

Breakout Groups Summary

Global Forum for Responsible Recruitment - Bangkok, July 2019

The 2019 Global Forum for Responsible Recruitment took place in Bangkok, Thailand in July 2019. Blurb about meeting report and plenary sessions etc. The forum also incorporated two deep dive sessions where participants were split into small groups for facilitated discussion.

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Workshop I: Blockages, Gaps, Inhibitors to the Employer Pays Principle

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What Does Responsible Recruitment Look Like to You?

Migrant worker	Recruitment agency	Supplier	International brand
<ul style="list-style-type: none">• Work options available• No costs and fees to secure or perform a job• Written contracts• Clear timescales• Governmental efficiency	<ul style="list-style-type: none">• Customer demand• Clear governmental processes• No corruption / kickback payments• Peer-peer support through national associations	<ul style="list-style-type: none">• Brand demand for responsible practices• Working collaboratively with recruiters• Availability of ethical suppliers• Laws aligned with the Employer Pays Principle	<ul style="list-style-type: none">• Customer demand for responsible recruitment• Transparency reporting• Competitive markets / a race to the top• A focus on building capacity of labour suppliers• Opportunities for using leverage to advance the Employer Pays Principle

Blockages, Gaps, and Inhibitors by Stakeholder Group

Workers

State of Play

- Globally, migrant workers are gradually becoming more aware of the Employer Pays Principle.
- Many workers are suspicious of zero fee recruitment or ethical recruitment agencies. For example, many workers believe that if you do not have to pay for a job, it is not a job of value. Others are told that the jobs where you do not pay for are actually jobs they will be trafficked into or abused in.
- Migrant worker advocates have observed some leading companies trying to better include worker voice in their implementation efforts.
- The recruitment agenda does not adequately focus on the migrant workers' experience; Responsible recruitment and implementation of the Employer Pays Principle is mainly not a bottom-up movement.
- There is a general negative cultural bias against female migrant workers, resulting in systematic discrimination and abuses. Desperation by female migrant workers to get a job leaves many in a vulnerable position for paying recruitment fees or other forms of exploitation.
- Reducing or eliminating recruitment costs to migrant workers does not necessarily reduce other risks, i.e. broader worker protection, including access to complaint mechanisms, is fundamental to respecting migrant workers' rights.



Challenges

- A concern raised by some governments and recruitment agencies is that if the Employer Pays Principle was applied in legislation and in practice, there could be fewer opportunities for workers, as many employers in destination countries would be unwilling to pay recruitment costs.
- How do you educate workers? For example, 100,000 migrant workers cross the border daily between Vietnam and Cambodia; workers are unaware of ethical recruitment options and tend to want to partner with people they know and trust, even if they have to pay fees.
- Recruitment agents in villages do not provide enough information about how businesses work and how workers need to improve skills and performance. So workers may get frustrated and leave the factory that they started in, and then move to lower tier work, perceived as easier but with greater risk of exploitation.
- Responsible recruitment will not achieve scale unless there is a competitive market for responsibly sourced/provided labour. The current market is based on workers' ability to afford contracts/jobs, with added job benefits costing more (e.g. double). If jobseekers are not willing to pay, other jobseekers more desperate will.

Recommendations

- Pre-departure, post-arrival, and periodic training for workers are essential to maintain effective communications and to empower workers. But pre-departure training may not be fit for purpose. There is a trend toward greater and greater content being included, making them lengthy and with little utility for migrants. This creates a situation of added cost for recruitment agencies (and potentially migrant workers, if they are being charged fees). There needs to be a universal standard for pre-departure trainings.
- There is a need to focus on the cultural landscape and attitudes of workers; to help workers understanding their rights and laws; create support systems for workers that enable worker voice; technology provision for peer-to-peer forums that foster dialogue and community support.
- There is a need for specific education or awareness for female migrant workers on their rights.

