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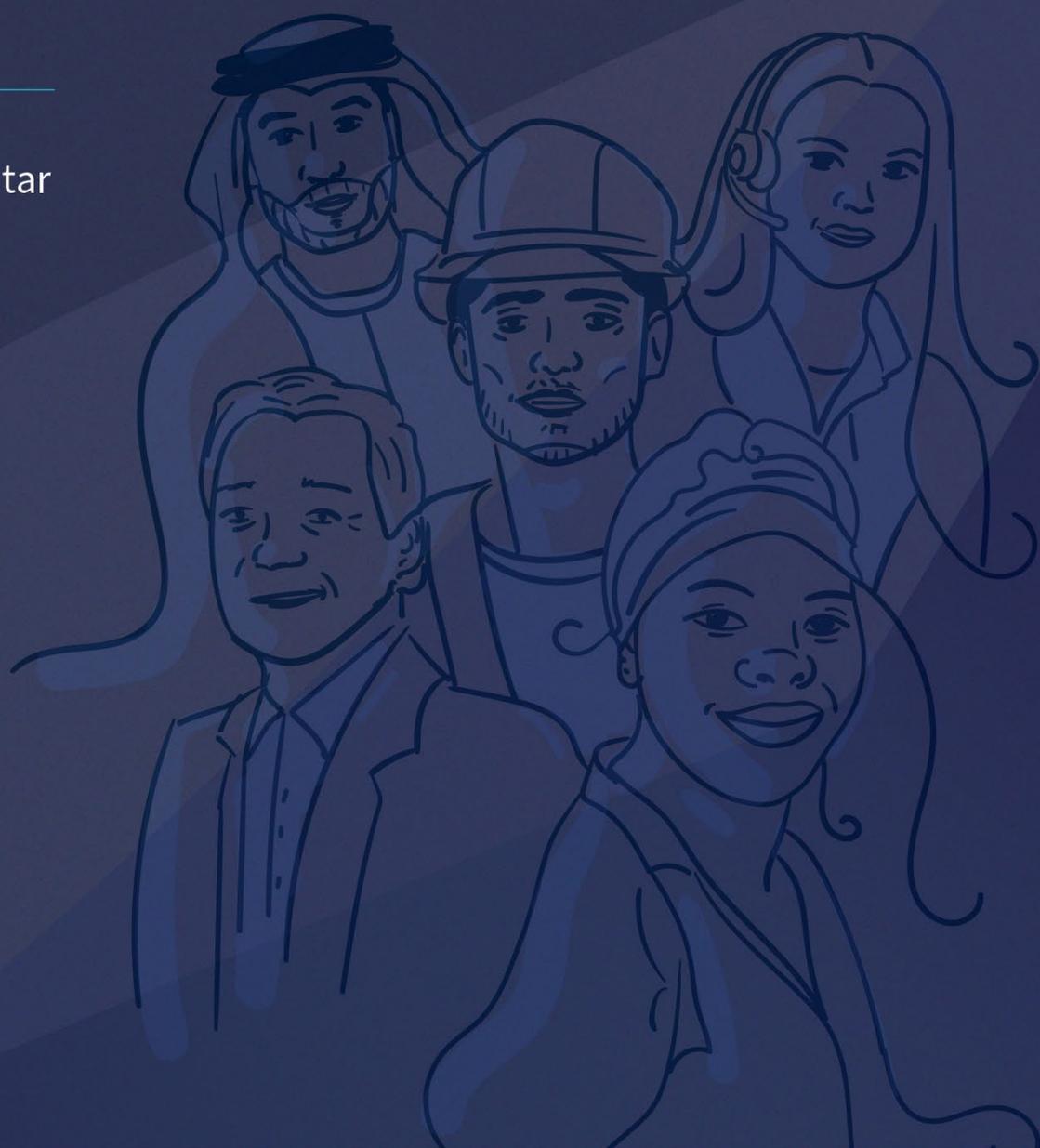
INTERIM REPORT

RECOMMENDATIONS ON THE ESTABLISHMENT OF THE WORKERS' SUPPORT AND INSURANCE FUND IN QATAR:

Drawing from international experience

ILO Project Office
for the State of Qatar

Doha
June 2019



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Preface

The International Labour Organization (ILO) inaugurated its project office in Qatar in April 2018 to support the implementation of a comprehensive programme on working conditions and labour rights. The Technical Cooperation Programme reflects the common commitment of the Government of Qatar and the ILO to cooperate on ensuring compliance with ratified international labour conventions, as well as achieving fundamental principles and rights at work in the State of Qatar in a gradual manner during the period 2018–20.

The Ministry of Administrative Development, Labour and Social Affairs and the ILO have conducted a series of innovative studies and reviews of international good

practices to support the adoption and enhancement of laws, policies and systems. ADLSA and ILO officials, as well as independent researchers have met with relevant stakeholders and were provided access to raw data and information in order to put forward detailed recommendations that were suited to the context in Qatar. The reports have been presented and discussed in various meetings, and many of the proposals have been incorporated into the plans and activities of the Technical Cooperation Programme.

This report presents a summary of key elements of schemes and models from around the world that could inform the operationalization of the newly established Workers' Support and Insurance Fund in Qatar.

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The responsibility for information and opinions expressed in this report rests solely with the authors, and publication does not constitute an endorsement by the ILO nor ADLSA.

1. Objective and scope of the report

In January 2019, the Ministry of Administrative Development, Labour and Social Affairs (ADLSA) and the ILO Project Office in Qatar commissioned a study to provide concrete recommendations on how to operationalize the new Workers' Support and Insurance Fund ('the Fund'), established under Law No. 17 of 2018. This study seeks to:

1. **Learn** how similar funds in other countries ensure the timely and fair payment of due wages and other benefits; and
2. **Provide** detailed and actionable recommendations for consideration by ADLSA on the Fund's scope, design, activation criteria, and management.

1.1. *Current and future environmental conditions*

The Fund is an ambitious institution with the potential to significantly improve protection for thousands of migrant workers and their dependants.

In terms of the overarching objective, it is recommended that the Fund should:

- Ensure workers are compensated in line with international labour standards and international standards on justice and remedy.
- Provide wage awards, humanitarian support and social services in an efficient, consistent and non-discriminatory manner.
- Function in a sustainable, transparent, and accountable manner in close coordination with government authorities, employers, workers and other stakeholders.
- Hold employers and business owners financially accountable when they fail to provide workers with their wages and other benefits in full.

2. The Law on the Workers' Fund

Law No. 17 of 2018 issued by the Emir on 30 October 2018 sets out the purpose, basic structure, and responsibilities of the Fund.

2.1. Scope of the Fund

As set out under Article 5 of Law No. 17, the Fund has three functions:

- Provide sustainable financial resources for the support and insurance of workers (referred to below as 'humanitarian support');
- Pay a worker's benefits as settled by the Dispute Settlement Committees (referred to below as a 'wage claim'), and subsequently reclaim those amounts from the employer (referred to below as 'recovery'); and
- Contribute to the provision of recreation areas, entertainment venues, or workers' accommodation, in coordination with the relevant authorities.

2.2. Administration of the Fund

The units/positions mentioned in Law No. 17 are the Council of Ministers, the Governing Council, the Secretary to the Council, and the Executive Director. This report sets out the role and competencies of each of these, and recommends how they should be put into effect, and what further units and positions could be added.

2.2.1. Council of Ministers

The Fund is administered by a Governing Council (see below), which is answerable to a Council of Ministers that has the powers to:

- Adopt decisions of the Governing Council (Article 8);
- Issue the Fund's investment system (Article 18);
- Assign any other function to the Governing Council (Article 8);
- Appoint auditors to monitor the Fund's accounts (Article 19);
- Receive from the Governing Council a detailed report on the Fund's activities, projects, and financial position no later than three months after the end of the financial year (Article 20);
- Request that the Governing Council submits additional reports on the administrative, financial or technical status of the Fund, or any information relating to it (Article 21); and
- Issue general directives on public policy matters (Article 21).

2.2.2. Governing Council

The Governing Council is the Fund's peak decision-making body. Law No. 17 establishes that the Minister of ADLSA is the Chairman of the Governing Council, which includes a vice-chairman, and a number of members appointed by the Prime Minister.¹ The following members have already been selected: the Minister and an Undersecretary of ADLSA; senior officials from the Ministries of Interior, Commerce and Industry, Finance, and Justice; as well as a representative of the Chamber of Commerce.² The broad selection of members is conducive to effective and coherent coordination with state ministries and business stakeholders (see subsection 4.2.2. below).

Governing Council's Functions

The Governing Council is responsible for making decisions on the rules and procedures for the payment of workers' entitlements. Article 8 of Law No. 17 sets out its functions (to be further elaborated after adoption by the Council of Ministers) as follows:

- Develop the general policy of the Fund and supervise its implementation;
- Issue the organizational structure of the Fund;
- Promulgate the administrative, financial and technical regulations of the Fund;
- Approve Fund plans and projects and follow up their implementation;
- Establish the necessary rules and procedures to provide support to workers;
- Conclude relevant agreements, memoranda of understanding and contracts with national, regional and international bodies;
- Approve the Fund's draft annual budget and its final accounts;
- Accept donations, proceeds and grants;
- Propose draft legislative instruments on the activities of the Fund; and
- Undertake any other functions assigned to it by the Council of Ministers.

