.g. the accommodation sites. In any case, given the estimated rate of inspections, it is unlikely that the inspectors can identify, let alone follow up on labour rights abuses that cannot be identified through visual inspections of the site alone.¹⁸⁵
194. Aside from the insufficient numbers, the inspectors to wit speak only Arabic, sometimes English but never any of the languages commonly spoken by migrant workers in the country. Furthermore, the inspections do not include interviews with workers but consist solely of an investigation of the companies.¹⁸⁶ Without speaking

¹⁸⁴ Human Rights Watch meeting with Nasser al-Mannai, Director of Recruitment Department, Mohamed al-Obeidly, Director of Legal Affairs Department, and Salih al-Shawi, Director of Labour Relations Department, Ministry of Labour, Doha, Qatar, June 22, 2011, as referred to in HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 79

¹⁸⁵ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**), p. 65.

¹⁸⁶ Human Rights Watch meeting with Nasser al-Mannai, Director of Recruitment Department, Mohamed al-Obeidly, Director of Legal Affairs Department, and Salih al-Shawi, Director of Labour Relations

to workers, inspectors have no way to accurately assess whether workers are in possession of their contracts, whether they receive the wages or work the hours recorded, or whether they have faced deception, threats, or conditions of forced labour.

195. The insufficiency of the recent policy increasing the number of labour inspectors is illustrated by the fact that the deployed labour inspectors have not been able to protect the human rights of migrants working on, for example, the high-profile Khalifa-project.¹⁸⁷
196. In sum, the government of Qatar both fails to maintain a legal framework sufficient to protect the rights of migrant workers consistent with international law, and to enforce the legal protections that currently do exist. Critical elements of any protection scheme include preventive measures to protect workers from abuse and exploitation, effective monitoring of employers, work sites, and labour camps, as well as accessible mechanisms for timely redress. Qatar's current system of labour inspection, as well as systems of complaints reporting and redress, fails to provide effective protection against abuse and exploitation in the construction industry.

5.4.2 Concluding remarks on forced labour

197. The almost total control of the employer (*kafeel*) over the migrant worker stems from the fact that, under the *kafala* system as entrenched in Qatari labour and sponsorship laws, the employer (*kafeel*) is solely responsible for the entry and exit permits of workers, their residency permits and subsequent access to facilities such as health care, and is also responsible for the possibility for a foreign worker to change jobs. This amount of control is fertile ground for labour exploitation, and in practice this is also the effect thereof.

Department, Ministry of Labour, Doha, Qatar, June 22, 2011, as referred to in HRW, 'Building a Better World Cup' (2012) (**Annex 41**).

¹⁸⁷ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 66.

198. The practices in Qatar that have been documented by plaintiff FNV Amnesty International, Human Rights Watch and other stakeholders and to which Alam (plaintiff 2) has been subjected, meet the ILO's definition of forced labour, both with regard to the involuntary aspect of the labour and the penalties with which employers (*kafeels*) threaten their migrant employees.
199. Even when workers voluntarily migrate for work, they often have limited or incorrect information about their employment arrangements and restrictions on their given rights. Recruitment on the basis of false promises of good wages and good working conditions does not constitute *voluntary* consent, meaning that even those workers who willingly migrate to Qatar find themselves in situations of forced labour when recruiting agencies and employers (*kafeels*) deceive them about their job.¹⁸⁸
200. The penalties used by the companies (*kafeels*) to exact work from the workers included the threat of non-payment of wages, being reported to the police, not being allowed to switch companies, being deported or, conversely, not being allowed to leave Qatar because the employer (*kafeel*) will not provide an exit permit.¹⁸⁹ Plaintiffs conclude that many of the 1.4 million migrant workers in Qatar are subject to forced labour and exploitation.
201. More disconcertingly, and even apart from the fact that migrant workers have no possibilities for redress, Qatar is not taking adequate measures to counter the forced labour that is prevalent in the country. While some labour rights such as the prohibition of contract substitution are protected in Qatar's Labour Law of 2004 and related ministerial decrees, breaches of these rights do not expose employers to any penalties. The result is that migrant workers in Qatar are not only systematically exploited, they also have nowhere to turn.

¹⁸⁸ International Labour Organization (ILO), 'Report of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105),' GB.264/16/7, 1995 (**Annex 80**), paras. 9, 22, 25, 61.

¹⁸⁹ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 7, 32.

5.5 Freedom of Movement

202. The concept of forced labour is closely related to the doctrine of the freedom of movement. The ILO uses the restriction that freedom to identify forced labour in practice.¹⁹⁰ The right to freedom of movement is *inter alia* guaranteed by the Universal Declaration of Human Rights (Article 13(2))¹⁹¹ and the Arab Charter on Human Rights (Article 26(1) and 27(1)-(2)).¹⁹² Article 5(d)(i) of the International Convention on the Elimination of All Forms of Racial Discrimination ('CERD') also ensures the right to freedom of movement.¹⁹³
203. However, several prominent obstacles restrict the right to freedom of movement of migrant workers in Qatar.
204. Firstly, the facts and circumstances set out in Chapter 5.4 above regarding the prohibition of forced labour amount to a breach on the right of freedom of movement, especially the practice of passport retention and the residence permit requirements and the subsequent risks for migrant workers of being charged with absconsion.
205. As discussed in Chapter 5.4 as well, the *kafala* system in Qatar is characterized by an entry- and exit permit system: migrant workers are not allowed to leave Qatar without the consent of their employer (*kafeel*).¹⁹⁴ Articles 18, 24 and 26 of the 2009 Sponsorship Law the employer (*kafeel*) is responsible for approving both the entry

¹⁹⁰ International Labour Office, 'A Global Alliance Against Forced Labour: Global Report under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work', 2005, (**Annex 65**) p. 6 and para. 14.

¹⁹¹ 'Everyone has the right to leave any country, including his own, and to return to his country.' UN Universal Declaration of Human Rights 1948 (**Annex 81**) Art. 13 (2).

¹⁹² Arab Charter on Human Rights (**Annex 49**) Art.26 (1), 27(1)-(2) .

¹⁹³ International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (**Annex 51**), Art. 5(d)(i). The UN Special Rapporteur concluded that the fact that migrant workers in Qatar can – in practice – only leave the country with an exit permit issued by their sponsor (*kafeel*) violates their right to freedom of movement as enshrined in the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. 2014 Report by SR Crépeau (**Annex 31**) para. 32.

¹⁹⁴ When the employer (*kafeel*) does consent to provide an exit permit, the migrant worker can leave Qatar but must pay the travel costs back home himself, see H.E. Murray, 'Hope for Reform Springs Eternal: How the Sponsorship System, Domestic Laws and Traditional Customs Fail to Protect Migrant Domestic Workers in GCC Countries' (2013) 45 *Cornell International Law Journal* 2 (**Annex 82**) pp. 467, 471.

and departure of migrant workers into and from Qatar and deciding on their repatriation.¹⁹⁵

206. There are two ways for a migrant worker to obtain an exit permit if a sponsor (*kafeel*) does not issue it. Firstly, Article 18 of the 2009 Sponsorship Law provides:

“If such permit cannot be obtained due to the sponsor’s refusal to grant, the sponsor’s death, or his absence without assigning an agent to replace him, the Expatriate shall assign a departure sponsor, or present a certificate of no sentences being served or lawsuits from the court of jurisdiction after the lapse of fifteen days effective from the date of publishing once in two daily newspapers the expected date of the departure of the Expatriate pursuant to a Ministerial Decision in accordance with the procedures and regulations.”¹⁹⁶

207. Though the option exists, it is not a viable option for (most) migrant workers as the process is difficult and time-consuming. It also requires command of the Arabic language, which few migrant workers have.¹⁹⁷ Placing adverts in newspapers costs money that migrant workers do not generally have, and there are instances where newspapers have even refused to publish such notices because they did not know of the existence of such a provision in the law.¹⁹⁸

208. Furthermore, when workers are unable to obtain an exit permit and/or when their passport has been seized by their employer (*kafeel*), many of them seek the help from the Ministry of Interior’s Search and Follow-up Department. It has the authority to arrange their departure in such cases. However, the process at the Search and Follow-up Department is opaque, conducted entirely in Arabic and sometimes lengthy and requires several appointments. This creates an additional hurdle for workers, who sometimes have to travel long distances from their accommodation at their own

¹⁹⁵ 2009 Sponsorship Law (**Annex 32**)

¹⁹⁶ 2009 Sponsorship Law (**Annex 32**).

¹⁹⁷ HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**) p. 78.

¹⁹⁸ Amnesty International phone interview, 5 December 2012, as referred to in AI, ‘The Dark Side of Migration’ (11-2013) (**Annex 39**), p. 100.

expense. Case studies show that sometimes the workers' papers are not even examined by officials on a given day, meaning the workers had to return on another day to register their case. Given the circumstances and the number of people seeking assistance to leave, the system is not fit for purpose.

209. This situation has hardly changed with the adoption of the new 2015 Sponsorship Law (which will enter into force in December 2016). Article 7 of the new law attempts to ease the possibility of migrant workers to leave Qatar without being subject to the whims of their employers.¹⁹⁹ The article allows foreign workers who want to leave Qatar to apply for permission from the interior ministry at least 72 hours beforehand. If permission is initially denied, they can subsequently complain to a 'Grievance Committee', which will be established under the new law.²⁰⁰ However, it is highly unclear what authority the Grievance Committee will actually have over the abusing employer (*kafeel*) and whether a complaint will actually have a satisfactory result for the migrant worker.²⁰¹
210. Moreover, and regardless of the slight amendments, Article 7 of the 2015 Sponsorship Law still restricts the possibility for migrant workers to depart Qatar of their own volition. Namely because even under the new law, migrant workers are still required to obtain the approval of their sponsor (*kafeel*) to leave the country. This continuing requirement for sponsors (*kafeels*) to approve the exit of migrant workers effectively traps workers in Qatar and constitutes a severe and arbitrary limitation of the right to freedom of movement.²⁰²

¹⁹⁹ Annex 44.

²⁰⁰ In May 2014, Qatar announced that it intended to implement a system under which an automated e-government system would issue exit visas after a 72-hour grace period prior to a foreign worker's departure. Additionally, the 2015 Sponsorship Law provides for a grievance committee for workers in cases in which sponsors (*kafeels*) refuse to grant exit visas, but the arbitrary restriction on the worker's right to leave the country remains in place.

²⁰¹ 2014 Report by SR Crépeau (**Annex 31**) para. 32.

²⁰² See also AI, 'Treat us like we're human' (2013) (**Annex 38**) p. 5: "Amnesty International believes the exit permit system constitutes a violation of the right to freedom of movement and facilitates the abuse of labour rights. In some cases, it is used to subject workers to forced labour." See also AI, 'No Extra Time: How Qatar is still failing on workers' rights ahead of the World Cup' (2014) (**Annex 120**): "The sponsorship system includes the notorious exit permit – a blatant human rights violation that can leave exploited migrants

211. By way of illustration: all the men working on the Khalifa-project that Amnesty International interviewed in 2015 as well as 20 workers carrying out gardening work in the Aspire Zone told researchers that they faced problems when seeking to leave Qatar.²⁰³ In the cases documented by Amnesty International in May 2015 the employer's (*kafeel's*) power to restrict workers' freedom of movement had a profound psychological effect on workers. The men working on the Khalifa Stadium and Aspire Zone were acutely aware that the power given to employers under Qatar's *kafala* sponsorship system enabled employers (*kafeels*) not only to prevent them from going home or changing jobs, but to also stifle complaints about their work and living conditions.
212. Another aspect that violates the migrant workers' freedom of movement is the fact that, under Law No. 15 of 2010 on the Prohibition of Workers Camps within Family Residential Areas,²⁰⁴ they are assigned to specific labour camps or areas and working locations and live under a curfew order. This means that they cannot freely move within the territory of Qatar.²⁰⁵ Even when they have a working permit, they are not free to move within the country of Qatar. In the camps the workers are even

stranded and unable to leave the country – often for many months.” See also AI, ‘The Dark Side of Migration’ (11-2013) (**Annex 39**), p. 99.

²⁰³ Alok, who worked as a scaffolder on the Khalifa-project in 2015, told his manager that he wanted to return to India for personal reasons. The manager told him to speak to the senior manager at his employer's (*kafeel's*) office. He recalls: “When I went to the office the manager screamed at me saying ‘keep working or you will never leave’ (...) What more can I do now, I cannot leave here because the police will take me away [as an absconded worker] and only my manager can send me home.”. After the incident, Alok was forced to continue working on Khalifa Stadium. See AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (**Annex 19**) p. 29.