Good / Bad Practice Examples

- Migrant worker associations and outreach can be effective via social media at the grassroots level. For example, in the UAE, a migrant worker organisation run social media channels on Facebook and YouTube to disseminate information on the fees workers should pay, translation of laws, and updated news for migrant workers on any changes. They have more than 70,000 followers on Facebook and 50,000 on Youtube.
- Technological solutions are being created and experimented with. For example, *Just Good Work* is a free interactive mobile app, distributed through grassroots networks, providing job-seekers and workers information on working abroad in their own language. Mostly running in Kenya, Uganda, and the UAE, it provides information on the destination

country's and the laws and worker rights.

- Other corruption concerns raised include 'unofficial' fees (e.g. bribes) charged during the recruitment or migration process, which pose challenges to reduce the true costs of a job, above legal costs for recruitment. For example, one worker that was recruited from Myanmar to Thailand shared: *"I paid US\$1,200 for my migration. Paid fees to the middleman not the employer. When trying to get a job it is not about the skills you can provide but how much you are willing to pay for that job"*.

Brands

- There is increasing awareness about the Employer Pays Principle, and associated activities around implementing it – increased risk mapping, due diligence, and policy change can be seen at business level.
- Momentum is more visible in certain sectors, for example seafood in Thailand, than others, eg construction – participants suggested this was due to a lack of consumer-facing international brands linked to the construction sector.
- Brands need greater awareness of who the ethical suppliers are.
- Brands have difficulty mapping out their supply chain beyond 1st or 2nd tiers.
- Brands have little to no leverage on suppliers to enforce zero-fees. Brands rely on thousands of suppliers, and only a small percentage of them are regular and strategic partners. 80-90% are ever-changing suppliers where brands purchase less than 5% of their output.
- Fees reduction must be done everywhere, regardless of corridor. Businesses often think certain corridors are higher priority, and therefore certain sectors give certain corridors greater attention. This has been the case for many years. In so doing, countries with high migrant numbers and legal restrictions on worker rights may be overlooked.

Challenges

- Transparency is key and necessary across all levels of the supply chain for clarity over the cost sharing, rights, and responsibilities of each respective party. The challenge is in achieving transparency between brands, supply chain businesses, and other business partners.
- Brands face challenges when some suppliers have no communication with their migrant workers, or do not follow up to ensure their operations comply within the law, code of conduct or contracts.
- There are also push backs from supply chain businesses or HR teams asking why they have to do comply with such codes and policies, e.g. "Why do we have to do this? We

will lose profit. Why should we have to pay more?"

- Employer pays is great in theory, but how do we determine what the cost is and who the employer is? Are there alternative cost-models?
- Once a migrant crosses the border, we can say we are 100% responsible for fees. The question is, if we have to pay for anything pre-destination, what do we pay for and how do we verify it? A strategy is to focus on legal recruitment fees, not zero recruitment fees.

Recommendations

- The role of industry associations needs to be brought forward. They have a role to promote practices, monitor their peers, and provide recommendations.
- Though there are sensitivities and complexities involved, responsible global brands should work towards a transparent approach, including publishing supplier lists. This can help encourage collaboration with civil society organisations and other independent partners to improve recruitment conditions for migrant workers in their supply chains. An industry-wide approach is needed for brands' transparency with their supply chains.
- There is a lack of alignment of recruitment standards across customers. Implementation of the Employer Pays Principle should not be siloed and needs to become a standard business practice/business norm. Brands need strong universal Codes of Conduct as well as to be specific about recruitment-related aspects of jobs in contracts with workers.
- International brands with capacity, expertise and leverage can exercise leadership to help build the capacity of suppliers (esp. SMEs) who may not be as well equipped.
- Brands internally need to ensure cross-departmental collaboration between CSR teams, human resources, and purchasing departments so that there is consistent messaging going to suppliers.
- Brands must map their supply chains better to understand where workers are coming from, especially beyond tier 1. Brands need to be better at considering the capacity of suppliers. Purchasing practices are a major driver of exploitation in recruitment because of short-term labour needs. Better communication between international brands and their suppliers to collectively work together to provide capacity training to supply chains/employers and to increase leverage on implementing a zero-fee recruitment model.
- Generally, brands should identify and use the small 'openings' and opportunities to make incremental improvements, e.g. work with a few suppliers most amenable to improvement.
- Brands need to collectively engage governments to better regulate the recruitment industry.
- It is also important to focus on migrants' living wage. This puts the onus on both employers but also on the buying/procurement practices of brands to pay enough for

the products to allow enough margin for suppliers to pay workers decently.

