



Responsible Recruitment:

Remediating Worker-Paid
Recruitment Fees



Responsible Recruitment:

Remediating Worker-Paid Recruitment Fees

November 2017

Cite as: Institute for Human Rights and Business, “Responsible Recruitment: Remediating Worker-Paid Recruitment Fees” (November 2017) Available at: <https://www.ihrb.org/focus-areas/migrant-workers/remediating-worker-paid-recruitment-fees>

Acknowledgements: This report has been developed by the Institute for Human Rights and Business (IHRB) in collaboration with Equidem Research & Consulting (Equidem). The research and drafting in this report has been led by Mustafa Qadri (IHRB Research Fellow and Executive Director, Equidem), and Nikhil Eapen (India Director, Equidem). This project, and IHRB’s wider work on responsible recruitment is overseen by Frances House, William Rook, and Neill Wilkins.

Image: Flickr/ILO



Contents

About this Report	4
1. Executive Summary	5
1.1 Key Recommendations for the Remediation of Recruitment Fees	7
1.2 Methodology	8
2. Background: The UN Guiding Principles on Business & Human Rights	9
3. Recruitment Fees and Debt	11
3.1 Reasons for Migration	11
3.2 Distribution of Recruitment Fees	12
3.3 Sources of Debt	13
3.4 Impact of Debt	13
4. Business Approaches to Recruitment Fee Remediation	15
4.1 Apple Inc	15
4.2 Patagonia	15
4.3 QDVC	16
4.4 HP Inc and Hewlett-Packard Enterprise	17
4.5 NXP Semiconductors NV	18
5. Challenges	19
5.1 The Business Costs of Remediation	19
5.2 Bargaining Power with Suppliers	19
5.3 Threat of Reprisals and Conflict of Interest in the Audit Process	20
5.4 Evidence of Recruitment Payments	21
5.5 Effectiveness of Existing Company Remedy Mechanisms	21
6. Conclusion	23
7. Recommendations	24
Annex A: Questionnaire on Recruitment Fees for Migrant Workers	27
Annex B: Migrant Worker Recruitment Fees	30

About this Report

Migrant workers are an ever-present feature of global supply chains. They work in all sectors and all geographies. Low-skilled migrant workers are however amongst the most vulnerable to exploitation and abuse. Compounding this, they are also often among the least able to assert their rights. For many, a lack of viable options to sustain a livelihood at home increases their willingness to accept risks inherent to migrating for work abroad. Much of IHRB's work in this area is focused on how workers are recruited and in particular the payment of recruitment fees to secure employment.

IHRB convenes the Leadership Group for Responsible Recruitment (www.employerpays.org), a collaboration between leading companies and expert organisations to drive positive change in the way that migrant workers are recruited through implementation of the Employer Pays Principle. Several members of the Leadership Group were interviewed in preparing this report.

Reflecting the Dhaka Principles for Migration with Dignity, the Employer Pays Principle is a commitment to ensure that no worker should pay for a job and is increasingly being adopted by companies across a range of industry sectors and locations. The Employer Pays Principle states that:

No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.

Taking steps to realise the Employer Pays Principle can be expressed through six steps (see overleaf) aligned with implementing the corporate responsibility to respect human rights as set out in the UN Guiding Principles on Business and Human Rights (UNGPs) in Principles 16-22:

1. Commit to and develop an "Employer Pays" policy, then embed it across the company
2. Assess the risks of workers being charged recruitment-related fees
3. Integrate and act on the risk assessments
4. Track progress
5. Communicate on effectiveness and share lessons
6. Remedy recruitment-related adverse impacts early and directly

This report focuses on the sixth step concerning remediation. Some companies have sought to reimburse worker-paid recruitment fees. This is an important step and consistent with the UNGPs which calls on companies to provide for or cooperate in remediation when they have caused or contributed to adverse human rights impacts. However, businesses face serious challenges in repaying affected migrant workers. This report identifies the challenges related to reimbursing recruitment fees and provides recommendations to businesses on how to apply remediation policies across their activities.

