

WHITE PAPER

Addressing Poor Recruitment Practices in Supply Chains

JULY 2017



■ AN INCREASING FOCUS ON RESPONSIBLE RECRUITMENT

Until recently, brands and retailers have focussed their efforts to improve supply chain working conditions on the farms and factories where their products are being grown and manufactured. However, businesses are now starting to recognise that exploitation and abuse of individuals may be taking place during the recruitment process, before workers even arrive at the work-site.

Labour supply chains can be complex, characterised by many informal actors operating without written contracts, meaning that poor recruitment practices may go undetected. The most abusive practices – such as charging exorbitant recruitment fees to workers and confiscating identity documents – can compel workers into forced labour, where they are working against their will under the threat of some form of punishment.¹

New legislation, international standards and growing industry action are driving businesses to start focusing on the actions they must take to minimise the risk of poor recruitment practices in their labour supply chains.



Global labour recruiters operate in a world that is half-light and half-shadow.

Once an employer decides to contract migrant workers from abroad for all or part of its workforce, recruiters offer functions that are useful to both the employer and the migrant. These include identifying, interviewing, and processing visa documents of potential workers, matching them with jobs abroad and helping them travel to their destination. These positive contributions to labour mobility can sometimes be eclipsed by the abuses that arise in the recruitment industry. Unscrupulous recruiters charge fees for every possible service related to migration, discriminate on the basis of gender and age, make false promises about the job on offer in the destination country to increase the amount that migrants are willing to pay, or lend money at usurious rates to cover these outsized expenses. This behaviour represents a business model in the industry that creates unfair competition and has a negative impact on working conditions. The criminal end of the market is occupied by fraudulent actors who charge migrants for access to non-existent jobs, and organized criminals who may smuggle migrants to locations where they are forced to work without pay and prevented from escape by threat of violence.”

Jennifer Gordon, *Global Labour Recruitment in a Supply Chain Context*, ILO Fair Recruitment Initiative, 2015

■ HOW ARE WORKERS BEING MISTREATED?

Abusive recruitment practices are able to prevail in supply chains not only because of the vulnerability of migrant workers to exploitation but also the complexity of labour-sourcing models, which can make these practices difficult to monitor and detect. User enterprises may contract with labour providers via one of two main business relationships:

1. Trafficking in human beings, which involves the movement of people for the purposes of their exploitation through coercion or deception, is encompassed by the definition of forced labour. See ILO Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention 1930 (No.29), 2013, page 4.

- **Recruitment services relationship:** When the labour provider is responsible for sourcing workers who will then be directly hired by the user enterprise.
- **Employment services relationship:** Where the labour provider is responsible for sourcing workers and placing them on a temporary or ongoing basis with the user enterprise. The worker is engaged or employed by the labour provider, who is responsible for payment and terms, whilst the user enterprise is responsible for assigning tasks.

The types of businesses involved in recruitment and employment in supply chains can range from individuals to multinational firms. Large, global labour providers can more easily recruit a migrant worker from one country and place him or her in employment in another, without partnering or subcontracting with other labour providers. But this is not possible for smaller labour providers based in one country, and all business enterprises will likely use labour sourced from such providers at some point in their supply chains. Labour providers may contract with agents abroad to manage international recruitment processes and there can be many tiers of subcontracting in recruitment channels, both formal and informal.

Where such informal arrangements are allowed to exist in supply chains there can be little monitoring of the conditions that the workers are supplied under or of the possible exploitation that these workers are facing. Ensuring responsible recruitment of workers requires in the first instance, formalisation of labour provider business structures and the business relationship between user enterprises, labour providers and any sub-agents and brokers involved in the labour supply chain.

The table below describes key ways in which workers may be exploited during the **recruitment (sourcing)** and **placement (supply)** processes.

SOURCING	
Recruitment fees	<ul style="list-style-type: none"> ■ Labour providers - including recruitment or employment agencies and brokers - often charge prospective workers to find them jobs. They may charge for a variety of activities, including: advertising, recruiting and selecting workers for jobs; pre-departure or post-arrival skills tests, training, and medical exams; transport and subsistence costs during the transfer to the place of employment; and obtaining visas, permits, insurance and other administration costs. ■ The charges levied are often inflated and do not reflect the actual cost of the recruitment process. Consequently, migrant workers are charged fees equivalent to several months' salary in the country of destination or years of work in their own country. ■ Many low-skilled workers who are unable to find jobs in their own countries have little choice but to pay the fees because securing work abroad is the only way they can ensure an income and provide for their families. ■ As migrant workers often don't have savings, they can only pay the fees by mortgaging their land/property or borrowing money from family and friends, private moneylenders or the labour provider itself. These loans are usually provided at exorbitant rates of interest and may leave workers in 'debt bondage' by essentially trapping them into their job to pay off the loan.

