Faculty Advisory Committee on the GNU

Nardello Report on Construction Labor on Saadiyat Island

May 14, 2015
Structure

1) The Nardello Report
   a) What are the key findings of the report?
   b) What are the report's recommendations?
2) What is the institutional response?
3) Where do we stand with regard to our compliance / monitoring system now?
4) How can people get engaged in labor issues on campus?
1a. What are the key findings of the report?

1. The *de facto* Exemption Policy
2. Mott MacDonald Was Ineffective
3. Mistreatment of Striking Workers
4. Reimbursement Policies for Recruitment Fees
5. Passport Retention Policies
6. Pay-Related Issues
7. Involuntary Overtime
8. Substandard Housing
1a. What are the key findings of the report?

1. The *de facto* Exemption Policy
- “while the goals of the Labor Guidelines were admirable, there was insufficient understanding by all Key Parties of the challenges in implementation and enforcing the standards for workers” (12)
- pool of exempt workers between 30-35% of the total 30,000 workers
- contracts smaller than 1 mio. USD or shorter than 31 days
- much smaller percentage than the total man-hours worked on project
- 65-70% employed by non-exempt contractors benefited from guidelines
1a. What are the key findings of the report?

2. Effectiveness of Mott MacDonald’s Compliance Monitoring
   - Media / NGO reports based on limited (public) information
   - Mott MacDonald ILS Team, EC Harris, AF Carillion, and AF Carillion’s non-exempt subcontractors all had monitoring responsibilities
   - The de facto exemption policy removed numerous workers from monitoring
   - Monitoring identified and addressed numerous violations, thus made an effort to enforce compliance and rectify violations
1a. What are the key findings of the report?

2. Effectiveness of Mott MacDonald’s Compliance Monitoring (cont’)
   - several violations not identified by the monitors (involuntary overtime, pay-related issues)
   - impossible to determine whether they were “an aberration or indicative of more serious failures in the monitoring process”
   - “Mott MacDonald, which was responsible for the independent verification of the compliance program, should have clarified the terms of the Labor Guidelines, but failed to do so.” (16)
1a. What are the key findings of the report?

2. Effectiveness of Mott MacDonald’s Compliance Monitoring (cont’)
1a. What are the key findings of the report?

3. Mistreatment of Striking Workers
- causes of the strike / dismissal of 200-250 workers more complex
- worker dissatisfaction with wages at NYUAD project does not appear to be one of the causes of the strike
- more than 75% of dismissed/deported had been working at NYUAD project
- BK Gulf claims and workers’ reports contradictory (reasons for dismissal)
- Mott MacDonald did not notice absence of workers due to the large and complex nature of the NYUAD project (explanation “plausible”)
1a. What are the key findings of the report?

4. Reimbursement Policies for Recruitment Fees
   - 85% workers interviewed by Nardello paid fees (only few to work specifically for NYUAD project), i.e. more than 25,000 potentially qualified for reimbursement
   - Monitors interpreted 14 Points and Supplementary Specifications as applying to only to reimbursement fees that were paid specifically to work on the project / when workers could provide proof of payment
1a. What are the key findings of the report?

4. Reimbursement Policies for Recruitment Fees (cont’)
   - “Interpreting a policy in a way that effectively disqualified all workers from being reimbursed supports the conclusion that addressing an issue as complex as recruitment fees on a per-project basis, although admirable, requires far greater consideration than was given here.” (19)
1a. What are the key findings of the report?

5. Passport Retention Policies

- Most workers did not hold their passports (= breach of compliance per 14 points, “Employees will retain all of their own personal documents”)
- Actions of the monitors guided not by the 14 points, but contradictory rule in the nonpublic Supplementary Specifications, “The Employer shall not confiscate or restrict access to Employees’ passports or any other personal documents”
- Claims of monitors and workers at odds re relinquishing control of passports
1a. What are the key findings of the report?

5. Passport Retention Policies

- “Allegations that employers held workers’ passports were corroborated, but also showed in many cases, this was done with the apparent consent of the workers” (20)

- “Approximately 30% of workers [interviewed by Nardello] said that they had to provide their employer with their passport as a condition to work on the Main Campus Project, in violation of the Labor Guidelines” (20)
1a. What are the key findings of the report?

6. Pay-Related Issues

- Allegations of late payment of wages / non-payment of back pay
- Salah Interiors exempt from complying with Labor Guidelines
- Al Reyami / Robodh’s violations identified, addressed, and corrected by the monitors in 2011/2012
1a. What are the key findings of the report?

7. Involuntary Overtime
- “Instances of involuntary overtimes, it was not a widespread problem, particularly given that workers were eager to earn additional money” (21)
- Monitors did not find any instances of involuntary overtime
- Nardello interviews showed 30 cases, 18 for Robodh (which was closely monitored)
- Small sample suggests that forced overtime more significant problem than reflected in monitors’ reports
1a. What are the key findings of the report?

8. Substandard Housing

- Vast majorities of workers employed companies covered by Labor Guidelines lived in housing on Yas Island meeting the higher standards.
- Monitors oversaw relocation of workers to Yas Island in cases of substandard housing.
- Small sample of 35 workers from companies exempt from compliance interviewed by Nardello “described living conditions that, although not ideal, were better than those described in the media and NGO reports” (22)
1b. What are the report's recommendations?

- NYU and its government partners efforts “unprecedented in a region where mistreatment of migrant workers is commonplace” (60)

- “By adopting the Labor Guidelines, their attempt succeeded in improving the working conditions of thousands of workers”

- “This effort would have been even more successful if it had not been undermined by the exemption policy and the monitors’ interpretation of the Labor Guidelines regarding passport retention and reimbursement of recruitment fees” (58)
1b. What are the report's recommendations?

- Abolish exemptions and cover all workers
  (i.e. via cash payments in challenging circumstances)
- Establish an escrow account under the control of the compliance monitor
- Simplify the compliance monitoring regime
- Establish/enforce strict penalties for compliance violations (publicly)
- Hire an independent compliance monitor
- Establish confidential reporting channel to monitors
- Notification / investigation system for labor disputes
1b. What are the report's recommendations?

- Employ contractors who are taking measures to mitigate abuses in the recruitment process (requirement to take appropriate steps)
- Install fireproof / easily accessible lockboxes for passports and/or appoint the compliance monitor to hold the passports on behalf of the workers
- Increase in worker interviews, audits for payroll as well as onsite attendance records
- Housing inspections
2. What is the institutional response?

- Payment for Employees of Exempt Firms
- Payment for Employees Who Were Covered by the Labor Standards
- Initiative on Recruitment Fees via the NYUAD Institute
- Nardello Report Recommendations
- Appointment of a New Independent Compliance Monitor
3. Where do we stand with regard to our compliance / monitoring system now?
4. How can people get engaged in labor issues on campus?

- Provide Feedback to or Become a Member of the
  - Labor & Social Responsibility Committee
  - Task Force on Adult Education
  - Domestic Employment Initiative

- Participate in Worker Appreciation / ADvocacy Events
- Participate in the Lecture Series “Labor, Migration and Human Rights”
- Participate in Emerging Research Projects / Initiatives