Six Steps to Responsible Recruitment

Implementing the Employer Pays Principle



Employer Pays Principle

No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.

Executive Summary

A major cause of forced labour in global supply chains is the charging of recruitment fees to migrant workers. Every day, thousands of men and women around the world pay large fees to middle-men and recruitment agents, often by taking out loans at high interest rates, for work overseas and the hope of a better life for themselves and their families.¹ Recruitment is the point at which migrant workers face one of the greatest risks of entering a cycle of abuse and exploitation that also affects their families and communities.

Recruitment is carried out by agents located in origin, transit, and destination countries.² They play a crucial role in connecting employers to prospective migrant workers, negotiating the terms and conditions of their future employment and helping facilitate the issuance of passports, visa documents, pre-departure training programmes, skill tests and medical check-ups.

Recruitment charges to workers cover a range of costs including the recruitment itself, travel, visa and administrative costs, and often other unspecified 'fees' and 'service charges'. Workers will typically pay more for recruitment than their employers would have been charged for the same service, largely due to the widespread acceptance by workers of the need to pay inflated fees for jobs.³

Under the Employer Pays Principle, the employer should bear the full costs of recruitment and placement.⁴ Such costs typically include those specific to a particular recruitment, for example the fees for skills tests and training, visa processing, medical examinations, travel, and the recruitment agent's service charges either paid before or after a worker arrives in the country of destination.⁵ Other associated costs that are not specific to the employer include those relating to obtaining a passport, undertaking a medical exam, and securing insurance in the origin country, all of which essentially belong to workers and can be used by them in the future. In some jurisdictions, workers may be required to pay for such items and services that provide an on-going benefit to them. However, for low-wage migrant workers, all fees associated with recruitment can have serious negative human rights impacts, including the risk of debt bondage and forced labour, as well as

1 "Migration and Remittances: Recent Developments and Outlook Special Topic: Return Migration", Migration and Development Brief 28, World Bank, October 2014, available at: <http://documents.worldbank.org/curated/en/719531507124177735/Special-topic-return-migration>.

2 "Situation report - International Migration in South and South-West Asia", Asia-Pacific RCM Thematic Working Group on International Migration, available online at: <http://sitreport.unescapsdd.org/labour-migration/recruitment-labour-migrants>

3 For example, in three illustrative transnational migrant worker recruitment corridors - Nepal to Qatar, Myanmar to Malaysia, and Myanmar to Thailand, workers paid kickback commissions to recruitment agents ranging from the equivalent of \$50 - \$500 per worker, the norm appears to be \$300 - \$500 per worker depending on the nationality of the workers, occupation being recruited for, and destination country. "An Exploratory Study on the Role of Corruption in International Labor Migration", Verite, January 2016, available online at: <https://www.verite.org/wp-content/uploads/2016/11/Verite-Report-Intl-Labour-Recruitment.pdf>

4 "Dhaka Principles For Migration With Dignity", Principle 1, available online at: <http://www.dhaka-principles.org/>.

5 "Migrant worker Recruitment Fees: The Increasing Debt Burden", Institute for Human Rights and Business, available online at: https://www.ihrb.org/uploads/member-uploads/Migrant_Worker_Recruitment_Fees_-_The_Increasing_Debt_Burden_-_Leadership_for_Responsible_Recruitment.pdf.

hardship for their families due to debt-servicing and erosion of remittances. Accordingly, the Employer Pays Principle stresses that all fees should be paid by the employer, and only the employer should pay.

Beyond their own operations, companies can promote responsible recruitment by prohibiting the practice of charging fees to workers across their value chain. To be effective, however, this must be supported by robust remediation procedures in cases when workers have been required to pay fees.