²⁰⁴ Qatar Domestic Law No. 15 of 2010 on the Prohibition of Workers Camps within Family Residential Areas (the ‘Housing Law’) (**Annex 121**)

²⁰⁵ Sponsors are expected to provide their employees with housing in Qatar. For construction workers, this is normally in dormitory-style “labour camps” with communal bathrooms and kitchens. Since 2010 it has been illegal for labour camps to be located in “family areas”, referring essentially to districts where Qatari families live. Domestic workers are usually housed in the same home or compound as their employer. AI, ‘The Dark Side of Migration’ (11-2013) (**Annex 39**) p. 15. In 2010, Qatar's former emir ratified a law prohibiting workers' housing within other residential areas. This law makes it illegal for sponsors to house groups of workers within the cities' central areas, pushing them to labour camps in the Industrial Area and other out-of-town districts.

restricted to their buildings and not allowed to go outside after 9.00 PM as the memo attached as **Annex 122** demonstrates.²⁰⁶

213. Individual plaintiff 2, Alam, had no trouble leaving Qatar, but that was only because he had been fired by HBK and was subsequently forced to leave the country. Though he would have wanted to stay in Qatar and continue working, he was entirely dependent on his employer (*kafeel*) in the matter. The fact that his passport was retained during his stay in Qatar, and the fact that he had no choice but to leave when his employer (*kafeel*) decided he had to return to Bangladesh, constitutes a restriction of his freedom of movement.
214. Plaintiffs conclude that the right of freedom of movement of Qatar's migrant workers is severely violated. Routinely their passports are retained by their employers (*kafeels*) and to leave Qatar, they always require the agreement of these *kafeels*. Additionally, migrant employees are not even allowed to move freely within the territory of Qatar, as they in several instances aren't allowed to leave their labour camps during specific periods. Additionally, the employer (*kafeel*) always has the final say with regard to the moment a migrant worker can enter or exit Qatar.

5.6 Freedom of association

215. Workers of non-Qatari origin are not allowed to join the General Union of Workers of Qatar or organize in another way.²⁰⁷ Article 116 of the 2004 Labour Law explicitly prohibits migrant workers to organize themselves into unions or other associations, thereby excluding more than 90% of the total workforce in the country from doing so.²⁰⁸ Plaintiff 2, Alam, was also aware of the fact that he was not allowed to unionise. This prohibition violates the migrant workers' right to freedom of association. Moreover, without trade union rights, there can be no credible system to ensure human and labour rights in Qatar are upheld.

²⁰⁶ Memo Doha Labour Camp 2016 (**Annex 122**)

²⁰⁷ 2014 FNV Report (**Annex 42**) p. 30.

²⁰⁸ **Annex 43**.

216. The right to freedom of association is guaranteed by Articles 20 paragraph 1 and 23 paragraph 4 of the Universal Declaration of Human Rights. Qatar is also bound by key principles outlined in the ILO Declaration on Fundamental Principles and Rights at Work, which calls on all ILO member states to respect and promote principles and rights in four categories – including freedom of association and the effective recognition of the right to collective bargaining – whether or not they have ratified the relevant conventions.²⁰⁹ Freedom of association and peaceful assembly, and the right to join trade unions are furthermore guaranteed by Articles 24 and 35 of the Arab Charter on Human Rights, as well as Article 5(e)(i) CERD.²¹⁰
217. The Qatari ban on unionizing for migrant workers prevents migrant workers from responding to exploitative practices and other abuses by their employers (*kafeels*) in an organized manner.²¹¹

5.6.1 CFA-complaint against Qatar

218. On 28 September 2012, the Swiss organisation BWI and the International Trade Union Confederation ('ITUC') filed a complaint with the Committee on Freedom of Association of the ILO ('CFA') against Qatar. The complaint concerned Qatar's failure to comply with international rules that protect freedom of association and the right to organize and collective bargaining (Convention 87 and 98).²¹² In 2014, the

²⁰⁹ ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010) (**Annex 59**), Art. 2; ILO 1919 Constitution (**Annex 60**); 1944 Declaration of Philadelphia annexed to the ILO Constitution (**Annex 61**). In September 2012 the International Trade Union Confederation ('ITUC') and Building and Woodworkers International (BWI) made a formal complaint against Qatar to the Committee on Freedom of Association of the ILO.

²¹⁰ International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (**Annex 51**), Art. 5 (e) and (i). See also Committee on the Elimination of Racial Discrimination, General Recommendation No. 30: Discrimination Against Non-Citizens: 10/01/2004. Gen. Rec. No. 30. (General Comments) (**Annex 84**) para. 35.

²¹¹ AI, 'The Dark Side of Migration' (11-2013) (**Annex 39**) p. 108, 132; Section 5 of Qatar's 2004 Labour Law deals extensively with the disciplinary power of employers, yet nothing in the subsequent articles mentions any form of protection for workers engaging in union activity; See further 2014 FNV Report (**Annex 42**) p. 30.

²¹² 'BWI and ITUC Files Joint CFA Complaint Against Qatar', 28 September 2012 (**Annex 85**).

CFA found mostly in favour of BWI and ITUC.²¹³ The CFA made the following recommendations to Qatar.

- To take the necessary measures without delay in order to amend the 2004 Labour Law so as to give effect to the fundamental principles of freedom of association and collective bargaining. The CFA expects that this labour reform process will include the full participation of the social partners.²¹⁴
- To eliminate any restrictions placed on the freedom of association rights of migrant workers, noting that 93% of the work force in Qatar consists of migrant workers.

219. In response to these recommendations, Qatar has stated that granting workers the right to association would not be in the national interest of Qatar. Hence it continues to disallow this right to migrant workers.

220. In addition to the impediments to the right of association, plaintiffs note that the right to strike is effectively non-existent in Qatar. While the right to strike is technically established in Article 120 of the 2004 Labour Law²¹⁵, a condition for striking actions is a required approval of three-fourths of the General Committee of the trade, profession or industry workers and the requirement of prior government approval as to time and place.²¹⁶ Without the right to unionize, it is difficult to organise this three quarters industry approval as such; also, in November 2014, a strike by migrant workers in Qatar was effectively answered with arrest and subsequent deportation of the participants.²¹⁷ Furthermore, Qatar's restriction of the right to strike consisting of

²¹³ ILO Governing Body 320th Session, 371st Report of the Committee on Freedom of Association, 13-27 March 2014 (**Annex 86**) ('ILO Report No. 371'). The ruling highlights the inability of domestic migrant workers to unionize, and the stringent procedures for other workers to unionize. See also ITUC Complaint letter of 28 September 2012. In the report, the CFA requested to be kept informed on developments in this case.

²¹⁴ ILO Report No 371 (**Annex 87**) Sec. 116 para. 846

²¹⁵ Annex 43.

²¹⁶ Chapter 12, Art. 120(1)-(2) (**Annex 43**): "The workers may go on strike if they couldn't amicably solve their problems with the employer according to the following conditions: 1- Approval of the three quarters of the general committee of profession and industry workers. 2- Granting the employer a delay of no less than two weeks before going on strike and the approval of the ministry on it after coordinating with the Ministry of Interior concerning the time and place of strike."

²¹⁷ 'Qatar Arrests 100 Striking Workers for Deportation', ITUC 26 November 2014 (**Annex 123**).

the requirement for ministerial approval is contrary to the ILO Principles concerning the right to strike.²¹⁸

5.6.2 *Concluding remarks about freedom of association*

221. In sum, the *kafala* system, and Qatar's 2004 Labour Law in particular, flagrantly violates the right to association of migrant workers, while Qatar blatantly fails to fix this problem and protect elementary labour rights of its migrant employees. Instead of securing fundamental labour rights, Qatar essentially punishes the actual exercise of these rights by, for instance, detaining migrant workers.

5.7 **The right not to be discriminated against**

222. Articles 3 and 11 of the Arab Charter on Human Rights guarantee the prohibition of all forms of racism and discrimination.²¹⁹ These rights are also safeguarded by the ILO Discrimination (Occupation and Employment) Convention No. 111,²²⁰ as well as Article 5 CERD.²²¹ Moreover, Article 35 of the Qatari Constitution guarantees equality before the law.²²²

223. Notwithstanding the aforementioned legislation, migrant workers in Qatar have a fundamentally different legal position than native citizens with regard to labour rights. Though highly educated and high-skilled expatriates, pursuant to the Sponsorship Laws, are also bound to their *kafeels* and are prohibited from freely leaving Qatar, low-skilled migrant workers hailing from developing countries who are subject to the *kafala* system have fewer rights and are treated differently than high-skilled migrants from developed countries. Additionally, and as a result of their discriminatory treatment, their living standards stand in sharp contrast to those of high-skilled migrants and Qatari nationals. Furthermore, the circumstances under which migrant workers are working and living are often dangerous and inhumane.

²¹⁸ ILO Principles Concerning the Right to Strike, Geneva 1998 (**Annex 124**).

²¹⁹ **Annex 49**.

²²⁰ **Annex 55**.

²²¹ **Annex 51**.

²²² **Annex 48**.

The treatment of especially low-skilled migrant workers violates their right not to be discriminated against.

224. Firstly, migrant workers face substantial discrimination with regard to their housing arrangements. Foreign employees are banned from living in family areas, which exacerbates the already serious issue of overcrowded and poor accommodation for migrant workers across the country by restricting the supply of available housing for workers.²²³ Migrant workers have reported that, instead of being allowed to live among Qatari residents, they are forced to live in abysmal, overcrowded and insalubrious living conditions in the Doha industrial area with dozens of co-workers crammed into small, unventilated shelters without proper plumbing, water or electricity. These housing conditions can endanger the health of the employees.²²⁴ Plaintiff 2, Alam, was housed in *Ezdan Labour Camp*, a complex built especially for migrant workers with a view to the 2022 World Cup construction projects. *Ezdan Labour Camp* accommodates approximately 2,250 people. The camp exclusively housed migrant workers of various nationalities (India, Nepal, Bangladesh, Pakistan and the Philippines), most of whom are working on the Al Wakrah stadium. Though *Ezdan Labour Camp* provided better accommodation for migrant workers than other labour camps in Qatar, the living conditions were still poor and crowded; this was also Alam's experience of *Ezdan Labour Camp*.
225. Secondly, the 2010 Housing Law legitimizes negative stereotypes about migrant workers and further entrenches racial segregation in housing. As an example, 2013

²²³ Following Art. 38 of the Arab Charter on Human Rights (**Annex 49**), every person has the right to an adequate standard of living for himself and his family. This standard must ensure their well-being and a decent life, including food, clothing, housing and the right to a healthy environment. State parties must take measures in line with their resources to guarantee these rights. The housing situation of most migrant workers does not live up to these standards and can often be described as inhuman and degrading.

²²⁴ AI, 'The Dark Side of Migration' (11-2013) (**Annex 39**) p. 50: "In two camps visited by Amnesty International researchers, the companies in question had failed to pay utility bills and, as a consequence, the electricity supply had been cut off, and water could not be pumped to the top of the buildings in order to provide running water for personal and domestic use. Workers had to use candle or torch light to see at night, had difficulties in cooking food due to a lack of electricity and clean water, had to use toilets which did not have running water, and had to use whatever water was left in the tank on the ground floor for drinking and washing. Researchers met one man who had seriously injured his arm; he explained that he had slipped in the dark while going to the bathroom at night."

Amnesty report shows images of migrant workers outside their living quarters in a labour camp, in October 2012, where their employer was using the workers' accommodation to store old paint and building materials outside the kitchen and bedrooms, in violation of Qatari regulations.²²⁵ The government of Qatar is under an obligation to ensure that there is no racial discrimination in housing and to ensure to all persons' equality before the law, and this can only be limited in pursuit of a 'legitimate aim'.²²⁶ The 2010 Housing Law clearly does not amount to a 'legitimate aim'; plaintiffs further note that the government has not provided any evidence "the law" are based on any such legitimate aim.²²⁷

226. Finally, and contrary to the situation with native Qatari workers, the fundamental nature of the *kafala* system increases the dependency of the migrant workers on sponsors (*kafeels*) rendering them vulnerable to various forms of exploitation and abuses.²²⁸

227. In sum, the system in place in Qatar both directly and indirectly violates the rights of workers to be free from discrimination of any kind.

5.8 Right to an effective remedy

228. The right to an effective remedy is a universally acknowledged right. It is laid down internationally in, amongst others, Article 8 of the Universal Declaration of Human Rights and Articles 12, 22 and 23 of the Arab Charter on Human Rights.

²²⁵ AI, 'Treat us like we're human' (2013) (**Annex 38**), p. 8.

²²⁶ CERD (**Annex 51**), Art. 5. According to the Committee on the Elimination of Racial Discrimination, "[u]nder the Convention, differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim. Differentiation within the scope of article 1, paragraph 4, of the Convention relating to special measures is not considered discriminatory". Committee on the Elimination of Racial Discrimination, General Recommendation 30: Discrimination Against Non-Citizens, U.N. Doc. CERD/C/64/Misc.11/rev.3 (2004) (**Annex 84**) para. 4.

²²⁷ AI, 'The Dark Side of Migration' (11-2013) (**Annex 39**) p. 51.

²²⁸ AI, 'The Dark Side of Migration' (11-2013) (**Annex 39**) p. 96; see also Concluding observations of the Committee on the Elimination of Racial Discrimination: Qatar, CERD/C/QAT/CO/13-16 (**Annex 88**), para. 15.