Decision-making process of the Governing Council

The Council is to convene at least once a month. Meetings are only deemed valid if a majority of Council members, including either the Chairman or the Vice-Chairman, are present.³ Decisions of the Council must be issued by a majority vote of the members present, and when there is a tie the Chairman may cast the deciding vote.⁴ The Chairman represents the Fund before the judiciary and to third parties.⁵ As further described below, the Executive Director is responsible for submitting proposals to the Council for approval, such as specific rules on payment of workers' entitlements.⁶

¹ Law No. 17 of 2018, Art. 3 and 6.

² Interview with Assistant Undersecretary of Labour, Ministry of Administrative Development, Labour and Social Affairs; Doha, Qatar; 29 January 2019.

³ Law No. 17 of 2018, Art. 9.

⁴ Ibid.

⁵ Law No. 17 of 2018, Art. 11.

⁶ Law No. 17 of 2018, Art. 16.

2.2.3. Secretary and Executive Director

Other than the members of the Governing Council, the only other staff roles outlined in Law No. 17 are those of the Secretary to the Governing Council, and the Executive Director (ED). The Law establishes the role of Secretary but does not stipulate its functions; instead, it requires the Chairman of the Council to specify those competencies.⁷

By contrast, Article 14 sets out the roles and responsibilities of the ED as follows:

- Proposal of Fund plans and projects to the Governing Council and follow-up on their approval for implementation by the Council of Ministers;
- Preparation of the organizational structure of the Fund;
- Preparation of draft administrative, financial and technical regulations of the Fund;
- General supervision and coordination of the various administrative units; and
- Implementation of Governing Council decisions.

⁷ Law No. 17 of 2018, Art. 6.

3. Existing models in other countries

This section of the report presents elements of existing wage support models and laws in other countries that may be relevant for the development of the Workers' Fund in Qatar. This is not an exhaustive list, and it is based on an initial desk review. For any models that may be deemed particularly relevant to the Government of Qatar, a more in-depth analysis would be required.

Welfare Mechanism	Funding	Humanitarian support	Wage claims
Singapore: Migrant Workers' Assistance Fund (MWAFF)	<ul style="list-style-type: none"> - Core funding received from the Singapore National Employers Federation and the National Trades Union Congress. - Additional funding received through personal donations from individuals and businesses and crowdfunding campaigns.⁸ 	<ul style="list-style-type: none"> - Housing, meals and transport to stranded workers, and counselling services for workers who need psychological and emotional support. - Access to dormitories and alternative housing during a wage claim process. - Free legal aid/counselling. - Travel cards, including for visits to the Migrant Workers' Centre for updates on their wage claims. - Assistance to workers to find new jobs in the country. 	<ul style="list-style-type: none"> - Covers salary arrears. - Works with the Tripartite Alliance for Dispute Management to resolve wage disputes through mediation between employers and workers.
Germany: Employer Insolvency Wage Fund	<ul style="list-style-type: none"> - Industry funded: employers' associations require payments from all enterprises, the share depending on the total sum of wages of all socially insured employees, including quarterly advance payments and one final payment. This method of funding ensures adequate capitalization. 	N/A	<ul style="list-style-type: none"> - Covers net wages for the last three months before the opening of insolvency proceedings, severance payments, holiday and annual leave.
Austria: Wage Guarantee Fund (Insolvenz-Ausfallgeld-Fonds)	<ul style="list-style-type: none"> - Funded through an allowance payable by employers on their annual unemployment insurance contribution. - Additional funding is also received via recoveries from employee claims it has paid out, recoveries from the insolvency estate, interest payments on the fund's assets, and from fines imposed on employers under the Insolvency Wage Protection Act 1977. 	N/A	<ul style="list-style-type: none"> - Covers wages and severance payments, compensation for damages, and other claims including company pensions, daily allowances and legal and administrative costs. - The claim upper limit is set at twice the annual social security contribution for an employee. In 2018, this was €10,260 (QR42,375).

⁸ A centre with heavyweight backers, Toh Yong Chuan, The Straits Times, 18 December 2016, available online at: <https://www.straitstimes.com/singapore/a-centre-with-heavyweight-backers>

Welfare Mechanism	Funding	Humanitarian support	Wage claims
Hong Kong: Protection of Wages on Insolvency Fund (PWIF)⁹	<ul style="list-style-type: none"> - Financed by an annual tax, the PWIF currently receives HK\$250 (QR 116) per business registration certificate issued under the Business Registration Ordinance. - Interest earned from the PWIF's cash reserve, deposited in banks as term deposits. - Any money recovered from the remaining assets of insolvent employers. 	N/A	<ul style="list-style-type: none"> - Covers wage arrears up to four months prior to the last working day capped at HK\$36,000 (QR16,700). - Wages in lieu of notice: covered up to one month capped at HK\$22,500 (QR10,440). - Severance payment: capped at HK\$50,000 (QR23,200) plus 50% of any entitlement above the cap. - Compensation for untaken annual leave and statutory holidays: capped at HK\$10,500 (QR4,880).
UAE: Wage Insurance Scheme	<ul style="list-style-type: none"> - Funded by annual payments from employers of 60 dirhams (US\$16) per employee on contract. 	N/A	<ul style="list-style-type: none"> - Insurance coverage of up to 20,000 dirhams (US\$5,400) including claims for unpaid wages, end-of-service benefits, vacation allowance, overtime payments, return ticket and work-related injuries.¹⁰
Canada: Wage Earner Protection Program	<ul style="list-style-type: none"> - Funded by general tax revenues. 	N/A	<ul style="list-style-type: none"> - Salary and vacation pay, but not severance or termination pay. - Employee claims are reduced by any amount paid to them by a receiver or trustee.
China: Contingency wage funds in China¹¹	<ul style="list-style-type: none"> - Funds allocated from existing construction project budgets and contingency funds established to provide humanitarian support and/ or a full or partial payment of unpaid salaries to workers. 	<ul style="list-style-type: none"> - Provides humanitarian support to workers. 	<ul style="list-style-type: none"> - In periods of economic stress, when employers default on wages, state contingency funds provide wage support to workers (the company later reimburses the fund).
India Building and Other Construction Workers Act (BOCWA)	<ul style="list-style-type: none"> - Tax of 1-2% of cost of construction incurred on a project, collected in advance from the employer after the project has been approved. 	<ul style="list-style-type: none"> - Basic amenities to construction workers including temporary accommodation, drinking water, and toilets. - Compensation for medical expenses, pension payments for workers above 60 years of age, and financial assistance for the education of beneficiaries' children. 	N/A
Colombia: Insolvency Procedure (Colombian Civil Code Articles 2488 to 2511)	<ul style="list-style-type: none"> N/A (no funding involved, but this model relates to the ranking of creditors in case of insolvency) 	N/A	<ul style="list-style-type: none"> - Covers wages, social benefits and indemnifications. - Wages may be claimed before or during insolvency proceedings, with workers accorded the status of privileged creditors.
Dominican Republic	<ul style="list-style-type: none"> - Employers required to set up an insurance guarantee for each employee. 	N/A	<ul style="list-style-type: none"> - Up to four months' wages if the employer becomes insolvent. - Up to one year's wages if there is a court judgement or arbitral award.

9 The PWIF is required by law to present an annual report to the Hong Kong Legislative Council. They also publish an annual report online. The 2017-2018 report is available here: Protection of Wages on Insolvency Fund Board, 2017-2018 Annual Report, available online at: https://www.labour.gov.hk/eng/public/wsd/AnnualReport2017_18_eng.pdf

10 Protecting the Wages of Migrant Construction Workers, Dr. Jill Wells, Engineers against Poverty, December 2018.

11 This is a regional policy in China adopted by the provincial government of Zhejiang. (<https://clb.org.hk/content/wage-arrears-escalate-run-lunar-new-year-trade-union-needs-act>). Further research required to determine the activation trigger for the fund, as well as what is provided for humanitarian support and wage claims.

4. Recommendations

4.1. Resources and Sustainability

The Council of Ministers is responsible for setting up the Fund's investment system, which in order to be resilient and sustainable should include:

- Diversified sources of funding from ADLSA and elsewhere;
- Effective enforcement mechanisms to ensure that employers pay wages owed; and
- Clear and transparent structures, policies and procedures.