Companies that remediate worker-paid fees may not have directly contributed to the adverse human rights impacts linked to recruitment debt, but unethical recruitment practices may be connected to a company's business operations. Companies in these situations are not legally obligated to provide remediation directly but can play a role in doing so.⁶

Remediation can take many forms and compensating victims of an abuse is one form of remedy. The nature of the remedy provided must be based on the type of human rights abuse that occurred, the harm suffered and the wishes of those affected. At its heart, remedy should aim to restore affected individuals to the situation they would have been in had the violation not occurred.

The six multi-national companies featured in this report have established remediation procedures that reimburse migrant workers for any recruitment fees paid. Their experiences span across the construction, information technology, manufacturing and business services sectors. The remediation programmes discussed in this report vary in size and structure and have been shaped by the local contexts in which these companies operate. Together, they have served as a form of remedy for thousands of workers amounting to millions of dollars over the last decade.

The biggest challenge in implementing a remediation programme for recruitment fees is the indirect financial benefit that companies and suppliers receive when workers pay for their own jobs via recruitment agents. Suppliers and businesses are reluctant to absorb additional costs without a corresponding increase in the cost of their product or service. An absence of recruitment fee receipts, the threat of reprisals and the ineffectiveness of company mechanisms means that recruitment debt often either goes undetected or cannot be adequately tracked down the supply chain.

Despite these challenges, the companies interviewed for this report demonstrate the concrete steps business can take to eliminate the practice of charging workers for their own recruitment, and how to approach remediation when workers have been found to have paid fees.

No business can address these practices alone. The most effective route to ethical recruitment is collective initiatives involving businesses directly in a leading role, with the support and guidance of governments, civil society, experts and migrant workers themselves.

⁶ Principle No.22, UN Guiding Principles on Business and Human Rights, Implementing the United Nations "Protect, Respect and Remedy" Framework, United Nations Human Rights Office of the High Commissioner, 2011, available online at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

1.1 Key Recommendations to Business for the Remediation of Recruitment Fees

- Map supply chains including suppliers and sub-suppliers, recruitment agents and sub-agents, and develop a strategy to effectively explain the Employer Pays Principle and remediation to all tiers of suppliers.
- Engage with suppliers on plans for the remediation of recruitment fees and outline concrete and measurable outcomes for suppliers and recruitment agents to accomplish in the short, medium and long-term.
- Understand the many forms leverage to influence the practices of business relationships can take, whether via traditional commercial leverage, leverage through collective action with business partners and peers, or leverage via bilateral or multi-stakeholder engagement and collaboration with governments, civil society and other stakeholders.
- Develop and adopt appropriate and transparent procedures for receiving, escalating and resolving worker grievances, including ensuring confidential channels of communication for migrant workers to raise grievances regarding the recruitment process.
- Require suppliers to demonstrate that they paid the costs of recruitment including service agreements for the recruitment of migrant workers, purchase orders, electronic transfers for payments, and detailed itemisation of costs that include receipts for all expenses they incur in the recruitment process.

1.2 Methodology

This report is based on interviews conducted by Equidem with:

- 24 migrant workers from India, Bangladesh, Kenya and Nepal employed in Malaysia and Qatar;
- three recruitment agents from India and Nepal;
- representatives from Patagonia, QDVC, HP Inc and NXP Semiconductors NV seeking to remediate harmful recruitment fees in their labour supply chains; and,
- experts on recruitment remediation.

Research for this report also examined secondary sources on recruitment fees and their remediation. All currency amounts noted are in United States dollars unless otherwise stated. The term 'supplier' in this report refers to those entities that companies and employers buy from or do business with directly.

Background: The UN Guiding Principles on Business & Human Rights

The practice of charging migrant workers for recruitment is capped or entirely prohibited in many of the countries with the largest migrant worker populations.⁷ Yet it remains common for workers to bear the costs of their own recruitment. This practice continues to be the dominant business model for the recruitment industry in the global south.