229. With regard to domestic Qatari law, the 2004 Labour Law formally grants workers to make formal complaints to the authorities about their employers (*kafeels*). The formal route of redress for workers is via the Labour Relations Department of the Ministry of Labour. If this department cannot resolve a particular complaint, it refers the case to the Labour Court, which is supervised by the Ministry of Justice.²²⁹
230. Article 7 of the 2015 Sponsorship Law (that has yet to enter into effect) offers foreign employees recourse to the Foreign Nationals Exit Grievances Council if their employers (*kafeels*) obstruct their departure from Qatar. However, also this remedy is inadequate since it is unclear what the competence of this Council is and how migrants will be informed about how to avail themselves of this right.
231. Despite the existence of these formal routes, workers who attempt to achieve justice in their labour cases face several major obstacles. First of all, the Ministry of Labour's complaints process is difficult to access, not in the least because the procedure takes place in Arabic and even the website of the Ministry of Labour is only available in Arabic and English. This makes the avenue inaccessible for the vast majority of workers, as they do not speak either language well, if at all. The Complaints Department furthermore does not supply staff translators to assist them in reporting their complaints.²³⁰ Mainly because of this, migrant workers more often than not lack information about their (legal) possibilities.
232. In principle, Alam (plaintiff 2) was bereft of legal avenues and the possibility to enforce his rights independently. Not only was Alam unaware of his legal possibilities in Qatar. Considering his circumstances, he also did not even considering filing a complaint against his employer (*kafeel*) out of fear of repercussions. Moreover, like most migrant workers in Qatar, Alam felt that his voice – the voice of a migrant worker – did not mean much in Qatari society and would quite simply not be heard.

²²⁹ AI, 'Treat us like we're human' (2013) (**Annex 38**), p. 114.

²³⁰ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 83.

233. The nature of the *kafala* system itself, and the immense discretionary power of the *kafeel* in particular,²³¹ also serve as a significant deterrent for migrant workers to pursue their rights. Workers usually will not submit any complaints against their employer (*kafeel*) for fear of immediate termination of their job, expulsion or deportation from Qatar or other risks such as that of forfeiting money owed to them in the form of e.g. back pay. Consequently, migrant workers turn to complaint registration mechanisms only as a last resort. To illustrate, Amnesty International observed that none of the workers whose cases it documented had filed a complaint with the authorities, mainly for fear of reprisals.²³² Alam too was scared to undertake steps against his employer (*kafeel*).
234. When cases even reach the Labour Court, migrant workers have to undergo lengthy legal processes, usually resulting in them having to pay a large fee for their case to proceed; moreover the labour companies typically do not cooperate in the procedure, resulting in higher costs for the migrant worker.²³³ Ironically, migrant workers are faced with these and other (relatively sizable) hurdles to resolve what are often just simple matters such as the payment of wages.
235. Another problem migrant workers face is that when they want to complain about not receiving wages, there is neither legal aid available nor a deduction on court fees possible. To complicate matters further, the workers often do not get paid during the complaint process and in some cases do not have accommodation, since this accommodation is provided by their *kafeels* which can terminate their housing arrangements in case of a legal conflict. Although a temporary transfer of sponsorship may take place while a legal dispute is pending, the complainant

²³¹ *Inter alia* his capacity to terminate the employment, cancel residence permits, refuse a change of employer (*kafeel*) and deny an exit visa.

²³² AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 64.

²³³ Illustrative for the high threshold for a case to proceed is an Amnesty International interview with a representative of a labour-sending country at their Embassy in Doha on 18 March 2013: "The Labour Department tries to settle. Mostly the company won't come to the meeting. So the Department sends the case to the court. There the worker has to pay 500 (US\$137) or 600 riyals (US\$165). How can a worker pay this? It's like climbing Mount Everest.", see AI, 'The Dark Side of Migration' (11-2013) (**Annex 39**) p. 114.

organizations indicate that this rarely occurs.²³⁴ Indeed, a fundamental difficulty for migrant workers who seek justice through the Qatari court system is their inability to support themselves during the process. In practice therefore, migrant workers only *truly* have access to legal remedies if they have enough strength, a place to stay, and some money. However, few workers have such safety nets.²³⁵

236. A further problem is interference by the Qatari government. Following a visit to Qatar, the UN Special Rapporteur on the Independence of Judges and Lawyers expressed concern at, among other things, the government's interference in judicial procedures, particularly in cases involving high-profile individuals or businesses. The Special Rapporteur was also concerned about violations of due process and the failure of the judiciary to meet international fair trial standards.²³⁶

237. Plaintiffs furthermore note that the vast majority of penalties under the coming 2015 Sponsorship Law affect workers, not abusive employers (*kafeels*). Migrant workers can face up to three years in jail and fines of 50,000 Qatari riyals (\$13,740) for such offenses as entering or exiting Qatar without the requisite documentation (Art. 2), remaining in Qatar after the expiration of a residence permit (Art. 11), doing jobs they are not authorized to do or working for employers other than their sponsor (*kafeel*) (Art. 16).²³⁷

²³⁴ 2014 ILO Report (**Annex 37**), p. 3.

²³⁵ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 83.

²³⁶ For example, on 30 April 2014, Doha Criminal Court convicted three Filipino nationals of espionage; one was sentenced to death, the other two to life imprisonment. The convictions were based largely on confessions reportedly extracted under torture. All three men lodged appeals. AI, 'Qatar' (02-2015) (**Annex 89**).

²³⁷ **Annex 44**.

5.8.1 ILO-complaint against Qatar

238. As indicated, BWI and ITUC filed a complaint against Qatar with the ILO under article 24 of the ILO Constitution on 25 January 2013. The complaint concerned the failure of Qatar to abide by the ILO Forced Labour Convention.²³⁸

239. In 2013, a tripartite committee of the ILO²³⁹ made the following recommendations to the Government of Qatar:

- To review without delay the functioning of the sponsorship system so that it does not further exploit migrant workers and put them in a position of vulnerability;
- To ensure immediate access to justice for migrant workers to exercise their rights by strengthen the complaint mechanism and labour inspection system;
- To ensure adequate penalties for those violations related to forced labour;
- To provide more information and data regarding the number and nature of violations of the relevant legislative framework;
- To avail itself to technical assistance of the ILO.²⁴⁰

240. The government of Qatar did not respond to these recommendations.

5.8.2 Concluding remarks about lack of effective remedies

241. To summarize, in lieu of effective reporting- and enforcement mechanisms, even workers who are aware of their rights can do little to seek protection.²⁴¹ Without an effective and established legal and regulatory system for the migrant workers and their employers (*kafeels*), a large percentage of the migrant workers continue to face labour and human rights problems and are bereft of any (real) legal remedies.

²³⁸ BWI Connect 'BWI and ITUC Issue Legal Complaint to the ILO Presenting Evidence of Forced Labour in Qatar' 25 January 2013 (**Annex 90**).

²³⁹ 2014 ILO Report (**Annex 37**) para. 4

²⁴⁰ 2014 ILO Report (**Annex 37**) para 65

²⁴¹ HRW, 'Building a Better World Cup' (2012) (**Annex 41**) p. 78.

5.9 Conclusion: *kafala*-system

242. The *Kafala*-system violates numerous fundamental rights of migrant workers in Qatar. It violates Qatari law, international labour and human rights laws, but also Swiss laws, including: the prohibition of discriminatory practices (Article 8, paras. 1 and 2 of the Swiss Federal Constitution ('BV'); personal freedom (Article 10, para. 2 BV); freedom of association (Article 23 BV), freedom of coalition (Article 28 BV); procedural guarantees and the guarantee of due process (Articles 29 and 29a BV.)
243. Investigations by plaintiff FNV, Amnesty International and Human Rights Watch confirm that a significant number of migrants working on World Cup 2022 construction projects are subject to forced labour. These findings are further confirmed by the experiences of individual plaintiff 2, who worked on World Cup 2022-related projects in Qatar.
244. Qatar facilitates forced labour by allowing near total control of sponsors/employers over employees; abusive and deceptive labour contracts; the charging of recruitment fees; passport retention by employers. Migrant workers are also dependent on their employer regarding their legal residence in Qatar. They are not free to depart Qatar or to change an abusive employer. Migrant workers are furthermore not allowed to form unions, are discriminated against and have hardly any options to obtain legal redress. As argued above, despite the sponsorship law reforms of 2015 the fundamentally exploitative characteristics of the *kafala* system remain in place. Though the purpose of the labour reforms of 2015 is to ease the possibility for migrant workers to leave Qatar and change their job in Qatar, not much changes in practice. Workers under the amended Sponsorship Law still need permission of their employers to change abusive jobs and are still required to obtain their sponsor's approval to reside in and to leave the country. Additionally, it is unlikely that the minimal law reforms will truly affect the nature of the *kafala* system without stricter enforcement measures.
245. Already under the existing Sponsorship Law of 2009 and the 2004 Labour Law, human rights violations such as delays in payment and passport retention were

formally not allowed but happened on a large scale anyway. The situation of migrant workers was and is thus made more precarious by the authorities' persistent failure to enforce the laws that do exist to protect workers' rights.

246. The Defendant was and is aware of these abuses, but still awarded the World Cup 2022 to Qatar without providing labor and human rights conditions or requirements. To date, the Defendant has not tried to ameliorate the situation of countless migrant workers in Qatar who are being (or have been) employed on 2022 World Cup-related projects.

6. THE LAW

247. Plaintiff 1 claims the Defendant has harmed its personality rights, when it awarded the 2022 World Cup to Qatar without due regard for the human rights situation and without imposing labour law reform and compliance with human rights requirements. At the same time, the Defendant has undertaken nothing to change the intolerable conditions – of which it is well aware – to date. It requests the finding that awarding the 2022 World Cup to Qatar was wrongful. Furthermore it asks that the Defendants are ordered to end the unlawful situation.

7. WRONGFUL ACTS COMMITTED BY FIFA

248. Plaintiff 2 claims compensation for the part of his recruitment fee that was not reimbursed, and 6.5 months worth of wages he lost because HBK terminated his 2-year contract prematurely and sent him back to Bangladesh. Additionally, Plaintiff 2 claims a just satisfaction for the violation of his personality rights as a result of the behaviour of the Defendant.
249. As has been set out above, the *kafala* system violates the fundamental rights of the migrant workers. The *kafala* system disregards the fundamental human rights of thousands of migrant workers in Qatar, and will most likely lead to many more abuses in the near future. The Defendant (FIFA) bears responsibility for these violations under Qatari, Swiss and international law. On the basis of the strong

position that FIFA holds, it had the power to ensure, from the outset, that minimum standards are guaranteed. But today too, and for the future, the Defendant can ensure that these minimum standards of human rights are enforced.

250. FIFA acknowledges that it has “a duty that goes beyond the game”.²⁴² In its Statutes, FIFA openly commits to international human rights law and lists the improvement of cultural and humanitarian values as one of its objectives.²⁴³ In addition, Article 3 of the FIFA Statutes strictly prohibits “discrimination of any kind against a Country, private person or group of people on account of race, skin colour, ethnic, national or social origin, gender, language, religion, political opinion or any other opinion, wealth, birth or any other status, sexual orientation or any other reason”.²⁴⁴

251. According to its website, sustainability, in the form of “building a better future for all through football”, is a crucial pillar for FIFA’s mission.²⁴⁵ In FIFA’s own words:

“Football is much more than just a game in the sense that its universal appeal means it has a unique power and reach; that power must be managed carefully. We believe that we have a duty to society that goes beyond football: to improve the lives of young people and their surrounding communities, to reduce the negative impact of our activities and to make the most we can of the positives.”²⁴⁶

252. The FIFA website contains a promotional video called ‘*Building a better future*’ in which it outlines the manner in which FIFA uses football as a “platform to improve standards of education, health and sustainability, and to raise living standards and quality of life across the world.”²⁴⁷ In the video, FIFA states that it believes in the power of football to build a better future, something it considers to be “a crucial

²⁴² See FIFA video ‘The Story of FIFA’, available at: <http://www.fifa.com/about-fifa/videos/y=2014/m=11/video=the-story-of-fifa-2477121.html> (at 2m47s) (**not included**)

²⁴³ Art. 2(a) 2015 FIFA Statutes (**Annex 3**).

²⁴⁴ See also Artt. 23 and 24 2015 FIFA Statutes (**Annex 3**).

²⁴⁵ About FIFA – ‘What we stand for’ (**Annex 91**).

²⁴⁶ About FIFA – ‘What we stand for’ (**Annex 91**).

²⁴⁷ Introduction for FIFA video ‘Building a better future’ on FIFA website, available at <http://www.fifa.com/development/videos/y=2014/m=11/video=building-a-better-future-2477118.html> (**not included**).

pillar of [FIFA's] mission" and "a duty to society that goes beyond the game".²⁴⁸ "It's about being a responsible global citizen"²⁴⁹ "[W]hen we stage tournaments, sustainability is at the heart of our planning, all World Cup hosts need to show they too are committed to a greener future".²⁵⁰ FIFA says it "fights against all forms of discrimination in the game".²⁵¹

253. FIFA's duty to respect human rights is however not merely based on its own belief that it has such a duty, nor does it only follow from its own Statutes.