4.1.1. Strategies for diversifying sources of funding

The Fund can only be effective if it is financially sustainable over the long term, and this in turn can only be ensured by a diversity of sources of funding. Article 17 of Law No. 17 envisages a variety of financing mechanisms, as follows:

- Allocations by the State (for the operational expenses of the Fund);
- 60% of the fees collected from the issuance and renewal of workers' permits;
- The Fund's investment returns; and
- Donations, wills, contributions and grants accepted by the Governing Council.¹²

Recommendation 1: Diversify sources of funding

The Fund should take the following steps to ensure funding from a range of sources:

- Consider additional employer and industry funding for wage payments based on a mandatory contribution allocated for each worker in employment;
- Establish an insolvency-based wage guarantee mechanism to recover wages by treating workers as privileged creditors paid from the employer's seized assets (as bankruptcy and insolvency commonly lie behind the failure to pay wages). Other countries have instituted various effective insolvency-based models, all of which draw upon the employer's seized assets. Some are in addition funded by enterprise contributions. An insolvency-based mechanism funded by both employer contributions and seizure of assets following bankruptcy or insolvency is recommended;
- Accrue fines collected for Wage Protection System (WPS) violations. The law stipulates fines ranging from QR 2,000 to QR 6,000 per worker for violations related to the WPS. These fines, or a portion, should be deposited with the Fund;
- Recovery and administration costs and penalties (linked at least in part to the cost of processing the claim) could also be charged to offending employers, both to provide another source of revenue for the Fund and to act as a deterrent to would-be violators. Employers who fail to pay could be charged interest. This is discussed in more detail in Recommendation 2 below; and
- Seek humanitarian contributions from Qatar businesses and the wider community.

¹² Law No. 17 of 2018, Art. 17.

Insolvenz-Ausfallgeld-Fonds (Austria)

Austria's wage protection fund, the Insolvenz-Ausfallgeld-Fonds, is funded primarily through a premium payable by employers on their annual unemployment insurance contribution, which is payable pursuant to the Labour Market Policies Funding Act (Arbeitsmarktpolitik Finanzierungsgesetz). In addition, the Insolvenz-Ausfallgeld-Fonds recovers the employee claims it has paid out from the insolvent estate, interest payments on the fund's assets, and from fines imposed on employers, pursuant to sec. 16 of the Insolvency Wage Protection Act 1977 (Insolvenz-Entgeldsicherungsgesetz 1977). The premium under the Austrian wage guarantee fund is set annually by the Federal Minister of Economics and Labour, who is required by that law to ensure that the Insolvenz-Ausfallgeld-Fonds is able to achieve balanced accounts each year.¹³

4.1.2. Recovery of wage arrears from employers

Proper enforcement and recovery of settlements from employers (who have not paid due wages) will determine the long-term sustainability of the Fund, and serve more broadly as a deterrent for employers who might otherwise consider withholding wages. There are a number of actions the Fund should take to bolster its capacity to recover from employers the payments it has already disbursed to workers. Further research should also be carried out into the approaches to recovery taken by wage protection mechanisms in other countries (see Annexure 2).

Recommendation 2: recover wages from employers

The Fund should take the following steps:

- Maintain a publicly available blacklist of companies (and their owners) that are found to be responsible by judicial process for wage arrears owed to workers or the Fund. Employers that fail to reimburse the Government after the elapse of a given period (for example two to three months) would be added to this list, and would remain until they have paid back the workers and the Fund, and implemented measures to prevent it from happening again. If companies continue to fail to pay after a further one to two months, further enforcement actions should be taken against them (beyond the blocks and fines that can be imposed by the WPS Unit), including: interest charges on fines, blocking of accounts, cancellation of the employer's license, and being blocked from bidding on public procurement projects.¹⁴ These penalties should be imposed personally on the owners, not solely on the companies;
- Consider rewarding businesses that remain compliant, such as streamlined administrative procedures for the renewal of work permits; and/or reductions in registration fees; tax incentives, or awards;
- Enforce interest payments on the debt of employers who fail to pay out wage settlements on time, using these to replenish the Fund. Without stringent penalties attached, the Fund would serve effectively as an interest-free loan even for employers who reimburse it in good faith. Meanwhile, employers who had no intention of ever repaying the Fund, or who became insolvent, would significantly deplete it, both directly in terms of the relevant amounts, and

¹³ International Experience of Protection of Workers Claims in Insolvency, N. Ghosheh, International Labour Organization, January 2019.

¹⁴ In 2018, China established a blacklist of employers that postponed paying workers. Violators face nationwide restrictions related to market access, bidding and financing — moves made to raise the opportunity cost of delayed or non-payment of wages. These penalties are part of a joint memorandum signed by the Ministry of Human Resources and Security and 29 other State Council departments to punish violators. Govt moves to ensure migrants' wages paid, Hu Yongqi, Chinadaily, 19 Jan 2019, available online at: <http://www.chinadaily.com.cn/a/201901/19/WS5c428456a3106c-65c34e55d5.html>

indirectly in terms of the time and resources devoted to unsuccessful attempts to recover them. For this reason, the Fund should without exception charge interest on top of principal wage sums owed by employers in the event of delayed repayment. The interest rate charged on wage repayment arrears should be higher than the rate of inflation and current bank interest rates on business and personal loans; and

- When employers who have outstanding payments to the Fund are contractors/sub-contractors, the liability of clients/principal contractors should be examined. Businesses that are found to be responsible by judicial process for outstanding payments that lead to non-payment of wages should be added to a 'blacklist' (see examples of 'dirty list' models below) until they have paid back the outstanding dues and have applied measures to prevent reoccurrence. Similarly, parent companies may also be held accountable for non-payment of workers, and thus responsible for reimbursing the Fund. In this context, commercial agreements and tenders between a principal contractor and respective sub-contractors should include a liability clause. This would oblige the contractor to pay to the Fund any fines for wage-related delays when the contractor has violated subcontractor payment schedules, which should not exceed 30 days.¹⁵

Company 'dirty list' models from other countries

Brazil

Brazil maintains a 'dirty list' of companies found to be involved in forced labour, modern slavery and serious wage-related violations. Errant companies are blocked from securing government loans and face restrictions on the sale of goods. As well, the 'naming and shaming' element of the list is considered to have a deterrent effect. An employer remains on the list for a minimum of two years, and before their name is removed from it, they must demonstrate efforts to clean up their supply chain and pay relevant fines and other unpaid taxes.¹⁶

Portugal

Portugal's labour law establishes a similar system of publication of sanctions.¹⁷ The system is administered by the Authority for Working Conditions, the government's labour inspectorate, with publication ordered by the labour courts.¹⁸

¹⁵ Protecting the Wages of Migrant Construction Workers, Dr. Jill Wells, Engineers Against Poverty, December 2018.

¹⁶ Brazil's 'dirty list' names and shames companies involved in slave labour, Annie Kelly, The Guardian, 24 July 2013, available online at: <https://www.theguardian.com/sustainable-business/brazil-dirty-list-names-shames-slave-labour>

¹⁷ Portuguese Labour Code (Law No. 7/2009), Article 565.

¹⁸ The Portugal 'dirty list' is available online at: [http://www.act.gov.pt/\(pt-PT\)/CentroInformacao/San%C3%A7%C3%B5es%20de%20publicidade%20aplicadas/Documents/sancoes_acessorias_marco2019.pdf](http://www.act.gov.pt/(pt-PT)/CentroInformacao/San%C3%A7%C3%B5es%20de%20publicidade%20aplicadas/Documents/sancoes_acessorias_marco2019.pdf).

South Korea Project Bank Accounts

A mechanism for addressing wage arrears across the supply chain

To prevent corruption and the problem of wage arrears in the construction industry in South Korea, the metropolitan government of Seoul has set up special ring-fenced Project Bank Accounts (PBAs) for public projects in the construction industry. PBAs help improve transparency by ensuring that payments are made on time and payment-related information is accessible to all parties concerned. Under the Subcontract Payment Monitoring System (SPMS), the principal contractor is required to submit a summary of payment requests (collected from all relevant entities in the supply chain) that details costs of equipment, material and labour.

After review, the Seoul government approves the request, whereupon the SPMS apportions approved amounts among the various entities in the specified supply chain. Each entity may only withdraw the precise amounts approved and designated by the metropolitan government. Further, the direct payment of wages to workers is mandated by a local law called 'construction labour wage separate payment confirmation' and the authorities are able to check that each worker is paid.¹⁹

Further research should be carried out into the wage arrears mechanisms in South Korea to assess its applicability to the Qatar context.

Recommendation 3: address financial pressures on the Fund

The above mentioned ideas on diversified sources of funding dovetail with the following vital strategies to reduce pressures on the Fund:

- Enhanced penalties (Annexure 2 below).²⁰
- Enhanced enforcement of the law prior to the engagement of the Fund: e.g. the early identification of violations and appropriate actions taken by the WPS; and timely decisions taken by the Dispute Settlement Committees (DSCs).
- Set up a public employment service to help workers with pending wage claims to find alternative employment, thereby getting workers back into the labour market and reducing demand on humanitarian support by the Fund. This would help workers to take the necessary steps back into gainful employment while their claim is being processed. From an employer perspective, a public employment service helps companies save on recruitment costs and hire experienced staff who are already in the country.²¹
- Protect against fake wage claims: Fund staff should conduct rigorous verification to guard against inflated claims from workers and ensure they are properly and sensitively handled, including verifying the circumstances under which the worker has attempted to make an allegedly false claim.²²

19 Exploratory study of good policies in the protection of construction workers in the Middle East, Dr. Jill Wells, ILO Regional Office for Arab States, February 2018, available online at: https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_618158.pdf

20 The Annexure in this report detailing "Examples of enforcement of wage recovery in existing wage support models" provides a number of methods of wage recovery from Singapore, Hong Kong, S.A.R. China, Germany, Austria and South Korea including through writ of seizure and sale, garnishee orders, mortgage and sale of property. When these methods are unsuccessful, they are backed up by penalties for non-compliance including fines and imprisonment terms.