The UN Guiding Principles on Business and Human Rights (UNGPs) require all businesses to respect internationally recognised human and labour rights standards. The UNGPs are built on the 3-pillar framework of (i) state duty to protect human rights, (ii) corporate responsibility to respect human rights, and (iii) access to remedy for victims of human rights abuse. The responsibility to respect human rights exists independent of the state. Businesses are expected to respect internationally recognised human rights “to the greatest extent possible in the circumstances, and to be able to demonstrate their efforts in this regard.” Respect for human rights extends not only to a business’s own activities, but also to its working relationships, such as its dealings with sub-contractors, suppliers and service providers. This includes ensuring that all workers across business activities have access to a remedy for any violations suffered.

UNGP Pillar 3 Access to Remedy Foundational Principle states:

As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.⁸

In the context of recruitment fees, remedy means restoring migrant workers adversely impacted during the recruitment lifecycle to the situation they would have been in had the impact not occurred. Where that is no longer possible, compensation or other forms

⁷ For example, the labour laws of Qatar, UAE and Saudi Arabia prohibit recruitment fees: Article 33, Law Qatar Labour Law, No.14 of 2004, Article 40, Saudi Labour Law, 2005, Article 60, UAE Labour Law, No. 8, 1980. There are legal limits on the amount that migrant workers may be charged for recruitment in the labour migration countries of Bangladesh, India and Nepal: In Bangladesh, recruitment fees can be charged up to 84,000 taka (\$1,050): “Making Workers Pay”, New York University Stern Center for Business and Human Rights, April 2017, at p. 11. In India, the maximum amount that can be charged is 20,000 rupees (\$300) or 45 days of a worker’s salary, whichever is less: The Emigration Act, 1983 (Act No. 31 of 1983), Art 25. The government of Nepal allows agents to only collect a maximum of 10,000 rupees (\$96) in service fees from migrant workers, and only when foreign employers have not already paid a recruitment agency’s service charge: “Free Visa-Free Ticket” policy, Government of Nepal, 9 June 2015.

⁸ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf p.32

of remedy may be used to try to make amends. This is distinct from corrective action and other procedures focused on preventing recurrence, though this is also important.

Large recruitment fees can leave workers in situations of debt bondage, a form of forced labour in which a person's labour is demanded as means of repaying a loan, trapping the individual into working for little or no pay until the debt is repaid. Individuals in debt are less able to bargain for better pay or working conditions or to assert their rights. Heavy indebtedness can seriously erode the value of remittances sent back home, with negative consequences for families and local economies in countries of origin.⁹

Understanding the reasons why migrant workers pay for work is crucial to eliminating worker-paid recruitment fees. These may include:

- employers and suppliers transfer recruitment responsibilities to agents that do not respect laws prohibiting workers paying for recruitment;
- unemployment and poverty in origin countries and hopes of a better life abroad create a virtually unlimited supply of men and women who are eager to find employment and are willing to pay for it;
- companies across value chains seek to save costs and increase competitiveness by not paying recruitment fees;
- corruption and bribery are rampant, and form a systemic part of the labour supply chain.¹⁰ Recruitment agents in some countries obtain labour supply contracts by providing kickback payments to suppliers, company personnel and state officials.¹¹ The costs of these payments are transferred to migrant workers who may be charged significantly higher amounts than the actual cost of recruitment.¹²

Employers and suppliers indirectly benefit when workers pay for work because they avoid bearing the cost of recruitment themselves. Requiring businesses to pay for recruitment and to compensate workers who are forced to cover such fees may therefore have significant cost implications in the value chain. It can lead to disputes over the cost of products or services or contentious price negotiations between clients and suppliers.

⁹ "Recruitment fees", IHRB Briefing, Institute for Human Rights and Business, May 2016, available online at: https://www.ihrb.org/pdf/reports/IHRB_Briefing_Recruitment_Fees-May-2016.pdf

¹⁰ "Ways forward in recruitment of low-skilled migrant workers in the Asia-Arab States corridor", Dr. Ray Jureidini, International Labour Organization, 2016, at p. 8, available online at: http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_519913.pdf.