254. In that respect, FIFA's legal responsibility arose at two distinctive moments in time:

- (1) when it allowed Qatar to participate in the bidding contest for the World Cup 2022 and subsequently selected Qatar as host of the 2022 World Cup; and
- (2) when it failed and still is failing to take responsibility for the present fate of the migrant workers by not demanding Qatar to reform its labour system

255. Plaintiffs will detail these wrongful acts in the following chapters.

7.1 Participation and selection of Qatar for the 2022 World Cup

256. FIFA's liability for human rights violations in Qatar first arose when it permitted Qatar's bid as host for the 2022 World Cup. FIFA failed to demand that – as a precondition for participation and selection – the *kafala* system be abolished. Nor did it require – as an alternative – fundamental reforms of the Qatari labour system during the bidding process. Plaintiffs assert that FIFA was in the position to make these demands of Qatar and failure by Qatar to meet these preconditions should have resulted in exclusion of Qatar's candidacy as 2022 World Cup host. FIFA's failure to

²⁴⁸ See FIFA video 'Building a better future', available at <http://www.fifa.com/development/videos/y=2014/m=11/video=building-a-better-future-2477118.html> (**not included**)

²⁴⁹ See *idem*, FIFA video 'Building a better future' (**not included**)

²⁵⁰ See *idem*, FIFA video 'Building a better future' (**not included**)

²⁵¹ See *idem*, FIFA video 'Building a better future' (**not included**)

act in accordance with its stated position with regard to human rights is the first ground for its liability.

7.1.1 *The power of FIFA to demand change*

257. It is public knowledge that Qatar's economy is built on the *kafala* system. FIFA not only knew that the Qatari infrastructure would have to undergo significant changes in preparation for the World Cup, but that building the required infrastructure would subject many migrant workers to the *kafala* system and its inherent human rights violations.
258. On 2nd December 2014, (former) FIFA President Sepp Blatter declared that the welfare of Qatar's World Cup migrant workers is not FIFA's responsibility.²⁵² At the same time he stated that migrant workers in Qatar would enjoy better conditions as a result of the World Cup, arguing that the increased scrutiny of Qatar's labour practice after the announcement of its hosting the World Cup would benefit them.
259. However, FIFA's omission to demand any labour reforms from Qatar is unlawful, since FIFA has the power to impose binding requirements on the country organizing the World Cup. As has been explained (see also Chapter 4, 'Background: 2022 FIFA World Cup in Qatar'), FIFA is fully in charge of the World Cup, including its bidding procedure and its preparation. This means that the host state can only organize the tournament if it meets the requirements set by FIFA. The World Cup is a package-, 'take-it-or-leave-it' deal. There is little to no room for states to negotiate about the demands made by FIFA and in order to meet these demands they can be forced to set aside national laws. FIFA thus decides on what terms the World Cup is organised.
260. FIFA's omission to act is unlawful, because it is the owner of the World Cup. The legal and financial risk of organizing the World Cup is almost non-existent as FIFA

²⁵² 'Sepp Blatter: Qatar World Cup workers' welfare is not Fifa's responsibility', *The Guardian* 2 December 2014 (**Annex 100**).

contractually excludes and transfers those risks to the host state. The states concerned are willing to accept these terms even if they are disadvantageous to them, simply for the privilege of hosting the World Cup tournament. In other words, FIFA assumes a position of great power in relation to potential host states. With great power though, comes great responsibility.

261. Given the complete control that FIFA wields over the World Cup, it is also incumbent on FIFA to do everything within its control to ensure that the organization of the World Cup does not violate fundamental rights and does not cause harm to others. It is indeed upon FIFA to use its power to make sure that fundamental human rights are protected by the host state during the preparation of the tournament.
262. In the case of Qatar, FIFA has failed to address human rights concerns that have arisen in relation to the tournament.

During the bidding procedure

263. FIFA had the power to demand change in Qatar during the bidding procedure. The procedure includes inspection visits and an assessment by a special 'FIFA Evaluation Group'. States that want to participate in the bidding contest have to comply with an official List of Requirements.²⁵³ However, as far as plaintiffs are aware, that list does not include the obligation to comply with human rights. In fact, the main concerns for FIFA during the bidding process were the heat in the summer and the modest size of the country.²⁵⁴ In the Evaluation Report of the Qatari bid no reference is made to the *kafala* system, the situation of migrant workers which constitute 90% of the population of Qatar, or even human rights in general.²⁵⁵

²⁵³ Based on the official FIFA Evaluation Report of the Qatari bid, as no reference is made to human rights and labour conditions, it would seem that the *List of Requirements* is mainly concerned with Qatar's ability to meet the FIFA's commercial goals. See '2022 FIFA World Cup Bid Evaluation Report Qatar' (**Annex 27**). The *List of Requirements* itself appears to be confidential.

²⁵⁴ 'Fifa's Chuck Blazer questions Qatar's solution to searing temperatures' *The Guardian*, 16 November 2010 (**Annex 99**).

²⁵⁵ 2022 FIFA World Cup Bid Evaluation Report Qatar (**Annex 27**). The only rights discussed are marketing and property rights.

264. During the World Cup's bidding procedure it was public knowledge that Qatar's economy is built on the *kafala* system, a sponsorship system that exploits migrant workers. It was expected beforehand that the World Cup would lead to a massive arrival of migrant workers in Qatar, almost all of who would be subject to the *kafala* system. When it won the bid, Qatar had no stadiums suitable for the World Cup. In its bid, Qatar made it clear that it would invest tremendously in infrastructure and stadiums to make the World Cup possible: amongst other things it pledged to build nine new stadiums and enlarge three others. *The Guardian* reported that “[r]eliable local sources put the total figure to be invested in infrastructure over the next decade at £137bn”.²⁵⁶ As such, FIFA knew, or ought to have known, that electing Qatar World Cup host would directly impact the lives of the 1.8 million migrant workers already present in Qatar and would most likely attract many more.
265. Similarly, the poor treatment of migrant workers in Qatar was known to FIFA. These circumstances have been reported in credible media outlets as well as by international and national organizations and academic researchers.²⁵⁷
266. According to Amnesty International's report of 2016:

“While the Supreme Committee has shown a commitment to the rights of migrant workers on World Cup projects in Qatar, the same cannot be said for FIFA. Qatar's World Cup bid made clear that major construction work was needed to prepare for the tournament, including the refurbishment of Khalifa Stadium. In 2010, when FIFA awarded the 2022 World Cup to Qatar, it knew, or ought to have known, that most construction work in Qatar involves migrant workers and that migrant workers were subjected to serious and systemic labour exploitation. Yet FIFA did not put in place any measures to ensure that the men who would build the World Cup infrastructure would not be exploited. Amnesty International presented the evidence of human rights abuses of

²⁵⁶ O. Gibson ‘Qatar 2022 puts Fifa's reputation on the line’ *The Guardian*, 25 September 2013 (**Annex 102**).

²⁵⁷ For example, see HRW, ‘Building a Better World Cup’ (2012) (**Annex 41**).

migrant workers engaged on the Khalifa Stadium project to FIFA. FIFA did not engage with any of the specific abuses, and did not suggest that the organization would take any action to address them. FIFA instead pointed to some of the steps taken by the Supreme Committee. Describing its current due diligence approach FIFA said it has had ‘preliminary meetings and inspection visits of construction sites. FIFA set up a 2022 FIFA World Cup Sustainability Working Group...the first meeting was held in November 2015.’ FIFA also told Amnesty International that it is ‘in the process of formalizing its human rights due diligence process’. FIFA did not provide any explanation as to why, when the World Cup was awarded to Qatar in 2010, it has taken five years to establish due diligence process.”²⁵⁸

267. In annual reports regarding the human rights situation in Qatar published by the State Department of the United States, also those published before December 2010, situations of forced labour, slavery and human rights abuses of migrant workers are frequently mentioned.²⁵⁹ In these reports, Qatar holds a so-called Tier 2 status for trafficking predominately because of the *kafala* sponsorship system (2014).²⁶⁰ Additionally, Human Rights Watch published a report as early as 2012 in which it

²⁵⁸ AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (**Annex 19**) p. 10.

²⁵⁹ US Department of State 2009 Human Rights Report: Qatar, 11 March 2010 (**Annex 103**).

²⁶⁰ US Department of State Trafficking in Persons Report 2014 Countries N-S (**Annex 104**), p. 320.

In the Trafficking in Persons Report, the US Department of State places each country onto one of three tiers based on the extent of their governments’ efforts to comply with the “minimum standards for the elimination of trafficking” found in Section 108 of the US Victims of Trafficking and Violence Protection Act of 2000 (TVPA). While Tier 1 is the highest ranking, it does not mean that a country has no human trafficking problem. A Tier 2 ranking refers to countries whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards. The minimum standards of the TVPA stipulate: “(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking. (2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault. (3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense. (4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.”

drew attention to severe human rights abuses of World Cup construction labourers in Qatar; the report also revealed the atrocious circumstances in which those labourers were working and living.²⁶¹

268. Further international concerns about the situation for labourers in Qatar were channelled in April 2014 by the UN Special Rapporteur on the human rights of migrants, François Crépeau. The Special Rapporteur stated that the *kafala* system is a source of abuse and urged the government of Qatar to abolish the sponsorship system.²⁶² In May 2014, the government announced reforms to the sponsorship system to amend the procedure for workers to leave Qatar and allow workers to change employers after the completion of their contract or after five years with the same employer. However, at the end of the year, no legislation had been passed and no drafts had been published.
269. Notwithstanding these concerns, FIFA elected Qatar as the host of the FIFA World Cup 2022 on 2 December 2010, without making any demands on labour reform.²⁶³
270. Plaintiffs assert that FIFA had a duty to make arrangements to ensure that the rights of workers would be properly safeguarded, by requiring labour reforms from the Qatari government. FIFA did not do so.
271. Alternatively, as it was apparently not prepared to demand abolition of the *kafala* system of substantial labour reforms, FIFA should have ruled out Qatar's candidacy from the outset. The FIFA has the authority to exclude certain states from the bidding contest for the World Cup. As indicated earlier in this summons (Paragraph 4.2 'FIFA's control over the World Cup and its host state'), an autonomous bid for the 2022 World Cup by the Football Association of Indonesia was rejected by the FIFA on account of the fact that the Indonesian government did not support the bid out of concern for its citizens. Another example was the state of Libya who was excluded from the bid for the World Cup 2010 (that eventually went to South Africa).

²⁶¹ HRW, 'Building a Better World Cup' (2012) (**Annex 41**).

²⁶² 2014 Report by SR Crépeau (**Annex 31**) para. 32.

²⁶³ During the same session, Russia was elected as the World Cup host of 2018. Aside from Qatar, only Asian- and North American countries were candidates for the World Cup of 2022.

Other possibilities for FIFA to demand change

272. FIFA also has the power to suspend members. A FIFA suspension means that the team in question is barred from international competitions, including the World Cup and European championships. In the past, FIFA has suspended teams and countries from all international football for reasons varying from government interference in football to wars and political- or human rights concerns.
273. As recently as 2014, Nigeria was suspended from all international football by FIFA amid allegations of government interference in its football federation.²⁶⁴
274. FIFA has suspended members in the past for human rights-related reasons, including South Africa during the apartheid era.²⁶⁵ During the Yugoslav wars, FIFA also suspended Yugoslavia from 1992 to 1994 for political reasons as part of United Nations Security Council economic sanctions.
275. Suspension can also come at the request of other states and entities. For example, in May 2015 Palestine, for human rights reasons relating to the treatment of Palestinians by Israel, placed a proposal to suspend Israel from FIFA on the agenda for FIFA's annual congress of 29 May 2015.²⁶⁶ The president of the Palestinian Football Association, Jibril Rajoub, cited the aforementioned examples of suspension by FIFA to make his case. He claimed that Israel violated FIFA rules by allowing five teams from West Bank settlements to play in Israeli leagues even though they are located in occupied Palestinian territory. Though the Palestinian Football Association decided to drop its proposal to suspend Israel on 29 May 2015, the fact remains that each of FIFA's 209 members has a single vote in these annual congresses, regardless of the size of the country or its soccer program, and

²⁶⁴ 'Nigeria suspended from international football by Fifa', *BBC News*, 9 July 2014 (**Annex 105**)

²⁶⁵ South Africa was suspended from FIFA in 1963. Stanley Rous, FIFA's President, went to negotiate its reinstatement. The South African FA proposed entering an all-white team in the 1966 World Cup and an all-black team in the 1970 World Cup. This proposal was rejected.

²⁶⁶ Jodi Rudoren 'Palestinians Plan New Tack Against Israel: Soccer Sanctions', *The New York Times*, 19 May 2015 (**Annex 106**).

suspension of a member requires that 75% of these 209 members approve the suspension.

276. Plaintiffs assert that, considering the generally strong desire and motivation of countries to join FIFA, the threat of suspension from all international football,²⁶⁷ can be an effective tool to persuade individuals, entities and indeed countries, including Qatar, to abide by human rights standards.