- Pre-departure training for workers is insufficient when it does not also build the capacity and awareness of employers to respect labour rights.
- Brand (and employer) support is also needed for migrant workers' collective bargaining agreements and rights.

Good / Bad Practice Examples

- Thailand-based CSOs/NGOs do not have leverage to work with employers in brand's supply chains businesses. However, they often respond to cases of migrant worker exploitation. With lack of cooperation from businesses, CSOs/NGOs resort to pressure tactics to address labour rights violations or human trafficking. It would be far better for brand and suppliers to work together with CSOs and NGOs from the outset.
- Engagement with suppliers requires adaptation depending on context. When brands arranged a capacity building workshop on responsible recruitment in Malaysia, suppliers came without brands having to persuade them to attend. For the 2019 Global Forum in Thailand, brands had to persuade them to attend, using purchase orders they had with them.

Governments

State of Play

- Major international events such as the Tokyo Olympics provide a window of opportunity to focus on human rights issues and best labour practices.
- Companies can focus on their own supply chains, but if the overall operating environment has substantial problems, it is beyond the scope for businesses to respond to all of these issues.
- Corruption in governments is a major inhibitor enabling exploitation of workers throughout global labour supply chains.
- Whilst regulation is in place in law, there is little to no enforcement on the ground. Licensing and monitoring recruitment agencies and enforcing labour laws is fundamental.
- Certain countries like Myanmar, Indonesia, and the Philippines prohibit direct hiring; recruitment must be done through a local recruiters in those sending countries.

Challenges

- A key challenge for advancing progress is increasing governments' commitment to the Employer Pays Principle, which requires supporting legislation, regulation, and

enforcement to be successful in eradicating worker-paid fees and costs; there is minimal awareness and enforcement by governments of policies or laws around ethical recruitment.

- A huge barrier to best practice is corruption. It is a critical barrier to all progress in this space.
- Lack of cooperation between source and destination country governments. Both source and destination governments need to work together in order to effectively control the recruitment process and associated costs/fees across their corridors. A one-sided policy or legislation at the destination or source country cannot effectively control the recruitment of migrant workers.
- Onerous Government bureaucracy or corruption can drive migrants into choosing to use informal channels. Legal channels are meant to protect workers, but in reality the agreed processes under Government-Government MOUs, for example, can be confusing for workers; workers find the informal processes more attractive because it costs less and it takes less time.

Recommendations

- Governments must embrace their duties to protect the rights of migrant workers by implementing and enforcing effective responsible recruitment laws and regulations, and to create a level playing field for all businesses operating in their country.
- The equivalent of brand's codes of conduct or HR policies are often not reflected in the legal framework of supplier countries, ie recruitment fees charged to workers are legal. Laws need to be harmonised between migrant source and destination countries, as well as of brands' HQ countries, to further drive consistency and create shared value.
- There needs to be stricter sanctions for recruitment agencies. For example, there may be only a licence suspension for one month, and labour inspectors are inefficient in addressing recruitment complaints.
- Governments need to be involved in regulating and monitoring, with strong bilateral MOUs between different states protecting labour rights. Governments should also vet contracts and set standard wages across industries so that worker pay is not docked to recoup fees.
- Governments should adopt Sustainable Development Goal target 10.7.1, including monitoring their implementation efforts.
- Source country governments need to be better engaged in protecting their workers, including advocating for destination country governments to enforce or amend existing laws to better protect workers. Laws that make it legal to charge fees, including those with maximum limits, should be repealed; governments should make charging workers recruitment fees illegal.
- To prevent labour risks or irregular work situations, legal processes need to be made

accessible and efficient for migrant workers to change employment freely.