SOURCING

Confiscating identity documents

- Labour providers or their agents in the country of origin may take key documents (e.g. land titles, social security cards, school diplomas, birth or marriage certificates) as a means of controlling a migrant worker. If they fail to comply with instructions, these documents will be withheld, leaving the migrant worker and their family unable to, for example, prove ownership of their property or access state benefits.
- In the country of destination, employers and labour providers may confiscate migrant workers' passports, identity cards and/or their employment contracts to ensure that they cannot challenge their employment conditions. Without these documents, workers cannot prove that they have a right to be in the country, let alone that they are being exploited. They may also be unable to access essential services, including healthcare, banking systems or consular assistance.
- Migrant workers who do not have identity documents on them may be fearful of approaching the authorities. If they are stopped by the police and are unable to produce their papers, they may be arrested and deported back to their country of origin where they could be left with significant debts and no way of repaying them.

Contract substitution

- Migrant workers may also have been deceived about the true terms and conditions of the work they will do. When they realise that their job, pay and/or working conditions are different to those that they were originally promised, it is usually too late for them to do anything about it. They may then be trapped in the jobs through debt bondage or other forms of coercion, such as threats or confiscating identity documents.

SUPPLY

Providing poor accommodation and transport

- Labour providers may provide, or effectively provide (by being commercially linked to the landlord), accommodation and/or transport (to and from the workplace) to workers that they supply into user enterprises.
- Unscrupulous labour providers may provide accommodation that is unsafe, unhygienic and fails to comply with local legislation. For example, to maximise on profits, labour providers may overcrowd accommodation and cut corners in the provision of water, power, heating, sanitation and kitchen facilities.
- Transport provision may be similarly unsafe, for example through poorly maintained vehicles or drivers that do not the necessary licences. Where the transport offered is the only means of travel to the workplace (or workers are unaware of alternatives) labour providers may charge exorbitant fares or deduct them from wages.
- Workers' freedom of movement may also be restricted, for example where workers have to seek permission to leave the accommodation for reasons other than going to work.

Employment relationships

- Labour providers may also engage with workers using certain employment relationships for the explicit purpose of avoiding their obligations under labour or social security laws. For example: self-employment contracts, intermediary structures or labour-only contracting arrangements.

Unfair deductions from pay

- Labour providers may also exploit workers through the provision of additional services (e.g. insurance, translation services), by charging high rates well above market value which are deducted from pay, and by making the services effectively compulsory (e.g. workers are only guaranteed work if they take up the services).

■ IMPERATIVES FOR CHANGE

While there is a moral imperative for companies to tackle practices that are contributing to forced labour and labour exploitation, there are also strong legal and commercial reasons why businesses need to promote fair recruitment practices in their own operations and throughout their supply chains.

Ensuring compliance with legal and regulatory requirements

Forced labour, including trafficking in people, is prohibited under ILO Convention No.29 on Forced Labour, (1930). The Convention has been ratified by 176 States and it obliges governments to criminalise forced labour in all its forms with appropriate sanctions that are strictly enforced. In 2014, the ILO recognised that further action was needed and adopted a Protocol to the Convention which highlights the need to protect workers from possible abusive and fraudulent practices during the recruitment and placement process.²

Other international standards also specifically prohibit the poor recruitment practices outlined above. For example, ILO Convention No.81 on Private Employment Agencies (1997) prohibits recruitment agencies from charging fees or related costs to workers (Article 7) and the United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families (1990) prohibits the confiscation of identity documents (Article 21).

Many of the commitments made in these international standards have already been transposed into law:

- **Section 307 of the US Tariff Act of 1930** states that “all goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry.”
- **The US Government Executive Order 13627, Strengthening Prevention of Human Trafficking, 2012.** This prohibits federal contractors, subcontractors, and their employees from engaging in misleading or fraudulent recruitment practices; charging employees recruitment fees; and destroying or confiscating an employee’s identity documents.
- **The European Union Temporary Agency Work Directive, 2008.** The Directive prohibits workers from being charged any fees “in exchange for arranging for them to be recruited (...) or for concluding a contract of employment (...).”³
- Legislation like the **UK Modern Slavery Act**, the **California Transparency in Supply Chains law** and the **French Corporate Duty of Vigilance law**, introduce requirements on businesses to publicly report the steps they are taking to address human rights and modern slavery risks in their businesses and supply chains.