7.1.2 *Conclusion: the power of FIFA to demand change*

277. FIFA could have and should have used its considerable influence to ameliorate the conditions of workers in Qatar by requiring the abolishment of the *kafala* system or at the very least demanding effective labour reform. FIFA cannot credibly argue that it had no knowledge of the abusive nature of the *kafala* system as it had been widely publicized both before the bidding process began and during the process itself.²⁶⁸ In so far as Qatar failed to make the necessary changes, FIFA should have excluded Qatar from the bidding process.

278. Failure to take such action is the first ground of liability of the FIFA.

7.2 **Failure to take action after 2010**

279. FIFA's legal responsibility was also triggered when it failed (and continues to fail) after 2010, in the run-up to the World Cup 2022 to take action to ameliorate the present predicament of the migrant workers by not requiring Qatar to reform its labour system.

280. FIFA is fully aware of the fact that the election of Qatar as the World Cup host has led to a huge increase in the number of migrant workers in Qatar, while no

²⁶⁷ Only qualified FIFA members are eligible to submit a World Cup hosting bid, Rule 80 sub 2 section a, 2015 FIFA Statutes (**Annex 3**).

²⁶⁸ For instance, UN Human Rights Chief Navi Pillay called on Arab countries to end the *kafala* system in April 2010, see 'End sponsor system: UN official tells Gulf states', *The Peninsula Qatar*, 20 April 2010 (**Annex 107**).

fundamental reforms of the *kafala* system have been implemented to date. FIFA is also fully aware of both the large-scale abuses of workers' rights and the fact that the Qatari legal system fails to protect those rights.

281. Furthermore, though the abuses of workers' rights have been consistently brought to FIFA's attention, it persistently fails to act with due diligence. For example, Amnesty International pointed out specific abuses documented at Khalifa Stadium to FIFA, both during a meeting on 20 January 2016 in London and in writing.²⁶⁹ FIFA's sole response to that information was to state that 'some workers had been moved to better accommodation' and that 'there had been a review of payment records during audits of companies contracted by the Supreme Committee'. but that 'those audits found no evidence of delayed payments'. However, it is not clear whether the audits included the labour supply companies. As explained, the men subjected to forced labour in the Khalifa Stadium are employed by a labour supply company. It is therefore highly improbable that they were adequately paid.
282. FIFA did not address any of the other abuses documented in the 2016 Amnesty International report, including the cases of forced labour.
283. In response to Amnesty's concerns presented during the January 2016 meeting, FIFA did not mention the forced labour cases, but according to the Amnesty International 2016 report merely noted in a letter to Amnesty International that:

"We are fully aware that the greatest risks of human rights violations tend to occur at the lowest end levels of the supply chain beneath multiple layers of sub-sub-contractors. This decentralization and fragmentation is a challenge faced by the global construction industry and we believe it can only be tackled through a multi-stakeholder approach from various angles."²⁷⁰

²⁶⁹ AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**), p. 5.

²⁷⁰ Letter from FIFA to Amnesty International, dated 17 March 2016, as referred to in AI, 'The Ugly Side of the Beautiful Game' (03-2016) (**Annex 19**) p. 70.

284. FIFA did not say at which point in time it became “fully aware” of sub-contracting and associated human rights risks within the construction industry. However, FIFA can be assumed to be very familiar with these branches of industry given that the construction of stadiums is a core element of most World Cup bids. Plaintiffs therefore fail to understand why FIFA appears only now to be considering how these kinds of matters should be addressed.²⁷¹
285. Equally incomprehensible are other aspects of the previously cited response by FIFA. By referring to companies “beneath multiple layers of sub-sub-contractors” FIFA implies that those companies were in fact hidden. However, that is a fallacious assertion. Firstly, *Seven Hills* and *Blue Bay* were not “beneath multiple layers of sub-sub-contractors”. These companies were only two steps away from the main contractor, *Midmac-Six Construct*. They were not difficult to identify, as Amnesty International’s research demonstrates. Nor can the involvement of these companies on a construction site be credibly described as “decentralization and fragmentation”. Sub-contracting is commonplace on major construction projects. The Supreme Committee’s Workers’ Welfare Standards clearly stipulate that identifying sub-contractors, including labour supply companies, is the responsibility of the main contractor. While FIFA is itself not a main contractor, it cannot have been difficult for FIFA to distinguish the sub-contracting companies.
286. FIFA’s response to Amnesty International’s findings, as referred to in the latter’s report²⁷², also reveals that it is trying to deflect attention from the issue at hand: the previously cited statement by FIFA is a clear attempt to reframe the risks of serious human rights abuses, including forced labour, in Qatar as a “challenge faced by the global construction industry”, rather than addressing the fact that specific patterns of abuses have been identified in the construction industry in Qatar for many years. The evidence presented by Amnesty International and many other organizations that have investigated labour abuses in Qatar, clearly shows that the *kafala* system is a central

²⁷¹ See AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (**Annex 19**) p. 70.

²⁷² See AI, ‘The Ugly Side of the Beautiful Game’ (03-2016) (**Annex 19**) p. 71.

element of the problem due to the significant control it gives sponsors (*kafeels*) over migrant workers. This is not a global industry problem but is directly connected to Qatar and in this case is aggravated by the 2022 World Cup and the enormous amount of construction efforts this tournament requires.

287. As indicated before, FIFA is in a position to demand labour reforms. The National Association tasked with the organization of the FIFA World Cup remains subordinate to FIFA throughout the course of the tournament's organization. This is confirmed by Article 37 of the 2010 FIFA Statutes, which ensures the instalment of a FIFA Organization Committee responsible for the organization of the World Cup and supervision of this process.²⁷³

288. The Organising Association Agreement illustrates the subordinated position of the National Association during the bidding procedure, the preparation of the tournament, and the tournament itself:

“The [national] Organising Association is subject to the control of FIFA, represented by the Organising Committee for the Championship. FIFA has the last and final decision power on all matters relevant to the hosting of the Championship.”²⁷⁴

289. One of the duties FIFA gives to the national Organising Association pursuant to the aforementioned agreement is to submit annual written progress reports describing the complete status of its plans for organizing and staging the World Cup. The national

²⁷³ FIFA Statutes Regulations Governing the Application of the Statutes Standing Orders of the Congress August 2010 edition (**Annex 113**). At present, Art. 38 of the 2015 FIFA Statutes says: “The Organising Committee for the FIFA WC™ shall organise the FIFA WC™ in compliance with the provisions of the regulations applicable to this competition, the List of Requirements and the Organising Association Agreement.” (**Annex 3**). See also Organising Association Agreement (**Annex 15**), p. 27, para. 7.3.

²⁷⁴ Organising Association Agreement (**Annex 15**), p. 25, para. 4.6. See also *idem*, p. 24, para. 4.5: “FIFA does not recognise any third parties or organizations apart from the Organising Association and the Government of the Host Country. Any problems connected with the organization of the Championship shall therefore be dealt with by the Organising Association”.

Organising Association must furthermore report any problems in connection to the World Cup to FIFA.²⁷⁵

290. However, even after widespread violations of the human rights of migrant workers were published in among others the reports mentioned above, FIFA has not taken any concrete action to lessen the consequences of its tournament for migrant workers in Qatar. To the contrary: FIFA President Blatter has consistently stated that the labour circumstances in Qatar are not FIFA's responsibility.²⁷⁶ Plaintiffs will now discuss that and why this position taken by FIFA is fallacious.

8. THE PRESENT LAWSUIT AND APPLICABLE LAW

291. The Plaintiffs are now suing the FIFA for violating the personality rights of Plaintiff 1, as well as for the damages suffered by Plaintiff 2 as a result of FIFA's misconduct. Plaintiff 1 (FNV) complains both on its own behalf and in the interest of its members, including Plaintiff 2. Since it is an international case, the law in Switzerland must first be determined.

292. Plaintiffs discussed the *locus standi* of Plaintiff 1 in Chapter 3 of this writ of summons.

8.1 Plaintiff 1

293. It is now necessary to determine the law that applies to the action brought by Plaintiff 1. The primary position of Plaintiff 1 is that Swiss law is applicable in this case.

²⁷⁵ Organising Association Agreement (**Annex 15**), p. 26, paras. 6.1.1-3. FIFA also has the right to inspection (paras. 6.1.2, 6.2.1-2). The assignment of the World Cup to Qatar is currently investigated by Swiss prosecutors. Regarding the investigations that were launched in September 2015, Swiss prosecutors are focused on allegations of bribery related to the bidding for the next two World Cups, which were awarded to Russia for 2018 and to Qatar for 2022. The United States' case centres on bribery and kickback schemes related to the sale of media and marketing rights, exceeding \$150 million over 24 years. See Rebecca R Ruiz 'U.S. Attorney General Predicts More Charges in FIFA Case', *The New York Times*, 14 September 2015 (**Annex 109**): "Appearing with the Swiss Attorney General in Zurich, U.S. Attorney General Loretta Lynch spoke of an expanded investigation and the 'next round' of arrests."

²⁷⁶ See for example 'Qatar labour issues not FIFA's responsibility' Al-Jazeera 2 December 2014 (**Annex 125**) and 'After FIFA arrests, could Qatar lose the World Cup?' CNBC 27 May 2015 (**Annex 126**)

294. Insofar as the court were to determine that Qatari law is applicable however, Plaintiff 1 refers to the public order proviso laid down in Article 17 IPRG which in turn is applicable to the central issues in question in this case.

8.1.1 *Primary position: Swiss law is applicable*

295. The applicable law is determined according to the *lex fori*, which in the present case is Swiss international private law. Plaintiff 1 substantiates its claim by asserting a violation of its personality rights? In accordance with Swiss law, FNV's personality rights are granted absolute legal protection, and violation of those rights is unlawful pursuant to the tort statute (Article 33(2) IPRG). According to Article 133(2) IPRG, the *lex loci* applies insofar as the party who caused the damage did not have to anticipate that the damage would occur in another country.

296. The decision to award the 2022 World Cup to Qatar without simultaneously requiring of that minimum labour law guarantees were put in place, occurred in in Switzerland. the actual awarding of the 2022 World Cup to Qatar also took place in Switzerland. It is as a result of these actions that the 2022 World Cup was awarded to a country where foreigners are barred from forming a trade union.

297. The Defendant must not have reckoned that their behaviour (choice of Qatar, no The Defendant cannot reasonably have been expected to know that its behaviour (i.e. awarding the 2022 World Cup to Qatar without simultaneously demanding human rights guarantees and monitoring the employment and human rights situation in Qatar) would violate the personality rights of Plaintiff 1 – a Dutch legal person. For that reason, the applicable law must be the law of the place where the damage was caused, and not where it actually arose. Consequently, Swiss law is applicable.

Violation of personality rights according to Swiss law

298. Plaintiff 1 can either base its cause of action on the request to establish that a violation of its personality rights took place, or on the request to end the ongoing

violation of its personality rights (Article 28a paragraphs 1-2 ZGB).²⁷⁷ These grounds for a claim are also laid down in Article 89 ZPO.

Prohibited and continuing violation of personality rights

299. Violation of personality rights has taken place. In BGE 121 III 168, the Swiss Federal Supreme Court held that a trade union's personality rights can be violated if its right to social recognition and its right to free economic development is curbed.
300. Plaintiff 1 asserts that both the fact that the 2022 World Cup was awarded to Qatar, and the non-compliance with the applicable human rights standards has violated its personality rights within the meaning of Article 28 ZGB. The Defendant must have known, also prior to awarding the championship to Qatar, that there were many reservations to this from a human rights point of view. For example, NGO's had demanded that minimum guarantees be observed and if necessary, put in place.

Violation of personality rights by prohibition of unionization

301. Plaintiff 1 has been directly affected by the "kafala-trade union ban" in Qatar.
302. The content of the personality rights of Plaintiff 1 are determined by its statutes. According to its Statutes, FNV *inter alia* endeavors to improve employment conditions that respect human dignity and the right to freedom of expression and opinion, and endeavors to promote socially responsible and useful production of goods and services as well as the right of each individual to a mentally and physically healthy living and working environment.²⁷⁸
303. The awarding of the Championship to Qatar in spite of clearly expressed and substantiated reservations vis-à-vis the human rights and labour law standards that apply in Qatar is an act committed by the Defendant for which it has to take

²⁷⁷ Article 28a para. 1-2 ZGB

²⁷⁸ FNV Statutes of 11 March 2016 (**annex 1**).

responsibility. That applies equally to the fact that the Defendant ignored and continues to ignore the lack of compliance with those rights and standards by Qatar. These facts, separately and combined, violate the personality rights of Plaintiff 1

304. Even assuming that a failure to require minimum human rights and labour standards was an act of omission rather than an act of commission, the Defendant has a duty of responsibility as guarantor.
305. In Swiss law, the so-called endangerment criterion applies with regards to acts of omission. The endangerment criterion states that the one who creates a dangerous situation must take the necessary precautionary measures against the risk and/or danger in order to avoid possible damage. Contrary to situations of purely pecuniary or material loss, the fact that the rights that have been violated in this case enjoy absolute legal protection justifies the conclusion that the Defendant has committed an unlawful act, even when no specific protective regulations were in place to protect the rights in question.²⁷⁹
306. Applied to this case, this means that the defendant – being aware of the precarious employment conditions for migrant workers and the overall human rights situation in Qatar – should have taken the appropriate precautions in order to avoid violations of human rights an international labour law and as such, a violation of the personality rights of Plaintiff 1 (FNV). Precautionary measures by the Defendants were demonstrably not required. Under Swiss law, neither the prohibition to form a trade union as well as the restriction of the freedom to move and the are allowed. The violation of the personality of Plaintiff 1 is thereby unlawful. Under Swiss law, forced labour is prohibited. In particular, it is not permitted to:
- a) Prohibit switching employment
 - b) Abusive employment contracts

²⁸² (BGE 124 III 297 E. 5b S. 300 f.; 119 II 127 E. 3 S. 129 with references). See also judgement 4C.119/2000 of 2 October 2000, E. 2b, Pra 2001 No. 46 S. 268 ff.; 4C.280/1999 of 28 January 2000, E. 1a, SJ 2000 I S. 549 ff., each with references; also see Honsell, Schweizerisches Haftpflichtrecht, 4. ed., Zürich/Basel/Geneva 2005, § 4 N. 35.