Good / Bad Practice Examples

- The ILO's [Definition of the Cost and Fee](#) also help business and governments define what constitutes fees and charges.
- There has been some progress in legislation and policies to control the costs of recruitment and acknowledge the importance of the Employer Pays Principle. At the UN General Assembly in September 2018, the UK, Australian, New Zealand, US, and Canadian Governments, pledged to apply ethical recruitment and the Employer Pays Principle to public procurement supply chains.
- Reforms to Qatar's Kafala system a form of sponsorship that bound employees to their employer by requiring an exit permit to leave that job.
- The Thai Government has included the Employer Pays Principle in their draft National Action Plan.
- In Hong Kong, for the employment of Thai domestic workers, the recruitment agency is now registered as the employer and consequently has obligations to find continued employment for workers.
- A local NGO in Bangladesh - BRAC – has established a limited company - [Probashbandhu](#) - which offers a range of recruitment services to potential migrant workers in Bangladesh
- Transparency is patchy across government MOU's on recruitment conditions. For example, the Malaysia-Bangladesh MOU specifies the use of only 10 recruiters approved by the government, but the MOU is not publicly available. Similarly, the MOU between Myanmar and Thailand provides some clear conditions, but in practice there are discrepancies where workers are still being charged on the Myanmar side.

Suppliers

State of Play

- Two to three years ago there was minimal discussion about EPP; In the past year especially, suppliers are starting to feel the pressure from buyers/brands who are hardening the Employer Pays Principle from 'encouraged' to 'required' in contracts, codes of conduct, and supplier guidance documents
- Engagement and awareness of suppliers on the Employer Pays Principle is where challenges are higher and capacity is lower. Despite more awareness and a lot of conversations about it, EPP is not widespread in practice; Progress is slow – commitment is generally is not followed through, with a lot left to be desired for driving change in

business models and management of facilities.

- A great inhibitor toward effective implementation of the Employer Pays Principle is a lack of transparency in how suppliers conduct their business. Suppliers are not conducting due diligence on their recruiters; not asking them the right questions.

Challenges

- Suppliers often feedback that it is costly to implement a zero-worker-fees model.
- If workers decide to leave before their employment term finishes this creates a cost burden on the supplier, particularly SMEs, to replace the worker. How can the Employer Pays model ensure workers do not take advantage of ethical employers to cross the border and then leave?
- Lack of transparency around the recruitment process and between recruitment agencies and suppliers mean suppliers/employers are unable to effectively track recruitment costs. Greater transparency is needed across recruitment corridors for every level of the supply chain, e.g. sub-contractors are not reflected in cost breakdowns, and sometimes beyond the scope of the supplier's influence or control. Due to lack of transparency, changing recruitment agencies can also be challenging for employers.
- Whilst most suppliers would like to reduce their reliance on recruitment, intermediaries' direct hiring in countries of origin is also challenging for employers due to language differences (including regional language differences) in countries of origin – at times compounded by poor levels of literacy. This leads to a reliance on recruitment agencies in both destination and countries of origin.
- Some employers have also cited safety fears for travelling to source countries for direct recruitment.

Recommendations

- Suppliers need to map transport costs from source to destination to determine approximate costs for employee reimbursements.
- Providing cultural and gender sensitivity training to human resource personnel as well as recruiters should be part of company commitments to better practice.
- Contracts must clearly, and in the workers' native language, lay out the terms so workers understand the conditions they will be working under. This would support a reduction in worker turnover. Contracts must be transparent to include full details such as legal minimum wage, deductions, holidays, rights and privileges, worker welfare councils, etc.
- Employer (and brand) support is also needed for migrant workers' collective bargaining agreements and rights.