21 See for example: Germany, Public Employment Services Europe, ILO, November 2015, available online at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_policy/---cepol/documents/publication/wcms_434599.pdf

22 The Wage Security Division of the Protection of Wages on Insolvency Fund in Hong Kong, S.A.R. China found that conducting rigorous verification helps combat abuse of the fund through inflated claims. Protection of Wages on Insolvency Fund. Communication from the Wage Security Division of the Hong Kong Labour Department. February 2019.

- Explore the South Korea SPMS mechanism and private initiatives in the construction industry, including with respect to the prohibition of 'pay when paid' contracts, to eliminate the practice of non-payment of wages.²³

Recommendation 4: enact rules and regulations related to the recovery of payments from employers²⁴

The following rules and regulations should be adopted for the recovery of payments from employers:

- Penalties and fines should be enforced against employers who default on or delay Fund repayments. Additional penalties and recovery fees should be enforced against repeat offenders who have been found to regularly violate the wage payment legislation, and those who have been criminally prosecuted for related offences;
- Appropriate penalties for fraud and corruption should be drawn up for employers suspected of drawing on the Fund to subsidise their wage payment obligations;
- Administrative rules are needed to govern the maintenance of a blacklist of employers who have failed to repay the Fund. Penalties against these employers and owners should involve further sanctions for repeat offenders. These should be formulated to include: rules blocking defaulters from accessing government loans and subsidies; fines and interest charges; bans on setting up new companies; cancelling the employer's eligibility to apply for or renew work permits; and cancellation of the employer's license. The Fund should publish the names of the owners of companies that persistently fail to repay, such as those who fail to repay for six months or longer and those who repeatedly fail to repay. They should remain on the list until they have paid back the wages and fines, and have put in place measures to prevent reoccurrence; and
- A mandatory liability clause should be inserted in all contracts between the contractor and the subcontractor requiring the contractor to pay any fines to the Fund for wage-related delays when the contractor has violated subcontractor payment schedules set out in contracts.

4.2. Fund Structure, Policies and Procedures

The Fund must operate in a transparent, timely and professional way so that workers' claims are processed in a consistent and non-discriminatory manner. Workers should understand what type of support they can receive, just as employers and the business community should understand their obligations with respect to wages and benefits. To achieve this the Fund should:

- Develop and publish rules governing the operation of the Governing Council;
- Allow workers and other stakeholders to make representations to the Governing Council; and
- Clearly distinguish functional competencies and set out clear rules for the different roles and units within it.

²³ Subcontract Payment Monitoring System (SPMS), "Exploratory study of good policies in the protection of construction workers in the Middle East", Dr. Jill Wells, ILO, February 2018, available online at: https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_618158.pdf

²⁴ Annexure 2 "Examples of enforcement of wage recovery in existing wage support models" provides examples of wage recovery including through writ of seizure and sale, garnishee orders, mortgage and sale of property. These are further supported by penalties for non-compliance including fines and imprisonment.

4.2.1. Governing Council

Recommendation 5: meetings and decision-making²⁵

With the support of the Secretary to the Governing Council and the ED, the Governing Council should:

- Establish clear rules on the definition of attendance and a quorum, voting, and the recording of minutes of meetings and decisions;
- Set out the procedures for decision-making, including in emergency and other urgent situations, and develop a full list of situations in which the Chairman may delegate her or his responsibilities to another member of the Governing Council or other individuals;
- Commit to a transparent and accountable process for holding meetings, making decisions and accepting representations;
- Adhere to laws and regulations for the renewal of the Governing Council's term and replacement of its members, elaborating Article 7 of Law No. 17 of 2018, which stipulates a three-year renewable term of office;
- Identify the core competencies and responsibilities of Governing Council members, including with respect to labour rights, finance/accounting and law; and
- Conduct further research into board membership requirements currently in force in similar institutions in other countries.

4.2.2. Representations to the Governing Council

Article 10 enables the Governing Council to invite Fund staff and others to provide advice, statements, or clarifications. The Governing Council will need to consult with internal and external stakeholders, particularly in situations where specialist knowledge or expertise is needed.

Recommendation 6: allow and encourage representations to be made to the Governing Council

The Secretary and the ED should assist the Council in developing procedures to receive representations from key stakeholders including:

- Workers, national and international workers' associations; a Qatar government ministry or agency; foreign government officials; relevant experts from any country or body; and
- Enterprises and representatives of employers' and business associations (representing large companies and SMEs), including the Qatar Chamber of Commerce.

These representations fall into three broad categories:

1. Workers and their associations, who would initially need active encouragement to make representations to the Governing Council (whose membership already includes a representative of the Qatar Chamber of Commerce). In the interim, the Fund could invite international trade

²⁵ Under the Insolvency Fund of Hong Kong, meetings of the Fund's Board including the date and location of meetings are decided by the Chairman. The quorum of the Board is five – half of the total members of the Board. Decisions of the Board are conducted via a circulation of papers, a resolution and a subsequent vote on the resolution which is considered successful when voted on by a majority of members. These are statutory requirements under Cap. 380 Protection of Wages on Insolvency Ordinance which sets up the Insolvency Fund 1985, available online at: <https://www.elegislation.gov.hk/hk/cap380>.

union bodies, embassies, and civil society organisations to facilitate representations directly by and on behalf of workers in Qatar on issues relevant to the Fund's competencies. Over the longer term, worker representations should be regularly received from worker associations indigenous to Qatar, such as those being established at the enterprise level and beyond with the support of the ILO Project Office. Further research should be carried out into models operating in other countries.

2. Governmental representations would be received from units and staff within the Fund, ADLSA (its Labour Relations Department, Labour Inspection Department and, crucially, the WPS unit), the ministries of Interior, Justice, Finance, Economy and Commerce, Public Health and other government departments and agencies as the Council deems necessary.
3. External representations and guidance would be received from experts on humanitarian and social protection, including charity organizations; experts on Qatar law and international law including legal practitioners and serving or retired judges; and experts on accounting and actuarial science, insurance, banking, financial services and economics.

Worker and Employer Representation: Hong Kong Protection of Wages on Insolvency Fund

The Protection of Wages on Insolvency Fund under the Hong Kong Department of Labour, S.A.R. China is governed by a ten-member Board (headed by a Chairman) that includes three employee representatives and three employer representatives. Other members include the Assistant Commissioner for Labour responsible for wage security matters, the Assistant Principal Legal Aid Counsel responsible for insolvency matters and the Assistant Principal Solicitor of the Official Receiver's Office.²⁶ The Department of Labour has found that strong employer and employee representation has helped ensure a balance, whereby the respective concerns of industry and workers are adequately represented.

4.2.3. Fund Internal Structure

Law No. 17 establishes the position of ED, who is responsible for all administrative, financial and technical matters (see above section 2.2.3.). The ED's primary role should be to support the Chairman and Council of Ministers to put into effect Governing Council decisions in line with laws and instruments of the state and manage the Fund's competencies.²⁷ Article 12 of Law No. 17 allows the Chairman of the Governing Council to delegate her or his responsibilities to the ED (along with the Vice-Chairman or a member of the Governing Council).

Executive Director

Recommendation 7: role of the Executive Director

A core role of the ED should be to ensure effective management of the Fund's daily operations and competencies, strategic and sustainability planning, and stakeholder management. In order to meet these demands, the ED should establish a senior leadership group consisting of a Chief Operations Officer (COO) or Deputy Executive Director and a

²⁶ Protection of Wages on Insolvency Fund Board, About Us, Hong Kong labour department, available online at: https://www.labour.gov.hk/eng/rbo/content2_4.htm

²⁷ Law No. 17 of 2018, Art. 14.

Chief Financial Officer. Other senior roles may be developed under these management roles or concurrently as the Fund's structure, governance and operations develop.

The ED should be present at all meetings of the Governing Council as an observer and expert adviser. If however the ED is unable to attend meetings of the Governing Council due to other commitments or incapacitation, the COO or Deputy Executive Director should be required to attend on her or his behalf.

Chief Operations Officer

Recommendation 8: the role of Chief Operations Officer

Reporting to the ED, the COO should head the Operations directorate responsible for effective business management of the Fund, and should:

- Provide options for the organizational structure of the Fund for the approval of the ED and the Governing Council;
- Manage the drafting of Fund rules and procedures with the support of the legal department and other Fund staff, for the approval of the ED and the Governing Council; this should include rules and procedures regarding internal administrative and financial management;
- Oversee infrastructure and asset management with the support of the Facilities Management Unit;
- Propose recruitment below senior management level, for the approval of the ED and the Governing Council;
- Liaise with and help coordinate relevant government bodies; and
- Supervise the Claims Management Directorate, Worker Support Services, and the Finance Directorate.