²⁸² **Annex 95**

- c) Charging migrant workers recruitment fees
- d) Seizing of passports by the employer
- e) To prevent and obstruct the access to legal remedies
- f) To restrict the freedom of movement of migrant workers
- g) To restrict freedom of association

307. The Defendant has infringed Plaintiff 1's personality rights by awarding the World Cup to Qatar without simultaneously requesting minimum guarantees. Infringement of the personality rights of Plaintiff 1 is unlawful. The Defendant cannot justify its actions. It would have been easy for the Defendant not to award the World Cup to Qatar, or to ensure that the human rights and freedoms of FIFA-related migrant workers were respected.

308. The unlawfulness of the actions by FIFA is also clear in light of the 'Ruggie Principles'. The UN Human Rights Council unanimously endorsed the Ruggie Principles 2011.²⁸⁰ Though they are not binding international law, they are nevertheless the most authoritative international statement to date regarding the responsibilities of business with respect to human rights and include the corporate responsibility to respect human rights. Though it is not clear to what extent the Ruggie Principles have direct third party effect,²⁸¹ they can nevertheless be used to define the responsibilities of the Defendant. Relevant in that respect is that the Defendant itself applies the Ruggie Principles to its operations. Additionally, its own website states that it acts in compliance with international human rights obligations. As such, the Defendant has unilaterally bound itself to those norms and can be held to them in good faith.

²⁸² **Annex 95**
2014 (**Annex 125**) and 'After FIFA arrests, could Qatar lose the World Cup?' CNBC 27 May 2015 (**Annex 126**)

309. This is all the more true now that in 2016, FIFA commissioned professor John Ruggie to develop recommendations on what it means for FIFA to embed respect for human rights across its global operations.

310. The Ruggie Principles are divided into Foundational- and Operational principles.

311. Most relevant with regard to the current human rights situation in Qatar are the following Foundational Principles:

“Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved” (UNGP 11)

“The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work” (UNGP 12);

“The responsibility to respect human rights requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (UNGP 13);

“The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts.” (UNGP 14)

“In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including: (a) A policy commitment to meet their responsibility to respect human rights; (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute” (UNGP 15);

312. Additionally, the following Operational Principles are relevant with regard to FIFA:

“As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that: (a) Is approved at the most senior level of the business enterprise; (b) Is informed by relevant internal and/or external expertise; (c) Stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services; (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties; (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise” (UNGP 16);

“In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence: (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships; (b) Will vary in complexity with the size of the business enterprise, the risk of

severe human rights impacts, and the nature and context of its operations;
(c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve" (UNGP 17);

"In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should: (a) Draw on internal and/or independent external human rights expertise; (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation" (UNGP 18);

"Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes" (UNGP 22);

"In all contexts, business enterprises should: (a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate; (b) Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements; (c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate" (UNGP 23);

"Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable"(UNGP 24).²⁸²

²⁸² (BGE 124 III 297 E. 5b S. 300 f.; 119 II 127 E. 3 S. 129 with references). See also judgement 4C.119/2000 of 2 October 2000, E. 2b, Pra 2001 No. 46 S. 268 ff.; 4C.280/1999 of 28 January 2000, E. 1a, SJ 2000 I S.

313. In short, the Ruggie Principles create a framework of human rights obligations that corporations need to fulfil.
314. Though FIFA is established as an association, it conducts significant commercial activities on a global scale and thus operates in part as a commercial organization (a business). The gross revenue from the last two World Cups add up to more than \$5 billion.²⁸³ As such, the Ruggie Principles are the appropriate frame of reference in the present case.

Request to establish the unlawful violation of the personality rights of Plaintiff 1 pursuant to Swiss law

315. On the basis of Article 29a, para.1, sub-para 3 ZGB, Plaintiff 1 has a legal right to request that a court establishes unlawfulness, if the acts that cause it continue to have an adverse effect on its personality rights. This is at issue in the present case. The awarding of the World Cup to Qatar and the lack of requirements regarding minimum human rights standards, in particular the prohibition of trade union membership as element of the *Kkafala*/system persists. As detailed above, to date no substantial improvements in the position of construction workers has emerged. Even the revision of the law of the 2009 Sponsorship Law in 2015 – in force as of December 2016 – has led to no measurable improvements. It is still prohibited to form a trade union. The Defendant is in the position to request the guarantee of the right to form trade unions by migrant workers in connection with the infrastructure constructions of the 2022 World Cup. That is within the power of the Defendant to do so follows from the examples cited above regarding the World Cup in South Africa and Brazil: in those cases the Defendant succeeded in establishing its own FIFA special courts.

549 ff., each with references; also see Honsell, Schweizerisches Haftpflichtrecht, 4. ed., Zürich/Basel/Geneva 2005, § 4 N. 35.

²⁸² **Annex 95**

²⁸³ FIFA Financial Report 2014 (**Annex 10**) and FIFA Financial Report 2010 (**Annex 101**).

316. The awarding of the World Cup to Qatar without requiring minimum labour law and human rights guarantees has taken place already, and therefore also the human rights violations in connection to the commenced construction work. In principle, Plaintiff 1 could also claim that the Defendant has to cancel the decision to award the 2022 World Cup to Qatar. Apart from the resulting potential litigation costs, it makes sense to day to at least file a claim requesting that the violation of personality rights be established and furthermore demand that FIFA end the ongoing violation of the personality rights and by finally accepting its responsibility and doing everything in its power to end the ongoing violations of human rights (see below).
317. At the same time, Plaintiff 1 has a claim that the World Cup in Qatar – and thus in a country which does not allow migrant workers to unionize and which systematically does not respect the minimum standards of work and human rights – infringed its personality rights.

Request to end the ongoing violation of the personality rights of Plaintiff 1 pursuant to Swiss law

318. In accordance with Article 28(a) para. 1 sub-paragraph. 2 ZGB, Plaintiff 1 has a right to request the ending of the ongoing violation of its personality rights. As detailed above, the violation of the personality rights of Plaintiff 1 continues even today. With regard to the position of migrant workers, no substantial improvement of their legal position has occurred to date, despite repeated demands to ameliorate the situation. In particular, as foreigners they are still not allowed to organise or join a trade union. As discussed, the Defendants were in a position to amend this situation within the context of the preparations for the 2022 World Cup taking place in Qatar today. More specifically, the Defendant could have forbidden the applicability of the *kafala*-system insofar as it violates fundamental rights (e.g. through the prohibition of forming trade unions, restrictions of the freedom of movement, the seizing of passports).
319. By failing to do so, the Defendant continues to violate the personality rights of Plaintiff 1.

8.1.2 *Alternative position: Qatari law applicable*

320. Should the court however determine that Qatari law is applicable on the claim of Plaintiff 1, then the following starting points apply.
321. The State of Qatar is a civil law jurisdiction. Its Civil Code is substantially derived from Egyptian law, the origins of which can be found in French civil law. In 2004, Qatar enacted a new Civil Law (Law No. 22 of 2004; hereafter the ‘Civil Code’).
322. “Tort” is recognized under Qatari law pursuant to Articles 199-213 of the Qatari Civil Code. Even if the Qatari Civil Code contains no clear definition of a tortious act, it is understood to be a civil wrong or violation against a legal obligation, both intentional or unintentional, that is the result of an act or omission, that causes injury, damage or death of persons or property, irrespective of whether the act or omission is a punishable offence.²⁸⁴ Violations of rights of persons can also take the form of a violation of their personal identity, including their personality (mental integrity). Aside from the specific legal obligations that arise from Qatari national laws, a general legal obligation exists under Qatari law, embodied in tort law, that is defined as the ‘the duty of care of a normal person’. This is reminiscent of the Swiss legal concept of endangerment (see above).
323. As such, Qatari law is not substantially different from Swiss law, except that mere omissions can lead to tortious liability. The benchmark for the unlawfulness is also the requisite ‘duty of care’. However, what is significantly different from Swiss law is labor law with the sponsorship laws and the *Kafala*-system. If the *Kafala*-system is deemed to be unlawful (see below), due to the public order proviso in the Swiss IPRG (Article 17 IPRG), claims can also be made against the Defendant based on the Penal Code.
324. Similar to the common law standard of the ‘care of a reasonable person’, the ‘duty of care of a normal person’ under Qatari law is also based on the standard of

²⁸⁵ Qatari 2004 Civil Code (**Annex 93**).

reasonableness. The duty of care under Qatari law is objective and corresponds to what can be expected of a normal person who behaves reasonably, and thereby duly considers factors such as their position, qualifications and suchlike. Just like in Swiss law, an objective concept of care applies.

325. Article 199 of the Qatari Civil Code stipulates that three elements must be satisfied in order to attribute a wrongful act and thus establish a tort-claim:

- a) fault or breach of legal obligation (wrongful act);
- b) damage suffered; and
- c) the existence of a link of causality between the wrongful act and the damage.²⁸⁵

Qatari law does not differ greatly from Swiss law on this point either.

326. Tortious liability in Qatar thus derives from the violation of legal obligations, which means that both general breaches of the 'duty of care' and a violation of an absolute right results in liability.

327. Similarly, according to Article 30(1) Qatari Civil Code, foreign claimants can invoke tort rules, provided that the tort was committed on Qatari territory. Article 30(1) provides that "[o]bligations resulting from unlawful act are subject to the law of the country where the act creating the obligation occurred".²⁸⁶ As such, the provisions related to tort liability under the Qatari Civil Code apply to all wrongful acts committed in Qatar, notwithstanding the nationality of the person who committed the act.

328. The 2004 Employment Law governs the relationship between the employer (*kafeel*) and the employee (migrant worker) and thus only applies to the employer (*kafeel*) and employee (migrant worker) as defined under this law, and not to foreign third parties.

²⁸⁵ Qatari 2004 Civil Code (**Annex 93**).

²⁸⁶ Qatari 2004 Civil Code Art. 30(1) (**Annex 93**).

329. In accordance with the doctrine, the application of such rules of the foreign *lex causae*, that uphold human rights violations can also be denied in accordance with Article 17 IPRG.²⁸⁷ The public policy proviso applies when “there is an intolerable contradiction to local interpretation of the law and customs” (Message IPRG, Subpara. 214.52). The measures allowed under the *Kafala*-system leads to a result that is irreconcilable with Swiss public policy because they amount to forced labour.
330. The Qatari legal system, which is rooted in the *Kafala*-system cannot be taken into account for defining unlawfulness or duty of care. The Qatari 2004 Employment Law violates public policy. Therefore, both that law and the further provisions and regulations of Qatari legislation which supports the employment system as it applies in Qatar, may not be invoked. Instead, the applicable criteria under Swiss civil law apply.²⁸⁸
331. Plaintiffs conclude that even if the court applies Qatari law, the public policy proviso would then apply. Application of that proviso would lead to the same causes of action for Plaintiff 1 as would be the case when Swiss law was applicable from the outset: namely the claim requesting that the violation of its personality rights be established, as well as a claim requesting the ending of the violations of Plaintiff's 1's rights.
332. In addition, under Qatari law, due to its duty of care, the FIFA would also be bound to the UNGP, which is used regardless of the respective country.

8.1.3 Damages / compensation

333. Plaintiff 1 has suffered damage in the form of violation of its personality rights.
334. Plaintiff 1 requests that this infringement of its rights (awarding the World Cup to Qatar, to this day an ongoing violatoin) is established in court.

²⁸⁷ (Schwenzer/Hosang, 288f in BSK to Art 17 N 15.

²⁸⁸ BSK IPRG, Mächler/Wolf, N29 zu Art. 17

335. At the same time Plaintiff 1 urges the Defendant to do what is in its power to end the ongoing violation of its personality rights.

8.1.4 *Unlawful acts*

336. The infringement of the absolute legal personality rights of a person is unlawful, unless there is sufficient justification; the latter is not the case here.

8.1.5 *Natural and adequate chain of causation*

337. If the World Cup had not been awarded to Qatar, the violation of Plaintiff 1's personality rights would not have occurred. If the Defendant had committed itself to ensure the safeguarding of human rights, the violation of Plaintiff 1's rights would not be ongoing.