Protecting company reputation and profitability

The media, trade unions and other civil society groups are increasingly devoting more resources to identifying incidents in which workers could be exposed to exploitation and forced labour, making it more likely that poor practices will be exposed.

Where a company is associated with forced labour or other exploitative employment practices, this is likely to lead to high profile and negative publicity and result in long-term damage to its

2. ILO, Protocol to ILO’s Forced Labour Convention, 1930 (No. 29), Article 2(d).

3. Beate Andrees et al, Regulating Labour Recruitment to Prevent Human Trafficking and Foster Fair Migration: Models, Challenges and Opportunities, ILO, 2015, page 78.

reputation and its relations with customers, investors, employees and other stakeholders. Consumers are becoming more aware and concerned that the goods and services they buy are not connected with forced labour and are increasingly taking into consideration companies' ethical standards when purchasing products. Similarly, shareholders and other investors are sensitive to the fact that companies which do not have ethical recruitments and business policies in place are at greater risk of being identified with abusive labour practices which will damage their brand and market value.

Informed investment and consumption decisions are being facilitated by a rapidly growing body of accessible information on companies' business practices and ethical performance. For example, in March 2017, the first Corporate Human Rights Benchmark was published, ranking 98 of the largest publicly traded companies on a range of human rights indicators.⁴

■ GROWING BEST PRACTICE IN RESPONSIBLE RECRUITMENT

In response to the growing pressure on businesses to take action to address human rights risks including exploitative recruitment practices, intergovernmental organisations, civil society and industry collaborative programmes are increasingly developing standards, guidance and activities to promote responsible recruitment in supply chains:

International Labour Organisation (ILO)	<ul style="list-style-type: none"> ■ Fair recruitment initiative: a multi-stakeholder initiative bringing together governments, representative employers' and workers' organizations, the private sector and other key partners to promote fair recruitment practices. Through this initiative, ILO have developed General Principles and Operational Guidelines for fair recruitment⁵.
Institute for Human Rights and Business (IHRB)	<ul style="list-style-type: none"> ■ Dhaka Principles for Migration with Dignity: a framework for understanding and addressing the challenges facing migrant workers at every stage of the migration cycle. ■ Leadership Group for Responsible Recruitment: a collaboration between leading companies and expert organisations to drive positive change in the way that migrant workers are recruited, which have committed to the Employer Pays Principle⁶.
International Organisation for Migration (IOM)	<ul style="list-style-type: none"> ■ IRIS Standard: developed through extensive consultation with stakeholder and expert communities and based on international human rights instruments, labour standards and recruitment industry best practices, IOM designed the IRIS Standard to serve as a practical tool to enable labour recruiters and employers to integrate ethical recruitment principles into management systems, procedures, codes of conduct, and social sustainability initiatives.
Interfaith Center on Corporate Responsibility (ICCR)	<ul style="list-style-type: none"> ■ Best Practice Guidance on Ethical Recruitment of Migrant Workers⁷: a report highlighting the progress companies have made on responsible recruitment that may serve as models for companies looking to implement ethical recruitment policies. ■ No Fees Initiative: a programme designed to lead companies to create robust management systems to ensure that workers in their immediate and extended supply chains are not forced to pay for employment⁸.

4. <https://www.corporatebenchmark.org/>

5. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_536755.pdf

6. <https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

7. <http://www.iccr.org/best-practice-guidance-ethical-recruitment-migrant-workers-0>

8. <http://www.iccr.org/no-fees-initiative>

Business-led initiatives

- **The World Employment Confederation Code of Conduct:** representing the employment industry at a global level, WEC's Code of Conduct includes provisions on free-of-charge provisions of services to jobseekers, respect for transparency of terms of engagement and respect for workers' rights.
- **Responsible Business Alliance (formerly The Electronic Industry Citizenship Coalition):** representing global companies, its members have agreed the principle that "workers shall not be required to pay fees for their employment"⁹.

■ HOW TO ACHIEVE FAIR RECRUITMENT IN SUPPLY CHAINS?