Good / Bad Practice Examples

- In Cambodia, a supplier/employer was paying an agent only THB 1,200 per worker. However the employers learned that this cost was too low for recruitment processes from the source country. The employer is now working with a Cambodian agency to verify actual recruitment costs to eliminate worker's paying these fees.
- In Myanmar, a supplier recruits via recommendations of current factory workers' who share details of available positions with family members. The job seekers in Myanmar then attend skills tests as part of the recruitment process. If they pass the skills test, the family is sent the cost for immigration. When the new worker arrives in Thailand, the costs for recruitment including repatriation (appx THB 12k), is then reimbursed to the family within 6 months.
- Risks beyond recruitment-related fees/costs can be hidden, for example conditions embedded in contracts. One participant noted that they have seen contracts in Thailand specifying the worker cannot marry or have a child while employed.

Recruitment Agencies

State of Play

- The ethical recruitment market is not developed well enough; there is still a lack of demand.
- Origin country recruitment agencies often make false promises to accept demands for large request of workers to destination countries.

Challenges

- A redistribution of recruitment costs is challenged when suppliers' recruitment agencies are non-compliant, i.e. suppliers wish to continue contracting with them despite resistance / non-implementation of a zero-worker-fees model.
- Lack of transparency in terms of recruitment fees by the recruiters in sending and receiving countries. For example, supplier interviews with workers often find that workers paid transportation cost—but no receipts issued so difficult to determine reimbursements. Alternatively, the recruitment agency and workers sign a declaration that workers did not pay fees. However, some time later it surfaces that workers had paid but were coached to not report any fee payment.
- Use of social media to recruit workers is a common practice and an inhibitor, e.g. brokers use social media to 'sell' job opportunities to job seekers.
- Because of desperate financial needs/family crisis/other circumstances, jobseekers are willing to pay more to get 'fastracked' and some recruitment agents take advantage of this.

- *Recommendations*

- A grading/ranking of recruitment agencies can help move towards ethical recruitment being more widely adopted.
- Undertake pre-departure trainings on migrant workers' rights and skills, in collaboration with the source country government, and coupled with the provision of contracts with terms and conditions in the worker's languages.
- Recruitment agencies need to collaborate with local CSOs.
- Recruiters and human resource personnel also need cultural and gender sensitivity training.

Good / Bad Practice Examples

- Lopsided power structures in Malaysia mean recruitment agencies are in a very powerful position, as they are able to control worker's costs and availability. They also have good relations with and support from government. This presents challenges for negotiating transparency with recruitment agencies.
- Monopoly of recruiters in certain locations, e.g. in Nepal, where only one recruiter is allowed to provide recruitment service in specific locations, especially in the remote villages.



Workshop II: Corporate Grievance Mechanisms and Access to Effective Remedy

Access to effective grievance mechanisms and remedy is also key factor in successfully improving migrant worker experiences during employment abroad. This substantive area was the subject of one of two breakout sessions at the 2019 Global Forum for Responsible Recruitment in Bangkok, where participants were split into small groups for facilitated, deep-dive discussion. The questions posed to participants probed how migrant workers can and should share information on their recruitment process, formally and informally, how to assess the effectiveness of those communication channels, and what lessons can be drawn from good practice models such as the [ETI's Grievance / Remedy Guidance](#)

The State of Play and Key Challenges

- The payment of recruitment fees is a persisting problem; effective grievance mechanisms are absolutely essential to protect and respect workers' rights.
- Workers often have little trust in feedback or grievance systems.
- Employers usually have a representative employee who communicates the grievance process to other workers.
- Workers have particular vulnerabilities/perspectives that need to be understood and reflected in the design of any grievance mechanisms. For example:
 - Interviews often do not uncover recruitment fees, as workers may be in situations of debt bondage and do not wish to do anything to jeopardise their job.
 - Migrant workers' permits are often attached to a particular employer, increasing their perceived risk of losing their job if they raise a grievance.
 - Time taken to investigate a worker complaint can be prolonged, and in the process diminish worker trust.
- If grievance mechanisms are poorly managed, workers may use the wrong channels to raise other issues ie using grievance procedures to offer staff canteen suggestions
- There may be a grievance mechanism at the employer level, but it may not be fit for

purpose for migrant workers, either because it does not provide genuine opportunities/channels for migrant workers to raise grievance or because workers are unwilling/afraid to raise issues with management. Involving migrant workers directly in the problem resolution process is vital to ensuring impacts are effectively remedied.