338. The awarding of the World Cup to Qatar and non-compliance with minimum guarantees with respect to human rights in Qatar causes violation of the personality rights. The fact that Qatar adheres to the Kafala system leads to immanent human rights violations.

8.2 **Plaintiff 2**

339. Prior to discussing the applicable law, damages and remedies requested of your court with regard to Plaintiff 2, Plaintiffs will first summarize the facts of his case as detailed in Chapter 5.

8.2.1 *Summary of the facts Plaintiff 2*

340. Plaintiff 2, Nadim Shariful Alam, is a citizen of Bangladesh, born 5 December 1984. A copy of his passport is in **annex 130**.

341. Plaintiff 2 was recruited in Bangladesh by a firm that located in 'Basundhara Complex', a shopping mall in Dhaka. He was recruited to work as unskilled labourer

for HBK (*Hamad Bin Khalid Contracting Company*) and conducted work in the Sea Port in the North of Qatar that facilitated the 2022 World Cup-related construction projects in Qatar. His Qatari work visa, on which HBK is listed as ‘sponsor’, is attached as **annex 131**. During his stay in Qatar, Alam lived in the *Ezdan Labour Camp Area* in Al Wukairm, that was constructed exclusively to house migrant workers in preparation for the World Cup. The camp house around 2,250 migrant workers were housed, most of whom are employed on the stadium construction projects. He worked at the Sea Port until he was fired by HBK and required to return home.

342. Plaintiff 2’s employer was *Hamad Bin Khalid Contracting Company W.L.L.* (HBK). The company was founded in 1979 for civilian construction projects in Qatar. It is involved in a number of projects in connection with the 2022 World Cup, such as, for example, the “Green Line” (which will run from north to south through Doha) as part of the “Doha Rail” project.²⁸⁹ The self-named “Supreme Committee for Delivery & Legacy” awarded HBK the contract for the Al Wakrah Stadium on 14 April 2014.²⁹⁰

Payment of a recruitment fee

343. Plaintiff 2 had to pay his recruitment agency in Bangladesh BDT 350,000. (approximately CHF 4,400).
344. Upon his premature return to Bangladesh, HBK reimbursed less than 10% of the total recruitment fee. Alam had taken out a loan and mortgaged his land in order to pay the, and has not been able to pay back the loan or pay his mortgage to date. As such, he is still dealing with the financial aftermath of his employment in Qatar today.

²⁸⁹ ‘Doha rail project contracts awarded as Qatar ramps up 2022 Fifa World Cup preparations’ *The National*, 31 May 2013 (**annex 135**)

²⁹⁰ ‘HBK named Al Wakrah enabling works contractor’, 19 April 2014, available on the website of the Supreme Committee for Delivery & Legacy (SC) (**annex 136**); ‘Enabling works package for Al Wakrah Stadium and Precinct’, available on the website of HBK Company (**annex 137**).

Seizing of passport

345. Plaintiff 2's employer (*kafeel*), HBK, confiscated his passport upon arrival in Qatar in August 2014; it was only returned to him when he had to leave Qatar again in January 2016 as a result of being fired by HBK.

Forced labour

346. Plaintiff 2 was also unable to change employers whilst he was in Qatar. Even after he was fired by HBK, he was unable to seek employment elsewhere. Instead, he was required to return to Bangladesh.

Conclusion

347. The practices in Qatar, that have been documented by Plaintiff 1, Amnesty International, Human Rights Watch and others involved, and that Plaintiff 2 was exposed to in person, meets the ILO definition of forced labour, both with respect to the involuntary aspects of the work.

8.2.2 *Applicable law: Qatari law*

348. Plaintiff 2 resides in Bangladesh; he is not in a contractual relationship with the Defendant. The tort statute is to be invoked, which in Article 133 IPRG states that Qatari law applies.
349. As it is derived from French civil law, Qatari tort law does not differ greatly from Swiss tort law (see paragraphs 320 *et seq* above).
350. With regard to the definition of unlawfulness and the duty of care in this case however, the Qatari legal system with its roots in the *Kafala*-system cannot be taken into account, since this system and the rules and regulations based on it violate the public policy proviso of the Swiss IPRG see Chapter 8 above.

351. As Plaintiffs explained in Chapter 8.1.2 of this writ of summons therefore, Swiss civil law must apply. According to Swiss civil- and constitutional law, the *Kafala*-system is not permitted as it amounts to forced labour.

8.2.3 Damages / compensation

352. The forced labour in an absolute right suffered violation of their personal rights and suffered immaterial damages in the sense of injustice and hardship. Injustice is an internal or external infringement of the personality rights of an individual. The function of awarding moral damages is to make up for the immaterial injustice and hardships suffered by the claimant in that it enhances their sense of well-being and/or makes the damages suffered bearable.
353. As Qatari law follows the same principles as Swiss law, it can be used in this case. If Qatari law does not provide for the possibility of compensation claims, then the public order proviso (Article 17 IPRG) would apply.
354. A violation of personality rights allows for just compensation in the form of a monetary sum, provided that this is justified by the severity of the violation in question (analogous to Article 49 paragraph 1 OR). The violation of personality rights must be not only objectively grave, but must also be felt by the person concerned. The assessment is based on what is considered average, as not all people feel things to the same extent. If a violation of personality rights can, objectively speaking, give rise to psychological pain, then it can be assumed to exist based on general empirical rules and as such, do not require additional proof. The employment conditions described and the circumstances to which Plaintiff 2 was subjected in Qatar can objectively be considered to inflict emotional pain to those concerned. Accordingly, this gives rise to a claim for just satisfaction. With regard to the amount in moral damages that are being claimed, CHF 5,000 seems appropriate. The mere fact that he had to pay a recruitment fee of US\$ 4,400 shows that the sum claimed in moral damages is proportional.

355. Plaintiff 2 also claims material damages to the amount of US\$4.000, namely the amount he paid in recruitment fees minus the US\$400 that was reimbursed by HBK when he left Qatar. The damages amount amount to CHF 3,920.²⁹¹
356. Additionally, he requests compensation for the premature termination of his contract by HBK. He had a two-year contract that was ended 6.5 months too early by HBK. Plaintiff 2 earned a monthly salary of QR 600 for work and an additional QR 200 for food. The compensation sum is therefore CHF 1,386.84 for those 6.5 months.²⁹²

8.2.4 *Unlawfulness*

357. The unlawfulness committed by the Defendant consists of the fact that it awarded the 2022 World Cup to Qatar without simultaneously demanding that Qatar guarantee minimum standards with regard to fundamental human rights and international labour law. The Defendant did this even though it was aware of the nature of the *Kafala*-system, *inter alia* because various sources had pointed out the flaws of the system to the Defendant.

8.2.5 *Natural and adequate chain of causation*

358. If the Defendant had not awarded the 2022 World Cup to Qatar, or if it had made sure that the minimum standards of human rights and international labour law were complied with, the hardship and damages suffered by Plaintiff 2 could have been avoided. As such, Plaintiff 2's claim has to be based on natural causation between the behaviour of the Defendant and the damage incurred.
359. Awarding the 2022 World Cup to a country that applies the *Kafala*-system, whilst simultaneously not demanding guarantee of minimum standards with regard to labour law and human rights, will ordinarily result in the occurrence of the violations of rights experienced by Plaintiff 2.

²⁹¹ Exchange rate: 1 US\$ = 0.98 CHF.

²⁹² Exchange rate: 1 QR = 0.27 CHF.

360. As such, there is a sufficient causal link between the action of the Defendant and the violations and hardships endured by Plaintiff 2.

361. Equally, there is a sufficient causal link between the pecuniary losses suffered by Plaintiff 2, Alam, and the awarding of the 2022 World Cup to Qatar. If the FIFA had used its authority and position vis-à-vis Qatar to demand that minimum human rights and international labour standards would be guaranteed by Qatar, Alam would not have found himself in the position he was in. More specifically, he would not have had to pay the bulk of the US\$ 4,400 recruitment fee himself, and would not have been forced to leave Qatar after having been fired by HBK (as he would have been able to find alternative employment).

In closing, we ask you, Mr President, Honorable Judges, ladies and gentlemen, to accept the claims. With our utmost respect,

Amsterdam and Zürich,

RA Prof. Liesbeth Zegveld

RA David Husmann

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https://www.fnv.nl/site/over-de-fnv/organisatie/897836/Statuten_FNV.pdf

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FIFA Statutes Regulations Governing the Application of the Statutes Standing Orders of the Congress April 2015 edition, available at
http://www.fifa.com/mm/Document/AFederation/Generic/02/58/14/48/2015FIFAStatutesEN_Neutral.pdf

Annex 4

2007 Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ('The new Lugano Convention'), available at
<http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=13041>

Annex 5

CJEU, *Owusu / Jackson and others*, 1 March 2005, C-281/02

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Marya Pasciuto 'The Price of Hosting the World Cup' World Policy Blog 9 June 2014, available at <http://www.worldpolicy.org/blog/2014/06/09/price-hosting-world-cup>

Annex 7

Gerald Imray 'South Africa spent \$3 billion on 2010 World Cup' AP/Washington Post 23 November 2012, available at <http://www.washingtontimes.com/news/2012/nov/23/south-africa-spent-3-billion-2010-world-cup/>

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'South Africa still counting the cost of the 2010 World Cup' 10 June 2014
<https://www.enca.com/south-africa-still-counting-cost-2010-world-cup>

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'Germany's World Cup Report Hails Economic, Social Success' Deutsche Welle 7 December 2006, available at <http://www.dw.com/en/germanys-world-cup-report-hails-economic-social-success/a-2263053>

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FIFA Financial Report 2014, available at
http://www.fifa.com/mm/document/affederation/administration/02/56/80/39/fr2014weben_neutral.pdf

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Tony Manfred 'FIFA made an insane amount of money off of Brazil's \$15 billion World Cup' Business Insider 20 March 2015, available at <http://uk.businessinsider.com/fifa-brazil-world-cup-revenue-2015-3?r=US&IR=T>

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Frequently Asked Questions <http://www.fifa.com/faq.html> 2.Competitions – F. 'What is the socioeconomic impact of the FIFA World Cup?' (Accessed 11 April 2016)

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FIFA Statutes 2010 edition, available at http://www.fifa.com/mm/document/affederation/generic/01/29/85/71/fifastatuten2010_e.pdf

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'Bidding process' <http://www.fifa.com/governance/competition-organization/bidding-process.html>

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Organising Association Agreement between FIFA and South African Football Association regarding 2010 FIFA World Cup, available at <http://ccs.ukzn.ac.za/files/Fifa%20agreement%20with%20SA%202.pdf>

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Regulations of the FIFA World Cup in Brazil, available at http://www.fifa.com/mm/document/tournament/competition/01/47/38/17/regulationsfwbrazil2014_update_e_neutral.pdf

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2010 FIFA World Cup South Africa Special Measures Act 11 of 2006, available at <http://www.legalish.co.za/acts/4583023614/2010-FIFA-World-Cup-South-Africa-Special-Measures-Act-11-of-2006/8916208>

Annex 18

Kathleen Tang, 'The WC: Changing Country's Laws, One Tournament at a Time', *Travaux: The Berkeley Journal of International Law Blog*, 26 October 2013, available at: <http://berkeleytravaux.com/world-cup-changing-countrys-laws-one-tournament-time/>

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Amnesty International report March 2016: 'The Ugly Side of the Beautiful Game: Exploitation of Migrant Workers on a Qatar 2022 World Cup Site', available at <https://www.amnesty.org/en/documents/mde22/3548/2016/en/>

Annex 20

Supreme Committee for Delivery and Legacy Frequently Asked Questions <http://www.sc.qa/en/about/faq>

Annex 21

FIFA.com 'Qatar 2022 Local Organising Committee holds second board meeting' 8 December 2015, available at <http://www.fifa.com/worldcup/news/y=2015/m=12/news=qatar-2022-local-organising-committee-holds-second-board-meeting-2742781.html>

Annex 22

Francoise de Bel-Air, Gulf Research Center 'Gulf Labour Markets and Migration – Demography, Migration, and Labour Market in Qatar' 2014, available at http://cadmus.eui.eu/bitstream/handle/1814/32431/GLMM_ExpNote_08-2014.pdf?sequence=1

Annex 23

DLA Piper 'Qatar Final Report May 2014', available at <http://www.engineersagainstopoverty.org/documentdownload.axd?documentresourceid=58>

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Interview with Hassan Al Thawadi, Secretary-General, Supreme Committee for Delivery & Legacy, 2015, available at <http://www.oxfordbusinessgroup.com/interview/hassan-al-thawadi-secretary-general-supreme-committee-delivery-legacy-sc-interview>

Annex 25

Shabina S Kathri 'Ashghal: 'No respite' from Qatar roadworks even after 2022 WC' 22 September 2015 <http://dohanews.co/ashghal-no-respite-from-qatar-roadworks-even-after-2022-world-cup/>

Annex 26

Tony Manfred 'Qatar Is Building A \$45 Billion City From Scratch For The World Cup That It Might Lose' Business Insider 22 September 2014, <http://www.businessinsider.com/lusail-city-qatar-2014-9?IR=T>

