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SAUDI ARABIA: INSURANCE SCHEME FOR MIGRANT WORKERS FALLS SHORT OF PROTECTION AGAINST WAGE THEFT

On 7 October, Saudi Arabia announced the launch of an insurance scheme to protect migrant workers' wages in cases of employer default.¹ While the scheme recognizes the clear need to address wage theft and compensate workers when employers fail to meet their contractual obligations, its design and restrictive eligibility criteria mean that it may not provide comprehensive protection for all migrant workers who need it. As a result, it falls considerably short of what is needed to truly safeguard workers' rights, continuing to leave them exposed to abuse and vulnerability.

Over the past years, Saudi Arabian authorities have announced a series of labour rights reforms that fall within a broader context of economic and legislative reforms under the country's Vision 2030, a national plan to diversify the economy. These reforms do not meet international standards and fail to protect migrant workers from serious risks of abuse and exploitation.²

Guidelines published by the Ministry of Human Resources and Social Development (MHRSD) state that the Ministry will cover the costs of the insurance scheme, which will be managed by an insurance company appointed by the government.³ The guidelines also detail conditions and eligibility for the scheme, stating that the scheme will compensate eligible workers up to USD 4,000 for unpaid wages and USD 250 for travel costs to their home countries. Crucially, however, workers are only eligible to submit a claim if wage payments are delayed for 80% or more of their company's workforce for six months or longer. The scheme covers foreign workers "employed by establishments with commercial registrations". However, several categories of worker are excluded from the scheme entirely, leaving them ineligible for any compensation. This, and other shortcomings of the new scheme are addressed below.

EXCLUSION OF MARGINALIZED WORKERS

The insurance does not offer protection to all workers, and specifically excludes some of the most marginalized, including domestic workers, seasonal and temporary workers, and agricultural workers.⁴ These groups, are particularly at risk of wage theft and other labour abuse, not least because they are excluded from protections under the Labour Law. Rather than taking proactive measures to safeguard them against these risks, the scheme further marginalizes these categories of workers by excluding them from essential protections altogether.

While the government previously introduced an insurance service for domestic workers and their employers, it too has serious limitations, and heavily favors employers.⁵ For instance, the scheme will compensate employers for recruitment expenses in case of a domestic worker's "absence, runaway, death", their inability to work or suffering from chronic diseases", and covers the repatriation of a worker's body and belongings in case of death. However, it

¹ Saudi Gazette, *New insurance scheme to protect rights of expatriate workers takes effect on Sunday*, 6 October 2024, <https://www.saudigazette.com.sa/article/646038>

² For more details about Saudi Arabia labour reforms please see, Amnesty International, *"I would fear going to work", Labour exploitation at Carrefour sites in Saudi Arabia*, 21 October 2024, p. 11-14, <https://www.amnesty.org/en/documents/mde23/8586/2024/en/>

³ Ministry of Human Resources and Social Developments, *Guidelines for the Expatriate Worker Wage Insurance Service for Private Sector Defaults*, 6 October 2024, <https://www.hrsd.gov.sa/en/knowledge-centre/decisions-and-regulations/regulation-and-procedures/250920249>

⁴ See Migrant-Rights.org, *In Troubled Waters: The Fishing Sector in the GCC*, 5 January 2020, <https://www.migrant-rights.org/2020/01/in-troubled-waters-the-fishing-sector-in-the-gcc/>; and Migrant-Rights.org, *Death and Desolation: Shepherds and Farmworkers in Saudi Arabia*, 16 May 2016, <https://www.migrant-rights.org/2018/05/death-and-desolation-shepherds-and-farmworkers-in-saudi-arabia/>

⁵ Ministry of Human Resources and Social Development, News, *The Ministry of Human Resources and Social Development launches the "Insurance Service" for domestic labor contracts for the first two years for new domestic workers via the Musaned platform*, 25 December 2023, <https://www.hrsd.gov.sa/media-center/news/251220231>

only guarantees salary payments for domestic workers in the event of the employer's death or permanent disability, and does not cover situations where employers simply fail to pay their salaries for months.