¹¹ Recruitment agents charge kickback commissions from migrant workers ranging from \$300 to \$500 per migrant worker depending on their nationality. "An Exploratory Study on the Role of Corruption in International Migration", Verité, 2016, at p. 2, available online at: <https://www.verite.org/wp-content/uploads/2016/11/Verite-Report-Intl-Labour-Recruitment.pdf>

¹² "Making Workers Pay Recruitment of the Migrant Labor Force in the Gulf Construction Industry", David Segall and Sarah Labowitz, NYU Stern Center for Business and Human Rights, April 2017, At p.3 available online at: <https://static1.squarespace.com/static/547df270e4b0ba184dfc490e/t/58ec1e9ed1758e3915cb4c5b/1491869348464/FINALFINAL-MakingWorkersPay-Report-Digital.pdf>.

Recruitment Fees and Debt

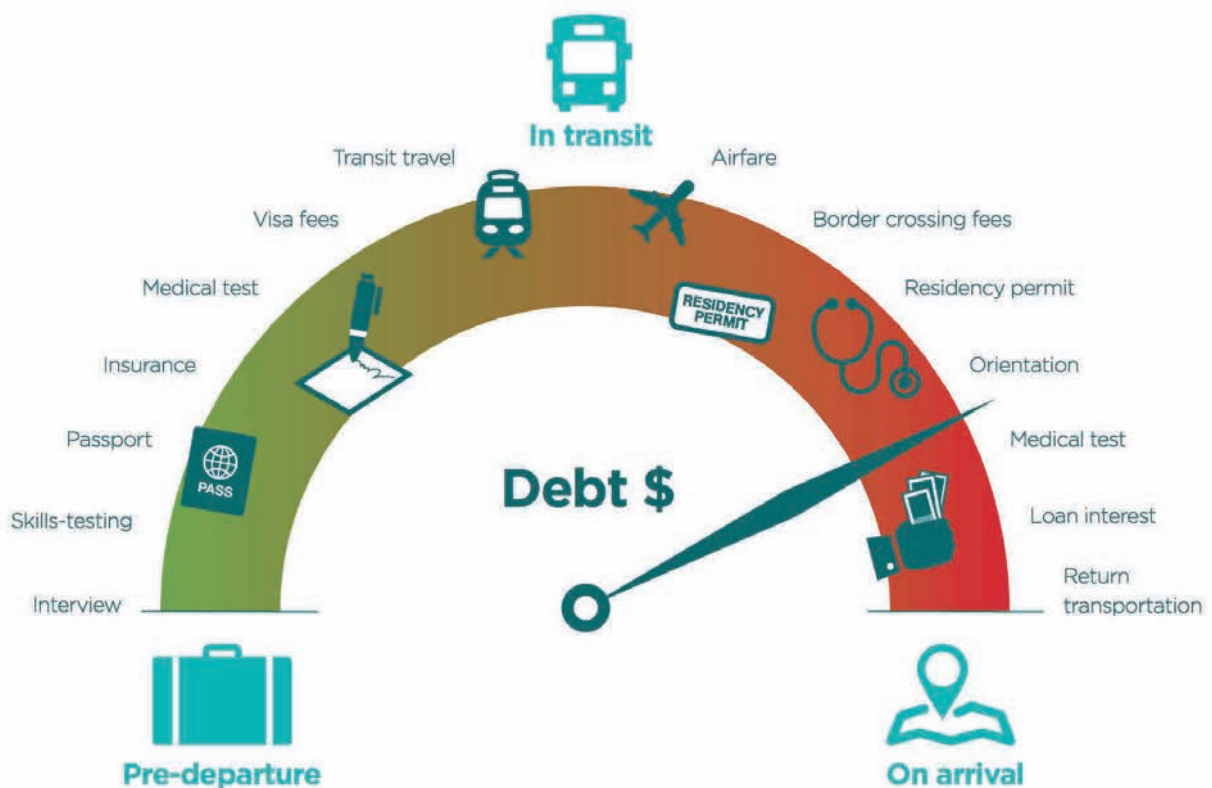
3

“The recruiter did not return my money or passport. Nor did he arrange for my travel. The interest kept kicking in and I had no job to pay the debt.”