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2022 FIFA World Cup Bid Evaluation Report Qatar, available at <http://www.fifa.com/mm/document/tournament/competition/01/33/74/56/b9qate.pdf>

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International Labor Organization Migrant Forum in Asia, 'Responding to emerging and critical issues 1 Policy Brief No. 2: Reform of the kafala (sponsorship) system', available at <http://www.ilo.org/dyn/migpractice/docs/132/PB2.pdf>

Annex 29

Mohammed Harmasi (6 May 2009) 'Bahrain to end 'slavery' system' BBC News Arabic Service Radio 6 May 2009, available at http://news.bbc.co.uk/2/hi/middle_east/8035972.stm

Annex 30

Hala Al Ali Workers Rights Handbook 2009, available at http://nhri.ohchr.org/EN/Themes/BusinessHR/Business%20Womens%20and%20Childrens%20Rights/NHRCWorkersRightsBook_E%5B1%5D.pdf

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UN General Assembly Human Rights Council Special Rapporteur's Report on the Human Rights of Migrants (Special Rapporteur M. François Crépeau) draft dated 10 November 2013 and full report dated 23 April 2014, (A/HRC/26/35/Add.1) page 7, 13, Annex F

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Qatar Domestic Law no. 4 of 2009 Regarding Regulation of Expatriates' Entry, Departure, Residence and Sponsorship (the Sponsorship Law)

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Migration News January 2012, Volume 19, Number 1 GCC: Kafala, UAE, available at <https://migration.ucdavis.edu/mn/more.php?id=3740>

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H.E. Murray, 'Hope for Reform Springs Eternal: How the Sponsorship System, Domestic Laws and Traditional Customs Fail to Protect Migrant Domestic Workers in GCC Countries' (2013) 45 *Cornell International Law Journal* 2, 467

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Qatar Ministry of Development Planning & Statistics, Labour Force Sample Survey: The first quarter of 2015, available at http://www.qix.gov.qa/portal/page/portal/QIXPOC/Documents/QIX%20Knowledge%20Base/Publication/Labour%20Force%20Researches/labour%20force%20sample%20survey/Source_QSA/Labour_Force_Quarterly_Jan_Mar_Statistics_MDPS_AE_Q1_2015.pdf

Annex 36

Vivek Chaudhary 'Qatar refuses to let Nepalese workers return to attend funerals after quake' *The Guardian* 24 May 2015, available at http://www.theguardian.com/world/2015/may/24/qatar-denies-nepalese-world-cup-workers-leave-after-earthquakes?CMP=fb_gu

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ILO Report of the Director-General on the alleged non-observance by Qatar of the Forced Labour Convention, 1930 No. 29, 24 March 2014 (Session 320th, Geneva, 13-27 March 2014)

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Amnesty International report 2013 "“Treat us like we are human”, migrant workers in Qatar"

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Amnesty International report November 2013 'The Dark Side of Migration'

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Amnesty International report 2015 ‘Promising little, delivering less – Qatar and migrant labor abuse ahead of the 2022 football world cup’

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Human Rights Watch report 2012 ‘ Building a Better World Cup - Protecting Migrant Workers in Qatar Ahead of FIFA 2022’

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International Trade Union Confederation report March 2014: ‘The Case against Qatar, Host of the 2022 WC’, ITUC Special Report

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Qatar Domestic Law No. 14 of 2004 (‘the Labour Law’)

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Qatar Domestic Law No. 21 of 2015 ‘On the Entry, Exit and Residency of Foreign Nationals’

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ILO Observation (CEACR) - adopted 2015, published 105th ILC session (2016) - Complaint under article 26 of the ILO Constitution concerning non-observance of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), available at

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3255640.

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ILO Decision on the eighth item on the agenda: Complaint concerning non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference under article 26 of the ILO Constitution, available at http://www.ilo.org/gb/decisions/GB326-decision/WCMS_462686/lang--en/index.htm.

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Supreme Committee for Delivery and Legacy ‘Workers’ Welfare Standards’ 2014

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The Permanent Constitution of the State of Qatar, 2004

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League of Arab States, Arab Charter on Human Rights, May 22, 2004

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Başak Çalı Nazıla Ghanea ‘The Domestic Effects of International Human Rights Treaty Ratification in the Member States of the Cooperation Council for the Arab States of the Gulf (GCC)’ Qatar National Research Fund National Priority Research Program [document requested]

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ILO 1999 Worst Forms of Child Labour Convention (Convention No. 182)

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ILO 1947 Labour Inspection Convention (Convention No. 81)

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ILO 1998 Declaration on Fundamental Rights and Principles at Work and its Follow-Up, 1998

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ILO 1919 Constitution

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1944 Declaration of Philadelphia annexed to the ILO Constitution

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UN 2000 Convention against Transnational Organized Crime and the Protocols Thereto (Palermo)

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International Court of Justice (ICJ), 'Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v Spain) Second Phase, Judgment of 5 February 1970

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International Labour Conference, 2007 General Survey of the Reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1975,

(No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, 96th Session, Geneva, 2007, Report III, Para 37, available at http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_089199.pdf

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International Labour Office, 'A Global Alliance Against Forced Labour: Global Report under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work', 2005

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ILC, 14th Session, Geneva, 1930, Record of Proceedings

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Qatar Resolution of the Minister of Civil Service & Housing Affairs No. (20) of 2005 Regarding Necessary Precautions & Requirements in Work Areas & Places to Protect Workers & Operators therein & Visitors against Risks of Work

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Qatar Ministerial Decree No. (16) of 2007 Determining the Working Hours in Exposed Work Places During the Summer, available at <http://gulfmigration.eu/ministerial-decision-no-16-of-2007-determining-the-working-hours-in-exposed-work-places-during-the-summer-2/>

Annex 72

Sharmila Devi 'Concerns over mistreatment of migrant workers in Qatar' The Lancet Vol. 383, No. 9930, p1709, 17 May 2014, available at [http://thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)60818-7/fulltext](http://thelancet.com/journals/lancet/article/PIIS0140-6736(14)60818-7/fulltext)

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Business for Social Responsibility (BSR) October 2012 Report 'Migrant Workers and the FIFA World Cup 2022 in Qatar: Actions for Business', available at <http://www.ilo.org/dyn/migpractice/docs/177/FIFA.pdf>

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Isaku Endo Gabi G. Afram 'The Qatar-Nepal Remittance Corridor: Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process' World Bank Study 2011 Washington DC, page 34, available at <http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Nepal-Qatar.pdf>

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ILO Eighth Supplementary Report: Report of the committee set up to examine the representation alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), made under article 24 of the ILO Constitution by the International Trade Union Confederation and the Building and Woodworkers International, 13-27 March 2014, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_239846.pdf

Annex 76

Qatar University Social & Economic Survey Research Institute (SESRI) Annual Omnibus Survey: A survey of life in Qatar 2011, Executive Summary Report, Doha, Qatar November 2011, available at <http://sesri.qu.edu.qa/sites/default/files/Eng/ExecutiveReports/2011/OmniBus2011.pdf>

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Mark Leftly 'Nepal earthquake victims' families prevented from leaving Qatar Fifa WC building sites to attend funerals' The Independent 7 May 2015 <http://www.independent.co.uk/news/business/news/qatars-workers-cant-attend-family-funerals-in-nepal-10230805.html>

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International Labour Organization (ILO), 'Report of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105),' GB.264/16/7, 1995

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UN Universal Declaration of Human Rights 1948

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H.E. Murray, 'Hope for Reform Springs Eternal: How the Sponsorship System, Domestic Laws and Traditional Customs Fail to Protect Migrant Domestic Workers in GCC Countries' (2013) 45 Cornell International Law Journal 2

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Committee on the Elimination of Racial Discrimination, General Recommendation No.30: Discrimination Against Non-Citizens: 10/01/2004. Gen. Rec. No. 30. (General Comments)

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‘BWI and ITUC Files Joint CFA Complaint Against Qatar’ 28 September 2012, available at <http://www.bwint.org/default.asp?index=4379>

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ILO Governing Body 320th Session, 371st Report of the Committee on Freedom of Association, 13-27 March 2014, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_239692.pdf

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ILO Report No. 371 in which the committee requests to be kept informed of development, March 2014, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_T_EXT_ID:3171962

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Concluding observations of the Committee on the Elimination of Racial Discrimination: Qatar, CERD/C/QAT/CO/13-16, available at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.QAT.CO.13-16.pdf>

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Amnesty International report 2014/15 – Qatar, 25 February 2015, available at <http://www.refworld.org/docid/54f07da813.html>

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BWI Connect ‘BWI and ITUC Issue Legal Complaint to the ILO Presenting Evidence of Forced Labour in Qatar’ 25 January 2013, available at <http://connect.bwint.org/?p=617>

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About FIFA – ‘What we stand for’, available at <http://www.fifa.com/about-fifa/who-we-are/explore-fifa.html>

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Qatar Domestic Law No. 22 of 2004 (the ‘Civil Code’), available at <http://www.almeezan.qa/LawView.aspx?opt&LawID=2559&language=en>

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United Nations 2011 Guiding Principles on Business and Human Rights ('UNGPs'), implementing the UN "Protect, Respect and Remedy" Framework, available at http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

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The John G. Ruggie 2016 Harvard Kennedy School report 'For the game. For the World. FIFA & Human Rights', available at <http://www.hks.harvard.edu/centers/mrcbg/programs/cri/research/reports/report68>

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'Fifa's Chuck Blazer questions Qatar's solution to searing temperatures' The Guardian, 16 November 2010, available at <http://www.theguardian.com/football/2010/nov/16/fifa-chuck-blazer-qatar-heat-solution>

Annex 100

'Sepp Blatter: Qatar World Cup workers' welfare is not Fifa's responsibility', The Guardian 2 December 2014, available at <http://www.theguardian.com/football/2014/dec/02/sepp-blatter-fifa-responsibility-workers-qatar-world-cup>

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FIFA Financial Report 2010, available at [http://www.fifa.com/mm/document/affederation/administration/01/39/20/45/web_fifa_fr2010_eng\[1\].pdf](http://www.fifa.com/mm/document/affederation/administration/01/39/20/45/web_fifa_fr2010_eng[1].pdf)

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Owen Gibson 'Qatar 2022 puts Fifa's reputation on the line' The Guardian 25 September 2013, available at <http://www.theguardian.com/global-development/2013/sep/25/qatar-2022-fifa>

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US Department of State 2009 Human Rights Report: Qatar, 11 March 2010, available at <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136078.htm>

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US Department of State Trafficking in Persons Report 2014 Countries N-S

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Jodi Rudoren 'Palestinians Plan New Tack Against Israel: Soccer Sanctions' The New York Times 19 May 2015, available at <http://www.nytimes.com/2015/05/20/world/middleeast/palestinians-plan-new-tack-against-israel-soccer-sanctions.html>

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'End sponsor system: UN official tells Gulf states', The Peninsula Qatar 20 April 2010, available at <http://thepeninsulaqatar.com/news/middle-east/270/end-sponsor-system-un-official-tells-gulf-states>

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Rebecca R Ruiz 'U.S. Attorney General Predicts More Charges in FIFA Case', The New York Times 14 September 2015, available at <http://www.nytimes.com/2015/09/15/sports/soccer/us-attorney-general-predicts-more-charges-in-fifa-case.html?smid=nytcore-ipad-share&smprod=nytcore-ipad>

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'Brazil World Cup beer law signed by President Rousseff', *BBC News*, 6 June 2012

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Amnesty International report 2014 ‘No Extra Time: How Qatar is still failing on workers’ rights ahead of the World Cup’

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Qatar Domestic Law No. 15 of 2010 on the Prohibition of Workers Camps within Family Residential Areas (the ‘Housing Law’)

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‘Qatar Arrests 100 Striking Workers for Deportation’, ITUC 26 November 2014

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ILO Principles Concerning the Right to Strike, Geneva 1998

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‘Qatar labour issues not FIFA's responsibility’ Al-Jazeera 2 December 2014

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‘After FIFA arrests, could Qatar lose the World Cup?’ CNBC 27 May 2015

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National Contact Point of Switzerland, Initial Assessment Specific Instance regarding the Fédération Internationale de Football Association (FIFA) submitted by the Building and Wood Workers’ International (BWI), 13 October 2015

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Building and Wood Workers’ International (BWI), Specific Instance against the “Fédération Internationale de Football Association (FIFA) to the Swiss National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, 28 May 2015

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'Qatar opens 'Labor City' for 70,000 migrant workers', RT, 2 November 2015

Annex 135

'Doha rail project contracts awarded as Qatar ramps up 2022 Fifa World Cup preparations'
The National, 31 May 2013

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'HBK named Al Wakrah enabling works contractor', 19 April 2014, available on the website of the Supreme Committee for Delivery & Legacy (SC)

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'Enabling works package for Al Wakrah Stadium and Precinct', available on the website of HBK Company

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'HBK Contracting Company to start enabling works for Al Wakrah 2022 FIFA World Cup™ stadium', press release by Supreme Committee for Delivery & Legacy (SC)

Annex 139

'Migrant Workers in Gulf Construction: HBK Contracting Company', Business & Human Rights Resource Center [accessed on 5 September 2016]