



Access to Remedy for Vulnerable Migrant Workers: Concept Note

Background

ETI has worked with its members for many years to address modern slavery risk in their supply chains, and to address instances of modern slavery where they occur, including migrant workers who are extremely vulnerable to forced labour practices. We run programmes to improve workers rights and working conditions in several countries and sectors, including Mauritius, Spain, Italy, Turkey and China.

Recently, ETI has stepped up its efforts in Malaysia, responding to concerns raised by member companies and media and NGOs reports highlighting the situation of migrant workers being denied their rights and working in exploitative working conditions, in sectors including furniture, rubber gloves and condoms. This project, supported by the UK government, is intended to support migrant workers in Malaysia who are vulnerable to modern slavery. A particular focus is to ensure that those workers are able to negotiate collectively for better terms and conditions of work, access support, raise grievances and obtain remedy where they have suffered abuses.

Rationale: why focus on remedy?

Migrant workers can be among the most vulnerable of all workers. They may not speak the local language, may not know their rights, and often will be too fearful of losing their job or being repatriated to report grievances even if they are able to. They are in a situation where they simply don't know who to trust, and they can't risk antagonising their employer, particularly if they are in debt bondage and need to keep their job to pay off their debts. They are highly vulnerable to modern slavery and other forms of labour exploitation. The workers may not be allowed to join a trade union, and even if they are, they may be fearful of the repercussions, or the union may not have the capacity to organise temporary migrant workers who speak different languages. Also, for these workers, conventional corporate grievance procedures are not fit for purpose. Grievance policies, if they exist, are often in a language that migrant workers don't speak. They may be managed by an employer or third party they don't trust, and as such are ineffective.

There is documented evidence that migrant workers in Malaysia face abusive and exploitative working conditions: they are in debt bondage due to high recruitment fees paid to secure their jobs; have had their passports withheld or controlled; cannot resign from their work without penalty or payment and legally are unable to change employer in cases of rights violations; are subject to unlawful and involuntary deductions from their salaries; experience poor workplace health and safety conditions; work excessively long hours without adequate rest time, causing potential harm to their health and wellbeing; are not paid adequate overtime rates in accordance with Malaysian labour laws, and are housed in poor and overcrowded conditions and a poor diet.

Objectives

This project has two parts.

The first objective is to pilot one potential technology tool / platform that will support workers to communicate with one another, know how to connect with a relevant trade union and migrant worker organisation, access information on their legal rights at work, get advice and support, and



find safe and trusted ways to raise grievances without compromising their jobs or making them more vulnerable to abuse and exploitation. The platform will be used by 2-3 pilot groups of migrant workers in worksites in Malaysia. It The platform will be designed in collaboration with trade unions and migrant workers in Malaysia to ensure it reflects their needs and is accessible to them. Data will be collected on the use and effectiveness of the platform to evaluate its suitability as a means of helping workers to negotiate better terms and conditions of work, improving migrant workers' ability to be collectively represented, access remediation, and get the support they need in practice.

The first objective is to engage with companies, brands, trade unions, NGOs and workers themselves on draft Access to Remedy Principles that brands, companies could sign up to and be held accountable to apply in practice. There is currently a gap between legislative protection and de facto implementation of laws; a gap between company policies and practices, and limited oversight or long-term strategies to tackle the complexities of migrant workers' rights, and the terms and conditions under which they work. Whilst the Right to Remedy is broadly accepted under the UN Guiding Principles of Business and Human Rights, the ability of workers to claim these rights is often missing. The Principles aim to provide a set of practical steps to implement down a company's supply chains in order to ensure that remedy is made available to vulnerable migrant workers in an effective way. Global consultations will be undertaken over two years, and it is hoped that the application of these Draft Principles could be piloted in Malaysia in the 2nd year.

Approach

The project approach has three key pillars.

- (1) A focus on worker voice in design and delivery of the tech platform and A2R Principles. Workers will be consulted on the form, content and application of these – directly and through representative migrant organisations and trade unions.
- (2) Prioritising worker agency and collective organisation. ETI believes the most effective solution to exploitative labour conditions is to empower workers themselves.
- (3) A commitment to multi-stakeholder collaboration and engagement. Neither the Access to Remedy Principles nor the technology platform can be effective unless the all the key stakeholders in the supply chain are involved in shaping, owning and implementing them.

Summary project plan

Project Phase	Dates	Key Activities
Phase I: Mobilisation	April 2019 – July 2019	Recruitment of key staff Initial stakeholder engagement Identifying partner organisations Scoping research Establishing learning questions & key success indicators
Phase II: Stakeholder research and design	June 2019 – December 2019	Consultation on and development of Principles In-country research to provide basic platform content Identification of pilot worker groups Designing the platform



		Baseline MEL activities
Phase III: Implementation	November 2019 – March 2021	Production, dissemination and socialisation of Principles Beta testing and full pilot of platform Midline monitoring, evaluation and learning activities
Phase IV: Completion, evaluation and exit	October 2020 – March 2021	Closing and learning workshops Plan for sustainability of platform, including securing ongoing funding if needed End-line monitoring, evaluation and learning activities

Scalability and sustainability

The project is designed to be sustainable and scalable. The ETI Migrant Labour Working Group and the ETI Malaysia Working Group will continue after the end of this project, supporting and funding the technology platform to ensure it is maintained, updated and disseminated.

If successful, the Principles and platform can be expanded to other countries with large migrant worker populations. ETI would expect to meet the costs of expansion primarily through contributions from key retailers/suppliers and additional proactive fundraising.