Claims Management Directorate

The Claims Management Directorate should be responsible for awarding humanitarian claims and processing wage payments settlements from the DSC, recovery of claims from employers, maintaining case files, and coordinating with other government departments. Humanitarian support, wage claims, and recovery actions would be managed by separate units (see Annexure 1 for a breakdown of the different units in the Claims Management Directorate).

Recommendation 9: establish a Claims Management Directorate

The Fund should establish a Claims Management Directorate reporting directly to the COO. Its staff should be posted at the Labour Relations Department offices and other locations across Qatar to facilitate workers' access to the Fund. It should comprise the following units:

- Humanitarian Support Unit;
- Wage Claims Unit; and
- Recovery Unit.

Recommendation 10: defining worker entitlements

To avoid any doubt in the assessment and processing of wage claims, the terms “workers’ benefits” and “workers’ entitlements” as mentioned respectively in Articles 5 and 16 of Law No. 17 should have the same meanings as in the Labour Law. The terms should refer to:

- Wages;²⁸
- Overtime payments;²⁹
- Food, accommodation, and any other allowances;³⁰
- End of service gratuity;³¹
- Any other lawful benefits as agreed between the worker and their employer under their contract or as otherwise agreed between the two parties;³² and
- Any other benefits that accrue to the worker from their employer under Qatar law.

The Claims Management Directorate should be the primary contact point between workers, or their representatives (such as lawyers or embassy officials), and the Fund. Workers are highly likely to visit its offices seeking information on how to lodge wage claims. In such cases, the Fund should not accept wage claims directly from workers but instead refer them to the Labour Relations department for settlement before the DSCs. However, workers should be enabled to directly file a humanitarian claim with the Fund. The Claims Management Directorate should therefore consider playing a role in explaining the types of claims that can be made, the claim processes available, and how claims are assessed. The Unit’s staff should also hold open days at major worker accommodation sites, public gatherings and social events explaining the role of the Fund and how it works.

Finance Directorate

The Finance Directorate’s primary function should be to design and implement the Fund’s investment system. The Finance Directorate should also ensure the efficient, sustainable and transparent functioning of the Fund’s finances, and be responsible for accounting and budgetary responsibilities.

Recommendation 11: establish a Finance Directorate

The Finance Directorate should be responsible for:

- Preparing a financial sustainability plan for the Fund in consultation with other directorates and under the supervision of the COO and ED; and
- Budget and financial planning.

28 ‘Wages’, Art 65 of Law. No.3 of 2014, Qatar Labour Law.

29 ‘Overtime payments’, Art. 74 and Art. 75 of Law No.3 of 2014, Qatar Labour Law.

30 ‘Transportation, Water and Foodstuffs’, Art. 106, of Law. No.3 of 2014, Qatar Labour Law.

31 ‘End of service gratuity’, Art. 72, Law No. 3 of 2014, Qatar Labour Law.

32 ‘Annual leave’, Art.79 and Art.81, ‘Religious and national holidays’, Art.78, ‘Sick leave’, Art. 82, of Law. No.3 of 2014, Qatar Labour Law.

4.3. Activation of a claim

The Claims Management Directorate should develop guidelines for the identification of potential humanitarian and wage claims, and rules to ensure effective implementation of awards. The Humanitarian Support and Wage Claim Units should lead in the process of developing guidelines in their respective areas. These should be accompanied by detailed rules on the activation criteria for wage claims and humanitarian support, and the referral and settlement mechanism, to ensure timely processing of claims.

4.3.1. Activation criteria for humanitarian claims

Workers may face urgent or even life-threatening situations that require humanitarian relief. Ensuring that the Fund is able to quickly and effectively identify and respond to such situations will be one of the most frequent and important tests of its effectiveness. The Fund would therefore need to develop clear and practical criteria for the activation of its humanitarian claims process.

Recommendation 12: Activation criteria for humanitarian claims

- Humanitarian support should be timely and assessed directly by the Fund immediately upon receipt of a claim for assistance.
- Humanitarian claims should be assessed by the Humanitarian Support Unit following a detailed interview with the claimant and further investigation conducted according to clear Standard Operating Procedures (SOPs). The Fund should accept group claims in situations where more than one individual is affected by the same humanitarian situation.
- The SOPs should cover key criteria to determine the nature and extent of support, including answers to the following questions:
 - ▶ Has the worker filed a complaint for mediation with the labour relations department?
 - ▶ Does the worker have another source of support (such as an embassy or charity)?
 - ▶ Does the worker wish to return home or to find alternative employment?
 - ▶ Does the worker require accommodation in addition to food, water, travel and communication expenses?
 - ▶ Does the worker need to have their residence permit extended?
 - ▶ Has the worker received any previous financial grant from the Fund?
- Where relevant, officers of the Fund should also seek guidance from other state authorities familiar with the humanitarian case, such as the police, Labour Inspectorate, Labour Relations department, DSCs, humanitarian agencies and charities.
- Further research should be conducted to identify good practices among humanitarian agencies and charities operating in Qatar and other countries.

Recommendation 13: Humanitarian support under the Fund³³

The Fund should provide a range of assistance, including:

- Food and drinking water;
- Accommodation;
- A stipend or credit to meet mobile phone and local travel expenses;
- Access to health and social services provided by the public health system and charities;
- Assistance to renew residence documents, driver's licence, and other documents;
- Other support services as required on a case by case basis in accordance with guidelines developed in partnership with charities in Qatar and international humanitarian agencies;
- Applications for assistance from state institutions and charities (such as migrant welfare funds) in workers' countries of origin to provide support to workers' dependants affected by wage disputes; but
- Humanitarian support from the Fund should be considered separately to any wage claim made by a worker. If workers are awarded a wage claim, there should not be any deductions made for any humanitarian support given to the worker.

4.3.2. Processing wage claims

The Fund's Wage Claim Unit should be responsible for processing the payment of a worker's wages after a settlement by the DSC. The Fund should not actively interact with workers seeking to claim wages, but there may be instances where workers contact the Fund with wage claims. In such situations, Wage Claim Unit staff should be provided with information and materials to guide workers through the process for making a wage claim. Unit staff should also be allowed at their discretion to assist workers by contacting the Labour Relations department for the purposes of lodging wage claims. However, they should not be allowed to lodge claims on behalf of workers.

Workers with wage claims are also known to contact the police, Labour Relations Department, the National Human Rights Committee, the ILO, humanitarian agencies, their own embassies, and other bodies. Without active coordination, this could result in the elapse of several days, or even months, before a claim is even brought before the DSC (with payment processed by the Fund only after the settlement is determined). A mechanism should therefore be established to enable timely referral of claims to the DSC by the Unit and other stakeholders.

Recommendation 14: processing wage claims

There should be no restrictions on the processing of a wage settlement by the Fund if workers are the subject of other legal proceedings unrelated to the wage claim. Furthermore, if a DSC wage settlement is appealed by either party, the worker should remain eligible for humanitarian support from the Fund while the appeal process is ongoing.

³³ The Migrant Workers' Assistance Fund in Singapore provides humanitarian support including accommodation, food, legal advice and support, a stipend for transportation and other basic needs and help to find new jobs for aggrieved workers.

As soon as the DSC has determined a settlement in favour of a worker's wage claim:

- It should immediately and clearly explain the award to the worker, and promptly convey a detailed settlement order file to the Fund's Wage Claim Unit;
- The worker should be provided with a settlement order and clear guidance on the process for obtaining wage support from the Fund. The settlement order should carry an itemised list of the total settlement including basic salary, overtime, end-of-service benefits, food and accommodation allowances, any interest owing for the delay, and any other payments and calculations made in the settlement;
- The DSC should provide the employer with a copy of the settlement receipt with a reference number noting the amount of unpaid dues and the process by which the employer must pay the Fund;
- Wage Claim Unit staff should clearly explain the process for receiving a settlement award to workers;
- Wage Claim Unit staff should be located at the DSCs to make it convenient for workers and employers to obtain information and guidance on the procedure following a settlement. The information provided should include the total amount to be paid, the time period for repayment, and the penalties to be imposed if the employer defaults on the refund. Workers who have been awarded a wage settlement by the DSC should be provided with a mandatory No Objection Certificate and access to public employment services to find alternate employment.

Additional regulations would be required for the following specific situations:

Recommendation 15: Regulations and rules relevant to the wage claims process

The following regulations and rules should be adopted for the purpose of processing wage claims:

- Rules to help case officers at the Wage Claim Unit to process settlements to workers without adequate documentation. The rules should provide guidance on coordination with the Labour Relations Department, DSCs, and other units of ADLSA, and the Ministries of Interior and, where appropriate, embassies to confirm the identity of workers lacking documentation. This process should only follow a wage settlement by the DSC against an identified employer or enterprise (also see Recommendation 28 below).
- If ADLSA mandates the Fund to intervene following employer insolvency, amendments would be required to Law No. 17 of 2018. These would guide the design, activation criteria and management of the Fund in such situations.