Companies can help protect workers from forced labour and other forms of exploitation by taking the steps outlined below to address poor recruitment practices in their own operations and throughout their supply chains.

- **Committing** the business to responsible recruitment principles, including eliminating recruitment fees charged to workers, by developing appropriate policies and procedures, assigning director-level accountability for their implementation, and including them in contracts with business partners (suppliers, subcontractors, service providers, labour providers, subagents and other recruitment intermediaries).
- Developing the necessary **due diligence** measures to minimise the risks of abusive recruitment practices in internal operations and supply chains, including internal and external auditing of business partners, certification of labour providers, worker surveys and interviews, effective grievance mechanisms, and engagement with worker representatives, and **acting** to address any issues identified.
- Providing **remedy** to any workers that have been subject to recruitment abuses, including reimbursing fees that have been paid by workers and providing access to justice and rehabilitation.
- **Collaborating** to address wider issues, including working with governments to ensure that they properly address poor recruitment practices (e.g. enforcing the appropriate laws and regulating labour providers), and with peer companies, trade bodies and other partners to ensure that action to address poor recruitment practice is taken and that unethical competitors are not able to gain a competitive advantage.

9. <http://www.eiccoalition.org/media/docs/Definition%20of%20Fees%20Final%20Approved%20Aug%202015.pdf>

■ CLEARVIEW'S ROLE IN SUPPORTING **RESPONSIBLE RECRUITMENT**

By exploiting workers, unscrupulous and poorly run labour providers gain unfair competitive advantage against decent and legitimate businesses that are endeavouring to operate ethically and responsibly.

Clearview is a global social compliance certification scheme developed to support labour providers to demonstrate to existing and potential clients that they operate responsibly, professionally, legally and ethically in their sourcing and supply of workers, thus turning the tables and creating a market advantage for decent businesses.

Clearview certification also provides users of labour providers, and the brands and retailers that procure their goods and services, with an independent means by which to demonstrate due diligence and to protect brand reputation.

Clearview establishes a consistent and comprehensive social compliance certification scheme covering all the activities of labour providers operating within or across borders and whether offering a sourcing and recruitment service and/or a labour supply and management solution.

The Scheme applies to workers recruited and supplied in any country for any sector including high risk activities such as food processing, agriculture and horticulture, garment and general merchandise manufacturing, warehousing and logistics, general factory and industrial work, construction, cleaning, catering and hospitality.

The Clearview Global Labour Provider Certification Scheme establishes:

- A set of best practice operating policies for Labour Providers, User Enterprises and Brands & Retailers
- The appointment of competent Audit Bodies and auditors trained by Scheme experts
- A set of General Regulations which describes how the scheme works, and
- A set of Technical Standards and Control Points, developed by industry experts and mapped to existing and developing good practice including the IRIS Standard, against which labour providers are audited and certified. These standards are structured into three key areas:
 1. **Systems:** The labour provider has an appropriate business structure, overarching business and ethical policies and performs due diligence.
 2. **Sourcing:** The labour provider ensures the legal, ethical and transparent treatment of work seekers in all sourcing and onboarding processes.
 3. **Supply:** The labour provider ensures the legal, ethical and transparent treatment of workers in their supply to user enterprise sites.





The **Responsible Recruitment Toolkit** provides practical, step-by-step guidance for brands, retailers, user enterprises and labour providers across the breadth of responsible recruitment good practice. Subscription-based, searchable, with detailed guidance and practical resources mapped to the Clearview Scheme technical standards and other principles, codes of conduct and good practice.

Visit www.ResponsibleRecruitmentToolkit.org to access free key documents, including an Eliminating Recruitment Fees Charged to Workers in Supply Chains Toolkit; a template Brand/Retailer Policy for the responsible use of labour providers in their supply chain; a template 'Company/User Enterprise Policy for the responsible use of labour providers' and a template 'Labour Provider Code of Practice for the Responsible Sourcing and Supply of Workers'.



The Association of Labour Providers (ALP) is the Clearview scheme owner responsible for the scheme strategic approach, methodology and technical standards. Established in February 2004, ALP is a UK based trade association promoting responsible recruitment and good practice for organisations that supply the workforce to the consumer goods supply chain across the food processing, horticultural and wider manufacturing, industrial, warehousing and distribution sectors.



NSF International

NSF provides Clearview scheme management, administration and registration. NSF is a leading global provider of independent assurance and certification services to a wide range of industries.

■ AUTHORS

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