- Santosh Mahaju, a 21-year old salesman in Qatar from Nepal

Recruitment fees can be defined as any cost borne by migrant workers to secure a job. These costs may be incurred at any time during the employment relationship either at the time of recruitment, or during and after being engaged in a job.

Image: Migrant Worker Recruitment Fees - The Increasing Debt Burden



3.1 Reasons for Migration

Every day, thousands of men and women choose to migrate for work for a variety of reasons.¹³ They may be seeking work to support themselves and their families and are compelled to leave because of high unemployment or limited job prospects in their country. Workers may face sudden emergencies or family events, like a family member falling ill or the need to support the education of their children, that oblige them to look for work abroad. As Amar Pariyar, a twenty-seven year old Nepali carpenter working in Qatar told Equidem, “my father passed away all of a sudden, and it became my duty to support the family...I had to educate my younger brothers and so I decided to take up a job in the Gulf.”¹⁴

3.2 Distribution of Recruitment Fees

Recruitment costs comprise documentation fees (such as passport issuance charges, visa stamping fees, medical certificates, security clearance payments) service charges paid to the recruitment agency, transportation costs (such as the cost of flight tickets and internal travel costs) and other facilitation payments including kickback bribes or other commissions. The costs of recruitment are also driven by what payments employers agree to make for migrant workers. Costs are lower when expenses like the cost of the visa, and air tickets are paid for by the employer. Workers interviewed for this report indicated that costs were significantly higher when employers did not pay for any expenses associated with the recruitment process.

Recruitment fees vary based on the migration corridor and have the most significant impact on the poorest migrant workers.¹⁵ Migrant workers interviewed for this report paid an average of \$950 equivalent in recruitment fees. In three cases, migrant workers paid over \$1,800.

Table: Recruitment costs in sample migration corridors (USD)¹⁶

Migration Corridor	Pakistan-Saudi Arabia	Bangladesh-Kuwait	India-Qatar	Nepal-Qatar
Average recruitment costs	\$4,395	\$1,230	\$1,149	\$1,054
Months of earning to pay off recruitment costs (av)	10.6	9.0	2.5	3.3

¹³ More than 247 million people, or 3.4 percent of the world population, live outside their countries of birth. “Migration and Remittances Factbook 2016”, World Bank Group, 3rd edition, 2016, available online at: <https://openknowledge.worldbank.org/bitstream/handle/10986/23743/9781464803192.pdf?sequence=3&isAllowed=y>.

¹⁴ Interview in Qatar, October 2017.

¹⁵ “Migration and Development brief 28”, Migration and Remittances: Recent Developments and Outlook, October 2017, World Bank Group, At p. vi, available online at: <https://www.knomad.org/publication/migration-and-development-brief-28>.

¹⁶ “Partnership on measuring recruitment costs, progresses on SDG indicator 10.7.1”, International Labour Organization and World Bank, Fifteenth Coordination Meeting on International Migration United Nations Headquarters New York, 16-17 February 2017, available online at: http://www.un.org/en/development/desa/population/migration/events/coordination/15/documents/presentations/17022017_Session7_ILO_MichellaLeighton.pdf.

Deepak Chhabria, the chairman of a recruitment agency based in Mumbai, India said that the costs of recruitment increase proportionally to the number of labour brokers involved. “Migrants can spend over 125,000 Indian rupees (\$1,900) to secure a work visa, that’s the amount needed to square off all the middle-men and sub-agents in both the origin and destination country,” he said.¹⁷ In most instances, recruitment agents are not transparent about the costs of recruitment. For example, agents may not provide workers with receipts, or receipts that accurately itemise the costs charged to them. All of the workers interviewed for this report knew the total amount charged by agents. Some had an approximate understanding of expenses included in their fees. However, none could provide a detailed breakdown of the costs charged to them.