Recovery Unit

A specialised team responsible for the recovery of wage claims from employers and business owners would play a key role in ensuring that the Fund has an effective enforcement function and is able to replenish its resources from the responsible parties.

Recommendation 16: establish a Recovery Unit³⁴

The Fund should establish a Recovery Unit under the Claims Management Directorate. The Unit would be responsible for the recovery of wages from employers, contractors, agents, clients and others with responsibilities for the payment of wages. As its core function would be the enforcement of wage settlements, it should be staffed with legal experts with backgrounds in administrative law, labour law and commercial law (including with respect to restructuring and insolvency as well as international private law). It should also be staffed with recovery specialists. The Recovery Unit should coordinate its activities with the Labour Inspectorate and the Ministry of Justice, and personnel from those agencies including the Ministries of Interior, Commerce and Economy, and Finance to assist with the quick recovery of payments from employers, to work together on priority claims that exceed recovery timelines designated by the Fund, and to ensure the coherent application of other commercial and labour regulations.

Case Management System

The Fund should have a robust and professional case management system to ensure effective processing of claims, provision of funding and other support, and effective enforcement of recovery actions against employers. Further research should also be carried out into state case management systems in other countries. Two particular examples that may be of particular interest are the Money Claim Online system (MCOL) in the United Kingdom, and the RedCrest Electronic Filing system used for case management in the Supreme Court of Victoria, Australia.

Recommendation 17: create a Fund case management system

A Fund case management system should be created with the following features:

- It should enable Fund authorities to access case information, look up the status of each case, review awards and other records, and edit relevant sections pertaining to the Fund;
- It should be governed by rules for the collection and analysis of data, and for data privacy and protection;
- It should be supported by channels allowing access to the databases of the WPS, Labour Relations, Labour Inspectorate, DSC and other government departments; and
- Workers who have been awarded humanitarian or wage support should be able to track the progress of their award online.

³⁴ The Protection of Wages on Insolvency Fund in Hong Kong has established an inter-departmental task force to play an active role in guarding against abuse of the Fund. The task force comprised of the Labour Department, the Commercial Crime Bureau of the Hong Kong Police Force, the Official Receiver's Office and the Legal Aid Department have been successful in proactively identifying, pursuing and investigating cases involving possible abuse of the Fund by directors, employers and employees. The collaborative nature of the task force has led to a more effective recovery of claims.

Money Claim Online system (MCOL) in England and Wales

MCOL is an online service for the e-filing of money claims in England and Wales by claimants and their lawyers. The website allows for e-filing documents, checking claim status, and requesting both judgment entry and enforcement – by way of an online warrant of execution.³⁵ To issue a claim via MCOL, an individual must register to use the government gateway with their name, email address and password. Once logged in, individuals must then complete an eight-step process before submitting the claim to court. This includes basic identification data on the claimant and the defendant, a brief description of the claim, and calculation of interest, if applicable, according to a simple formula. Defendants must respond between fourteen and 28 days from the submission of the claim. Based on the type of response and admission from the defendant, the claimant may decide to close the claim process. If the matter is not resolved, the claimant can apply to bring proceedings at the district court.³⁶

RedCrest Electronic Filing system in the Supreme Court of Victoria in Australia

The Supreme Court of Victoria (Australia) operates a case management system named RedCrest for commercial, civil, criminal and costs proceedings.³⁷ The system allows judges and parties to cases to access the electronic court file. Once a case is submitted to the court the system creates a case page and electronic court file and provides the filing party with a copy of their document including case number, filing date, return date and a court seal, ensuring the document is immediately ready for service.³⁸ The system has given the Court a central, secure and verifiable repository of all documents filed and permits case officers and judges to review documents online without having to move paper files.³⁹ RedCrest's functions ensure:

- Judges, litigants and lawyers can register an account and access information on proceedings;
- Parties to a dispute can initiate the case and pay fees online;
- Parties to a case are notified of every filing and can respond by email; and
- A helpdesk facility for both external users of RedCrest (including counsel, legal practitioners and law firm support staff), and internal users (including judges, associates and staff in the Principal Registry of the Supreme Court).⁴⁰

35 Designing and Implementing e-Justice Systems: Some Lessons Learned from EU and Canadian Examples, Giampiero Lupo and Jane Bailey, MDPI, 24 June 2014 available online at: <https://www.mdpi.com/2075-471X/3/2/353/pdf>.

36 Money Claim Online (MCOL) – User Guide for Claimants (12.18) December 2018, HM Courts and Tribunals Service, available online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762843/mcol-userguide-eng.pdf.

37 RedCrest Electronic Filing website, Supreme Court of Victoria, available online at: <https://www.redcrest.com.au/eservices/home.page.3>.

38 Annual Report 2013-2014, Supreme Court of Victoria, February 2015, available online at: https://www.supremecourt.vic.gov.au/sites/default/files/assets/2017/09/69/b4571fcd7/9776_scv_2013-14annualreport.pdf.

39 RedCrest e-Filing User Guide, Supreme Court of Victoria, January 2019, available online at: https://www.redcrest.com.au/redcrestdocs/docs/Red-Crest_e-Filing_User_Guide_January_2019.pdf.

40 Annual Report 2014-2015, Supreme Court of Victoria, July 2016, available online at: https://www.supremecourt.vic.gov.au/sites/default/files/assets/2017/09/69/b4571fcd7/9776_scv_2014-15%2Bannualreport%2Baf.pdf.

Worker Support Services

The third function of the Fund is the provision and establishment of recreation areas, entertainment venues, or workers' accommodation.

Recommendation 18: establish a Workers' Support Services directorate

A separate directorate called Workers' Support Services should be established to help the Fund to meet its responsibilities for the provision and establishment of recreation sites, entertainment venues, and workers' accommodation. Workers' Support Services should:

- Start with a needs assessment on social and welfare requirements;
- Give priority to workers who require humanitarian or wage support from the Fund, including those who have faced significant distress due to their circumstances, do not have access to housing and basic services, or are in the process of taking up new employment or leaving the country;
- Coordinate its activities closely with the Humanitarian Support Unit, charities and community organizations; and
- Adapt appropriately to recommendations arising from further research (still needed) into its role.

4.4. Creating a transparent, accountable and professional institution

Any institution that administers public funds and provides humanitarian and social support must conduct its business in a transparent, accountable and professional way. Law No. 17 of 2018 sets out a range of powers and requirements that will facilitate this, if properly enforced and implemented:

- Article 21 empowers the Council of Ministers to request the Governing Council to submit reports on the administrative, financial and technical circumstances of the Fund, or any aspect of its activity, or any information relating to it. The Council of Ministers may issue general directives on how the Council should proceed in matters relating to public policy. This mechanism allows considerable latitude in the development of public accountability mechanisms.
- Articles 19 and 20 set out provisions for regular auditing of the Fund's activities.
- Articles 9, 10 and 20 also require the Fund to have a range of monitoring procedures. This should include not only intra-governmental reporting, but also a process of monitoring and evaluation culminating in a publicly available annual report.

Recommendation 19: Establish regulations on organizational structure and accountability

The Governing Council of the Fund should:

- Develop rules outlining the monitoring procedures of the Fund including a process of monitoring and evaluation leading to an annual report, and internal reporting; and
- Make public the mandate, responsibilities, mission and strategy of the Fund as soon as practicable.

4.4.1. Auditing

Recommendation 20: arrange independent audits by external agents

Independent audits on Fund operations should be conducted by external agents procured and instructed in a manner that is transparent and publicly notified.

4.4.2. Accountability

Recommendation 21: publish an Annual Report

The Annual Report should:

- Outline the Fund's mission, programmes and activities over the previous year;
- Offer a clear and detailed statement of performance objectives and targets, and describe how these were linked to the mission and objectives of the Fund;
- Describe risks and challenges faced in the previous reporting period, and the Fund's response;
- Provide information about Governing Council decisions and its wider strategic vision for the Fund;
- Include information on audited financial statements from the previous reporting period;
- Provide disaggregated data and analysis on how the Fund is working to achieve its stated goals. This will include, among other issues: how much the Fund paid out to workers; how many employers were sanctioned; the average financial penalty imposed on employers; the average amount paid out to workers; the average number of days during which workers received support; workers in which industries needed most assistance; workers from which countries needed most assistance; and
- Initial reports should indicate how the Fund has adapted and will adapt to changing circumstances in Qatar and in response to any changes that take place elsewhere yet affect the national context.

The Hong Kong Protection of Wages on Insolvency Fund Board publishes an annual report⁴¹

A mechanism for addressing wage arrears across the supply chain

- a detailed annual review of applications received and processed;
- information on meetings of the Insolvency Fund Board;
- data on the financial position of the Fund;
- key activities and achievements conducted in the preceding year;
- audited financial statements; and
- the independent auditor's report on the functioning of the Fund.