No similar insurance appears to be available for agricultural workers or seasonal or temporary workers, leaving them without any protection against wage theft. The government of Saudi Arabia should ensure that all workers are treated equally and extend the protection of the Labour Laws and related schemes to everyone.

LENGTHY WAITING PERIOD BEFORE COMPENSATION

The scheme states that the insurance service benefits workers in the case of “unpaid wages and entitlements for a maximum of 6 months prior to the default of the establishment.”⁶

For most low-paid migrant workers, going six months without pay before compensation is an unreasonably long period and would, often have devastating consequences. Missing even one month of wages would strain their finances, but missing six months before receiving any compensation could leave them unable to support themselves and send money home to meet their families' daily needs, or repay the loans they took to pay illegal recruitment fees, further deepening their debt.⁷

UNREASONABLE AND UNREALISTIC CONDITIONS FOR ACTIVATION

The scheme states that “an expatriate worker is eligible for compensation if ... the delay affects 80% or more of the workforce”.⁸

Requiring over 80% of a company's workforce to simultaneously go unpaid for six months before the compensation scheme takes effect sets an unreasonably high threshold and will further limit workers' access to the protection they desperately need. The guidelines do not make clear whether the six months of unpaid salaries must be consecutive. However, if this is a condition, it would mean workers who have only been paid sporadically are ineligible for compensation, even if their total outstanding salary amounts to six months' worth.

Such requirements are particularly concerning because wage issues often begin with workers receiving only partial or sporadic monthly payments, long before a company completely stops paying its workers. For example, in cases documented by Amnesty International in neighbouring Qatar, which has a similar regulations governing its migrant labour workforce, companies facing financial difficulties have tended to stop paying salaries gradually: initially, they start paying white-collar workers only intermittently, with gaps of several months between payments, before those salaries cease entirely. The same company's blue-collar workers will then face similar delays soon after, starting with irregular payment first until eventually they stop being paid at all.⁹

Given the lack of social protection services for migrant workers in Saudi Arabia, this effectively leaves them without any immediate support for a minimum of six months, exacerbating their financial hardship and vulnerability to exploitation.¹⁰ The right to social security is recognized in the Universal Declaration of Human Rights and numerous other international human rights instruments.

Worker protection from employer default should not be contingent on such a high threshold or a company-wide crisis. The government of Saudi Arabia must ensure that all individuals living and working within its borders have access to

⁶ Ministry of Human Resources and Social Development, *Guidelines* (previously cited).

⁷ For a detailed analysis of risks to migrant workers of debt bondage and other abusive recruitment practices, see: Amnesty International, “Turning people into profits: abusive recruitment, trafficking and forced labour of Nepali migrant workers”, 2017, <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA3162062017ENGLISH.pdf>; see also the Guardian, “Used, abused and deported: migrant workers land back in Bangladesh after Saudi dreams turn sour”, 21 March 2024, <https://www.theguardian.com/global-development/2024/mar/21/used-abused-and-deported-migrant-workers-land-back-in-bangladesh-after-saudi-dreams-turn-sour>

⁸ Ministry of Human Resources and Social Development, *Guidelines* (previously cited).

⁹ See for example Amnesty International, “*I have worked hard – I deserve to be paid*” *Exploitation on Qatar World Cup stadium*, 10 June 2020, <https://www.amnesty.org/en/latest/research/2020/06/exploitation-on-qatar-world-cup-stadium/>

¹⁰ See ILO, *Social protection for migrant workers in the Gulf Cooperation Council countries: A regional mapping of provisions on paper and in practice*, 28 November 2023, <https://www.ilo.org/publications/social-protection-migrant-workers-gulf-cooperation-council-countries>

meaningful protections, with particular attention to those most vulnerable to exploitation.¹¹ Compensation and timely pay should be guaranteed to every worker in the country without any discrimination and regardless of how many others are affected.¹²

BARRIERS TO ELIGIBILITY

To qualify for the scheme, workers must have verified documentation of their employment status from the MHRSD and be employed by a company registered according to the Ministry's regulations. This requirement creates an additional barrier for workers whose employers have failed to register their contracts or for those employed by unregistered companies. This issue is particularly significant for victims of human trafficking for labour exploitation, which is prohibited under both international¹³ and Saudi Arabia domestic law.¹⁴ These are often the workers most in need of protection against wage theft and exploitation, yet they are likely to be excluded from the scheme.