- The pre-departure process is where suppliers have more difficulty in ensuring effective remedy.
- Training is essential for those who are operating the grievance mechanism.
- Training should also be provided to workers on their rights as they arrive at the factory, on codes of conduct, harassment, and how they can access grievance processes.
- Suppliers who set up grievance mechanisms on brands' request may not fully subscribe to the principles; half-hearted implementation.
- Information on grievance mechanisms should be promoted to workers during their pre-departure orientation, at destination/arrival, and periodically once they start working.
- Grievance mechanisms should be accessible 24 hours a day, seven days a week, to enable workers to use it after working hours.
- Lack of proper/genuine follow-up on a worker complaint because the employer is only seeking to fulfil a minimum HR/audit requirement.
- Staff dealing with the complaints are not equipped or empowered to handle the complaints efficiently and appropriately.
- Domination by interpreters during worker interviews where the interpreter ends up talking more than the worker in relating their complaint.
- Providing all the language requirements to serve the variety of nationalities of migrant workers within one facility can present challenges for employers.



What Good Looks Like

- A good grievance mechanism will ensure workers understand how to utilise it, who will deal with their grievances and response, what actions will be taken, and assure workers of their confidentiality and safety.
- Beyond the employer provided mechanism, it is important to have an alternative provider to provide workers with an independent option they may feel more comfortable with. For example:
 - Welfare committee or migrant worker groups can act as representative to receive grievances. Sometimes the ratio of migrant worker representatives in a welfare committee are underrepresented in these committees.
 - A worker representative such as a trade union can also be part of the mechanism.
- Businesses will benefit will less staff turnover, fewer disputes, greater efficiency and improved worker satisfaction. This will drive efficiency and enhance reputation with business customers concerned about both delivery of goods and services and avoidance of reputational risk.
- Neutral, independent, and trustworthy, including an alternative channel run by an external party, with worker representation available when needed.
- Effective monitoring of any third party provider is also essential, for example to ensure adequate privacy protections are in place.
- The grievance mechanism is widely promoted and readily accessible 24 hours a day, seven days a week to the workers.
- Available in the languages understood by the workers.
- Available in options for in-person consultation, written, or online, so that workers can submit their grievances via their smartphones/ online, in writing, or in-person.
- Takes into account the vulnerabilities of workers.
- Communicates a clear and efficient timeline for processing the grievance.
- Continuous training of the personnel handling the complaints or taking the calls to build their capacity and skills.
- Employer conducts impact analysis regularly to study and understand trends/patterns of complaints as well as to assess the effectiveness of the mechanism.
- Embeds continuous improvement processes at the heart of the mechanism, focused on prevention to stop the problems occurring in the first place.

Good/Bad Practice Examples

- New technologies/innovations can better enable workers to raise grievances. For example:
 - Issara Institute’s Golden Dreams smart phone app
 - MFA’s “Hansa” tool that is a TripAdvisor for workers to review recruiters/brokers
 - FiftyEight’s smartphone app that has links to NGOs for workers to NGOs. There are a number of different NGOs available to respond to specific migrant issues.
 - Using a third party provider, with the possibility of anonymity when submitting a complaint. For example, workers scanning a QR code to submit grievances in their own language. The company can then post the information on a public board (if approved) for transparency.
- An example was shared of one supplier holding meetings with workers on a regular basis, at least twice per month, to raise issues related to work, schedule, and other issues.