⁴¹ Protection of Wages on Insolvency Fund Board, 2017-2018 Annual Report, available online at: https://www.labour.gov.hk/eng/public/wsd/Annual-Report2017_18_eng.pdf

Recommendation 22: Public Accountability Mechanisms⁴²

Public accountability will be an integral component of continued community support for the Fund and its long-term sustainability. The Fund should include the following public accountability mechanisms:

- Publish the Fund's Code of Conduct online (see Recommendation 24 below);
- Publicly release the Annual Report, including details of each meeting of the Governing Council and every decision passed by it, at a designated time each year; and
- Hold public consultations with the Qatar community in a variety of locations across the country (as advertised through local and other media well in advance of each event).

Recommendation 23: conduct research to improve effectiveness of the Fund⁴³

Conduct research into the financial, social and health impacts of wage disputes on workers with a view to assessing the effectiveness of the Fund at responding to humanitarian and wage claims.

4.5. Code of conduct

The ED, with the assistance of the senior management, should develop a Code of Conduct to be approved by the Governing Council and to be enforced across the Fund. A Code of Conduct would play an important role in ensuring that this public funding body is – and is perceived to be – transparent and accountable, and is consistent and fair in the distribution and recovery of funds.

Recommendation 24: Code of Conduct⁴⁴

The COO and the ED, in coordination with internal professional support services provided by the ADLSA (e.g. human resources and Legal services) should lead in the development of the Code of Conduct. It should apply to all Fund staff and representatives, including the Governing Council, officials of other Ministries seconded to the Fund, contractors and sub-contractors engaged by the Fund, and any other agents or representatives of the Fund. The Code of Conduct should cover:

- General conduct of public employees;
- Confidentiality requirements;
- Use of public body facilities;
- Appointment and secondment to partner organizations;
- Declaration of interests, to include a list of types of interests that must be declared, including non-financial interests, allowances, gifts, and hospitality; and
- Rules and guidelines on lobbying and access to members of public bodies.

⁴² Ibid.

⁴³ The Foreign Manpower Management Division under the Ministry of Manpower in Singapore has set up a Planning and Organization Development Department that provides enforcement data analysis and develops foreign manpower operational policies and frameworks, for effective implementation of their policies including the Short-Term Relief Fund and the Migrant Workers' Assistance Fund. Foreign Manpower Management Division, Ministry of Manpower, available online at: <https://www.mom.gov.sg/about-us/divisions-and-statutory-boards/foreign-manpower-management-division>

⁴⁴ A good example of a model Code of Conduct that may be relevant for the Fund was developed by the Scottish Government in 2014: "Model Code of Conduct for Members of Devolved Public Bodies", Scottish Government, February 2014, available online: https://www.nhstaysidecdn.scot.nhs.uk/NHSTayside-Web/idcplg?IdcService=GET_SECURE_FILE&dDocName=PROD_202881&Rendition=web&RevisionSelectionMethod=LatestReleased&noSaveAs=1.

4.6. Other organizational functions

Like any public institution, the Fund would also require a range of internal professional support services. As the Fund is to be established under the auspices of the ADLSA, the Ministry should be responsible for providing the following services:

- Legal services;
- Human resources;
- Information technology;
- Facilities management;
- Communications; and
- Payroll and accounts.

Recommendation 25: Provide interpretation and translation services to workers

The Ministry should ensure that adequate interpretation and translation services are available for workers at the Labour Relations department, DSCs, and at the Fund.

4.7. Legislative amendments

The following proposals fall slightly outside the direct scope of the Fund, but are relevant to its effective functioning.

Recommendation 26: Amend the law to enable group claims

Law No. 13 of 2017 pertaining to the DSCs should be amended to allow a group of workers, in a similar wage-related situation, to bring a collective claim against their employer to increase efficiency, lower costs, and protect against inconsistencies in awards. This would include allowing workers to file a group humanitarian claim directly with the Fund. Collective claims help lower administrative costs, allowing claimants in similar plights to win claims with a greater degree of uniformity and within a legal process that functions more effectively in the interests of all parties.

Recommendation 27: Introduce special measures to protect domestic workers

By dint either of law or internal rules and procedures, the Fund should introduce special measures to take into account the specific circumstances of domestic workers and other categories of workers not covered under the Labour Law or the WPS. These special measures would acknowledge that:

- Domestic workers may face particular challenges in lodging a complaint due to their dependency on their employer for lodging and access to services. Domestic workers and other identified vulnerable categories of workers should therefore be afforded privileged and specialized access to humanitarian support from the Fund; and
- Where the domestic worker has been paid in cash and there is no documentary evidence of their wage and benefit entitlements, the burden of proof should shift to the employer whenever the wage claim amount is in dispute.

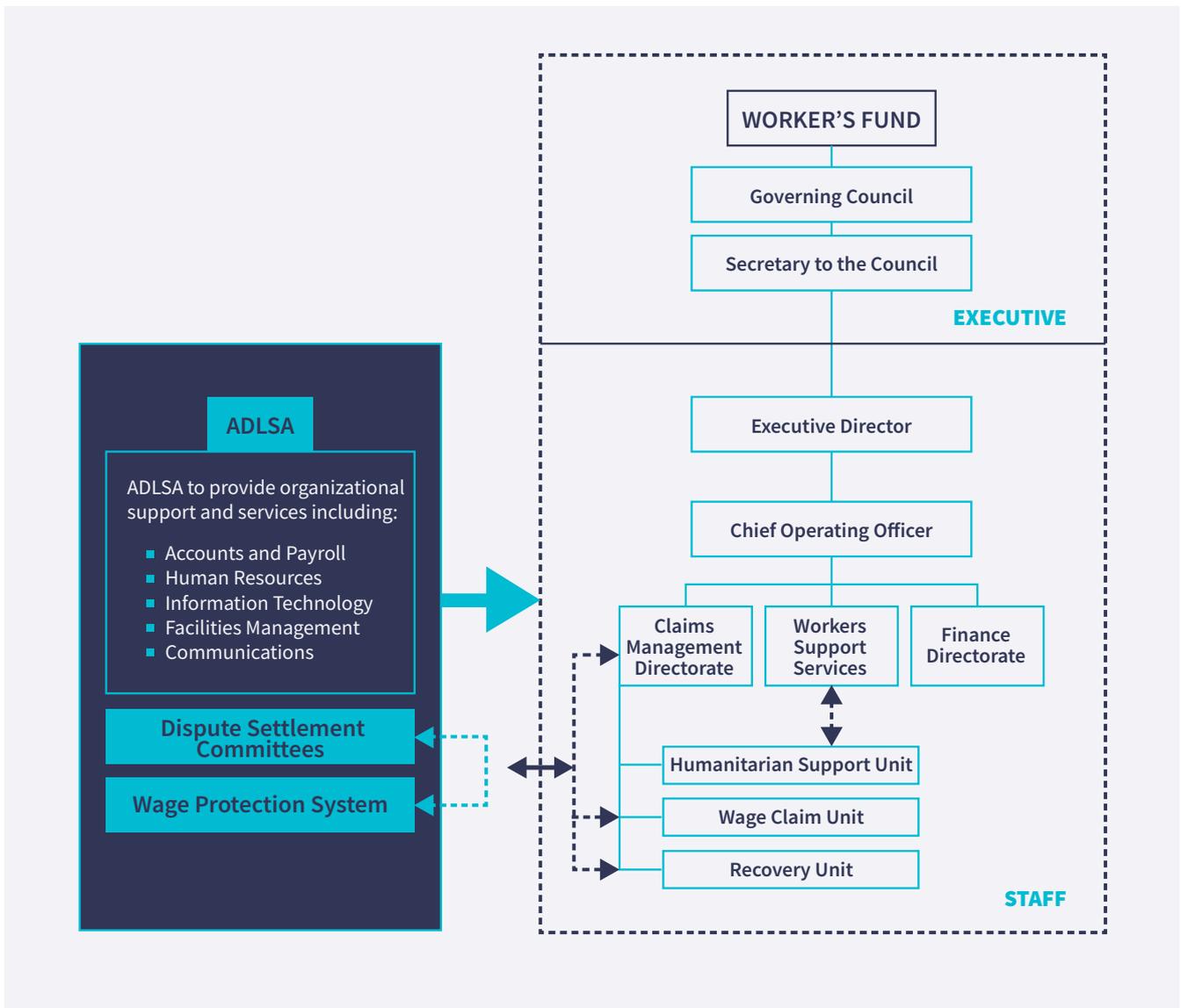
Recommendation 28: Allow workers without documentation to claim

Workers without adequate documentation should be allowed to lodge a claim because employers may have confiscated their documents, or workers may not know what must be provided. Fund case officers should work with ADLSA, Ministry of Interior officials and, if appropriate, embassies to confirm the identity of workers without such documentation.

Recommendation 29: Prevent absconding charges in retaliation for worker wage claims

Employers should be prevented from bringing an 'absconding' charge against workers in retaliation for claims for unpaid or inadequately paid wages, or for a complaint filed at the labour relations department or at their respective embassies.