INADEQUATE COMPENSATION

The scheme imposes limits on the financial compensation provided to workers, which will leave many unable to claim the full contractual earnings they are entitled to. For example, while it covers monthly wages, allowances, and other entitlements, it excludes end-of-service benefits - a critical part of migrant workers' income, and one of their "most important rights" according to the Ministry,¹⁵ especially given their temporary status in the country. This exclusion will be particularly damaging for workers who have served long periods with a company, severely impacting their financial stability.¹⁶

The scheme also caps total compensation at USD 4,000, which may suffice for lower-wage workers but unfairly disadvantages those earning more than USD 666 per month, who will be left without full compensation.

Furthermore, the guidelines specify that if the total claims from all workers exceed a company's insurance coverage limit, the compensation will be distributed proportionally among eligible workers - irrespective of how much the worker is due. It remains unclear how the maximum insurance coverage for companies will be determined. Nevertheless, imposing such a cap could deprive workers of fair compensation, as they may receive even less than the USD 4,000 limit if the company's insurance is insufficient to cover what is owed to all employees.

Instead of capping the financial compensation due to workers who have been cheated of their hard earning salaries and benefits, the government of Saudi Arabia should ensure that workers are compensated in full.

A BURDENSOME PROCESS

To apply for the compensation scheme, the guidelines require employers to submit their claims "personally" or through a legal representative, seemingly excluding the possibility of collective claims.¹⁷ In cases where a large number of workers from the same company are affected, and in a context where the requirement is that 80% of the workforce is affected, this condition is likely to create an overwhelming backlog of individual complaints, causing

¹¹ Article 22 of the Universal Declaration of Human Rights and Article 9 of International Covenant on Economic, Social and Cultural Rights. The right to social security is also enshrined in Article 5(e)(iv), Convention on the Elimination of All Forms of Racial Discrimination; Article 26, Convention on the Rights of the Child; Article 28, Convention on the Rights of Persons with Disabilities; and in several Conventions of the International Labour Organization, in particular Convention 102 on Minimum Standards of Social Security.

¹² See also, CESCR, General Comment 19: The right to social security (Art. 9), 4 February 2008, UN Doc. E/C.12/GC/19.

¹³ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), 15 November 2000, <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

¹⁴ Saudi Arabia's Anti-Trafficking in Persons Law, Royal Decree No. M/40 July 23, 2009, <https://laws.boe.gov.sa/Files/Download/?attId=6b2e41e2-baf7-4274-83da-adbb010e882f>

¹⁵ Ministry of Human Resources and Social Development, *End of service benefits, as per regulations*, https://laboreducation.mlsd.gov.sa/sites/default/files/2020-12/END-OF-SERVICE%20BENEFITS%20_0.pdf

¹⁶ Workers are entitled to half a months' wages for every year of service for the first five years, rising to one month salary per year of service thereafter. Labour Law, article 84.

¹⁷ Ministry of Human Resources and Social Developments, *Guidelines for the Expatriate Worker Wage Insurance Service for Private Sector Defaults*, 6 October 2024, p.5.

significant delays in compensation. Finally, the burden placed on individual workers to navigate the claims process - especially in a foreign country where many do not speak the language - could further delay justice.

The government of Saudi Arabia should accept collective claims involving multiple claimants from the same company sharing the same grievances and seeking the same remedy.

UNREALISTIC REQUIREMENTS

To apply for compensation, claimants are required to provide a list of documents such as "a recognized documented instrument proving non-receipt of wages and entitlements in the defaulting establishment," a copy of their employment contract, along with a copy of their "ID or an equivalent document".¹⁸ Such requirements can be particularly challenging for workers whose employers have either confiscated their passports, withheld their IDs or failed to provide them with their employment contracts, pay slips or any documentation to verify non-payment. This issue is especially common among victims of human trafficking for the purpose of labour exploitation, who often lack the necessary records to support their claims.