Annexure 1: Organizational Structure of the Workers' Support and Insurance Fund



Annexure 2: Enforcement of wage recovery in existing wage support models

Model	Enforcement legislation and related mechanisms	Enforcement procedure	Recovery of claims
Singapore	<p>The Employment Claims Act 2016 (Act 21 of 2016) establishes the Employment Claims Tribunal (ECT) which hears statutory and contractual wage claims except from domestic workers, public servants and seafarers.⁴⁵</p> <p>Claims cover non-payment or underpayment of wages, overtime, and work on rest days; public holiday pay; annual leave salary; sick leave pay; maternity leave pay; and other provisions in contracts including bonus, commissions, and expense reimbursements.</p>	<p>- Wage claims below S\$ 20,000 (QR 53,803) are registered with the Tripartite Alliance for Dispute Management and sent to mandatory mediation. Claims are brought to the ECT if the mediation process is unsuccessful. The ECT can order the employer to pay wages, other damages and costs, or dismiss the claim in whole or part.⁴⁶</p> <p>- The ECT can order parties to return to mediation at any stage. Employers who do not submit to further mediation may be held in contempt of court and fined up to S\$ 20,000 or imprisoned for up to 12 months, or both. The ECT may also refer a party to the Public Prosecutor to consider criminal proceedings.⁴⁷</p>	<p>- If the employer refuses to comply with an ECT order, the claimant can seek enforcement by orders of writ of seizure and sale (WSS).⁴⁸ Under the WSS, an employee may seek the appointment of a court bailiff to seize and sell the employer's movable property within seven days to pay the judgment debt, court fees and any other associated expenses.</p> <p>- If a WSS process fails to recover dues, the employee can seek an auction sale of employer assets.⁴⁹ The claimant can also apply for a garnishee application. If successful, the ECT orders the debtor's bank to pay the creditor any dues owed but this can only be properly enforced if the debtor has sufficient bank deposits.</p>
Germany	<p>Statutory and contractual wage claims are brought at the Local Labour Court and may be appealed to regional and federal labour courts.</p>	<p>- The labour court must hold a conciliatory hearing before the presiding judge within two to four weeks of a claim being lodged. If unsuccessful, the court holds a full panel hearing within two to six months of the conciliatory hearing and must make an order for payment of dues or a settlement.⁵⁰</p>	<p>- There are three avenues for recovery: seizure of assets by the court; recovery by bailiffs; mortgage and sale of property. Recovery may be made against a range of assets including bank accounts, real estate property (land or buildings) and other tangible personal property.⁵¹</p>

45 Faster resolution of salary-related claims with new State Courts tribunal, Channel News Asia, 1 April 2017, available online at: <https://www.gov.sg/news/content/channel-newsasia---faster-resolution-of-salary-related-claims-with-new-state-courts-tribunal>

46 File a claim for mediation, Tripartite Alliance for Dispute Management, available online at: <http://www.tadm.sg/eservices/employees-file-salary-claim/>

47 An Overview of the Employment Claims Tribunals (ECT), State Courts Singapore, available online at: [https://www.statecourts.gov.sg/cws/ECT/Pages/An-Overview-of-the-Employment-Claims-Tribunals-\(ECT\).aspx](https://www.statecourts.gov.sg/cws/ECT/Pages/An-Overview-of-the-Employment-Claims-Tribunals-(ECT).aspx)

48 Enforcing a Tribunal order, State Courts Singapore, available online at: <https://www.statecourts.gov.sg/cws/ECT/Pages/Enforcing-a-Tribunal-Order.aspx>

49 Enforce Judgments or Orders by Writ of Seizure and Sale, State Courts Singapore, available online at: <https://www.statecourts.gov.sg/cws/Civil-Case/Pages/EnforcementofJudgmentsorOrdersbyWritofSeizureandSale.aspx>

50 Labour Courts in Germany and their influence on the settlement of labour disputes, Dr. H.C.Reinhard Schinz Chief Justice at the Higher Labour Court, Berlin, available online at: http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/documents/meetingdocument/wcms_366951.pdf

51 Enforcement of a local judgement, Thomsons Reuters Practical Law, 1 February 2017, available online at: [https://content.next.westlaw.com/Document/I2ef128401ed511e38578f7ccc38dcbee/View/FullText.html?contextData=\(sc.Default\)&transitionType=Default&firstPage=true&bhcp=1](https://content.next.westlaw.com/Document/I2ef128401ed511e38578f7ccc38dcbee/View/FullText.html?contextData=(sc.Default)&transitionType=Default&firstPage=true&bhcp=1)

Model	Enforcement legislation and related mechanisms	Enforcement procedure	Recovery of claims
Hong Kong, S.A.R. China	<p>Wage claims are heard by the Minor Employment Claims Adjudication Board (MECAB) and the Labour Tribunal of Hong Kong (LTHK). The MECAB adjudicates claims related to statutory or contractual rights of employment up to HK\$ 8,000 (QR 3,710) per claimant in cases of not more than 10 individual claimants.⁵² The LTHK hears claims from breaches of statutory or contractual claims over HK\$ 8,000 including: non-payment; wages in lieu of notice or termination of contract without notice; pay for statutory holidays; annual leave and rest days; severance pay and end of service benefits; any bonus receivable; any commission receivable.⁵³</p>	<p>-An award or order of the MECAB may be registered in the District Court and, as a result, becomes a judgment of the District Court and can be enforced accordingly.⁵⁴</p> <p>-Decisions by the LTHK have the power of a court judgement and are binding on both parties. The order can only be appealed on a point of law.</p>	<p>- Under the Employment Ordinance, an employer who wilfully and without reasonable excuse fails to pay the award granted by the Board within 14 days is liable to prosecution and, upon conviction, to a fine of HK\$ 350,000 (QR 162,450) and imprisonment for three years.</p> <p>- If the debtor (usually the employer) fails to pay, the judgment creditor (usually the employee) may apply to the tribunal for a Certificate of Award. This may be registered in the district court or its service counter at the tribunal. The judgment creditor may then apply to the district court or its service counter at the Tribunal for the court bailiff to enforce the judgment.</p>
Austria	<p>Unlike Hong Kong and Singapore, there are no special tribunals or adjudication boards in Austria to deal with statutory and contractual claims. All wage-related claims are brought before the relevant district court.⁵⁵</p>	<p>The Austrian Enforcement Code determines the enforcement of judgments (as well as arbitral awards and preliminary remedies).⁵⁶</p>	<p>Enforcement follows an application by the employee who selects the means of execution.⁵⁷ If the employer fails to pay the claim a bailiff seizes available assets, and may seek an order from the court demanding that the employer disclose all assets.</p>
South Korea	<p>Workers can lodge wage complaints with the Ministry of Employment and Labour, which investigates the claim and determines the presence and extent of statutory or contractual breaches by the employer.⁵⁸</p>	<p>If the employer is found guilty of violating legal provisions, the Ministry can issue a corrective order. If the employer does not comply, the case is referred to the state prosecutor to decide whether criminal proceedings should be brought.⁵⁹</p>	<p>A claimant can apply to the court to hold a public auction of the employer's property or assets and distribute the proceeds from it.⁶⁰</p>

52 A Simple Guide to the Minor Employment Claims Adjudication Board, Labour Department, the government of Hong Kong special administrative region, December 2016, available online at: <https://www.labour.gov.hk/eng/public/mecab/SGMECAB.pdf>

53 Labour Tribunal, Guide to Court Services, Court Services and Facilities in Hong Kong, available online at: https://www.judiciary.hk/en/court_services_facilities/labour.html#19

54 Minor Employment Claims Adjudication Board, Labour Relations, the government of Hong Kong special administrative region, available online at: <https://www.labour.gov.hk/eng/labour/content4.htm>

55 Existence of a specific small claims procedure, Small claims – Austria, European Judicial Network, available online at: https://e-justice.europa.eu/content_small_claims-42-at-en.do?member=1

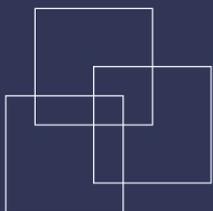
56 Litigation and Dispute Resolution 2019 Austria, International Comparative Legal Guides, available online at: <https://iclg.com/practice-areas/litigation-and-dispute-resolution-laws-and-regulations/austria#chaptercontent10>

57 Procedures for enforcing a judgement – Austria, European Judicial Network, available online at: https://e-justice.europa.eu/content_procedures_for_enforcing_a_judgment-52-at-en.do?member=1

58 Labor Dispute Resolution System of Korea: Status and Areas of Improvement, Sung-Hee Lee, e-labour news no. 133 Issue paper, available online at: <https://www.kdevelopedia.org/mnt/idas/asset/2013/12/24/DOC/PDF/04201312240129743074766.pdf>

59 Ibid

60 Enforcement of a local judgement, Litigation and enforcement in South Korea, 1 June 2018, available online at: [https://uk.practicallaw.thomson-reuters.com/8-381-3681?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&comp=pluk&bhpc=1](https://uk.practicallaw.thomson-reuters.com/8-381-3681?transitionType=Default&contextData=(sc.Default)&firstPage=true&comp=pluk&bhpc=1)



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