The lack of valid ID documents is widespread, particularly in cases where companies go bankrupt. Under the kafala system in Saudi Arabia, employers are responsible for providing their workers with a valid ID or residence permit to legally reside in the country. However, research by Amnesty International in similar contexts has shown that struggling companies often neglect to renew their workers' IDs or residence permits in the months leading up to insolvency.¹⁹

Instead of imposing unreasonable requirements on migrant workers to become eligible for the insurance scheme, the government of Saudi Arabia should ease the burden of proof to make the process more accessible, fair and efficient for workers without facing additional bureaucratic obstacles.

LACK OF RETROACTIVE COVERAGE

The guidelines state that the insurance scheme does not apply retroactively to "establishments that defaulted before this wage insurance service came into effect", leaving as such thousands of workers who have already lost months of wages without compensation.²⁰

For instance, a case highlighted by global trade union Building and Wood Workers' International in its ILO complaint regarding forced labour in Saudi Arabia reveals that hundreds of thousands of workers from two major construction companies endured months without pay and were left stranded in the country.²¹ Despite their ongoing wait for compensation since 2016, these workers will not be eligible for reimbursement under the new insurance scheme. At least 21,000 workers are still owed an estimated SAR 2.6 billion (around USD 693 million) in unpaid wages and benefits after their companies faced financial difficulties. Despite announcements earlier this year promising repayment of these overdue wages, the workers have yet to receive any compensation.²²

OPERATIONAL CONCERNS AND LACK OF CLARITY

The guidelines lack specific details on how the scheme will be implemented, only stating that the process will be managed by an insurance company selected by the Ministry. However, no information has been provided regarding the identity of the company or how accessible the system will be for workers. To be fit for purpose, such a scheme

¹⁸ Ministry of Human Resources and Social Developments, *Guidelines for the Expatriate Worker Wage Insurance Service for Private Sector Defaults*, 6 October 2024, p.5.

¹⁹ Amnesty International, *Unpaid and abandoned: the abuse of Mercury MENA workers*, 26 September 2018, <https://www.amnesty.org/en/latest/research/2018/09/mercury-mena-abuses-qatar/>; see also Amnesty International, *Qatar: All work, no pay: The struggle of Qatar's migrant workers for justice*, 19 September 2019, <https://www.amnesty.org/en/documents/mde22/0793/2019/en/>

²⁰ Ministry of Human Resources and Social Developments, *Guidelines for the Expatriate Worker Wage Insurance Service for Private Sector Defaults*, 6 October 2024, p.3.

²¹ BWI. *BWI lodged a complaint against Saudi Arabia over forced Bastos and wage theft*, 5 June 2024, <https://www.bwint.org/cms/2034-fifa-world-cup-bid-bwi-lodges-complaint-against-saudi-arabia-over-forced-labour-and-wage-theft-3141>

²² Human Rights Watch, *Saudi Arabia: Migrant Workers' Long Overdue Wages at Risk*, 29 February 2024, <https://www.hrw.org/news/2024/02/29/saudi-arabia-migrant-workers-long-overdue-wages-risk>

should be transparent, user-friendly and designed with consideration for the limited resources many workers have, particularly after enduring six months without pay. Making the process accessible, quick and straightforward is crucial for the workers who will depend on it the most.

CONCLUSION

While the introduction of this insurance scheme reflects an acknowledgment by Saudi Arabia that wage theft is a serious issue requiring remediation, it does not protect the rights of migrant workers in Saudi Arabia. The six-month waiting period, unrealistic conditions for activation, exclusion of vulnerable groups of workers, insufficient financial support, and operational opacity, all need to be addressed urgently.

Comprehensive reforms and initiatives are crucial to protect foreign workers from exploitation, and Saudi Arabia must move beyond half-measures to fully commit to safeguarding the rights of all its workers. Implementing robust protections will prevent exploitation and uphold the dignity of every worker in the country.