3.3 Sources of Debt

Because of the large amounts migrant workers are required to pay, many must borrow from informal lenders, banks, friends or family to cover the costs of recruitment. These loans are typically tied to high interest rates. Workers often use some of their most valuable assets, like gold and jewelry, land deeds, work tools, or cattle as collateral. Other workers do not take loans but use savings accumulated over several months or years to cover the costs of their recruitment.

Informal lenders tend to charge the highest interest on loans. Of the 24 migrant workers interviewed, 10 secured loans from informal lenders and were charged annual interest rates ranging from 36 to 72 per cent. In comparison, the 5 workers interviewed who went to local banks where charged annual interest rates of between 12 and 24 per cent. Workers who are poor, unemployed or with a limited formal credit history find it difficult to secure credit from banks and other financial institutions. Khamis Rajab, a Kenyan cleaner looking to find work in the Middle East said, “people like me can’t get loans easily. We don’t have enough of a bank balance for the bank to lend us money and so we are forced to borrow from money lenders.”¹⁸ In some cases, workers are forced to borrow from individual money lenders because of the short timeframe between securing employment abroad and having to leave to take the job. Bigu Mahatao, a 48-year old construction worker from Nepal, was given an air ticket for his new job in Qatar just a day prior to his flight. As a result, he had little time to secure a loan to cover the costs of his recruitment: “I could not search for a cheaper loan in that time and was forced to take a money lender’s loan at 60 per cent interest.”¹⁹

3.4 Impact of Debt

Recruitment fees are often the largest debts that men and women migrating for work will ever incur in their lives. Once loans have been secured, workers are expected to start making repayments immediately. Workers recognise that loan repayments are difficult to afford,

17 Interview in India, October 2017.

18 Interview in Kenya, October 2017.

19 Interview in Qatar, October 2017.

and many seek to clear them within the first few months. Santosh Mahaju, a 21-year old man from Nepal working as a salesman in Qatar, borrowed 30,000 Nepalese rupees (\$280) at 24% annual interest for his job. Santosh planned to pay back the loan with the earnings of the first few months of work, and keep the rest of his income as future savings. However, the recruitment agency delayed his departure for 18 months. "The recruiter did not return my money or passport, and neither did he arrange for my travel. I had to start paying off the loan but there was no job to pay the debt, so I had to borrow money from my brothers and cousins. Eventually I got the job and paid off the loan, but it was a mental tension."²⁰

All of the migrant workers interviewed for this report were forced to live frugal lifestyles while working abroad to cover loan repayments and send as much of their earnings back home as possible. Migrant workers sent between 70 and 85 per cent of their salaries to their families. Most of the money sent back home went towards servicing recruitment-related loans for periods ranging from five months to two years. For example, workers cut back on telephone bills, ate food of lower quality or ate less frequently, and limited their recreational activities and other costs on public holidays. Justin Thomas, a mason from India working in Qatar said that he lived on a shoe-string budget to be able to clear his recruitment loan of 75,000 Indian rupees (\$1150). "I stopped calling home, avoided going out to the city with my friends on the day off and cooked my own food all the time. My life was just work and sleeping in the camp. I have to sacrifice for my children."²¹

Kalpana Karki borrowed 60,000 Indian rupees (\$920) to work as a beautician in a spa in Penang, Malaysia. She was recruited on a visit visa by an agent who, on departure, told her to lie to immigration authorities in Nepal and say she was attending a friend's marriage in Malaysia. As soon as she arrived, her passport was confiscated and she was made to work between 13 and 16 hours a day. Kalpana was not paid her full wages, and her manager threatened not to pay her at all if she stopped working. After 10 months of work, Kalpana managed to escape to a women's shelter in Malaysia and was subsequently able to return home with the help of local NGOs and the police. "I worked so I could clear my loan. Because I had not been paid, the interest payments, the loan has become a much bigger. I am paying it back in small instalments now," she said.²²

20 Interview Qatar, October 2017.

21 Interview in Qatar, October 2017.

22 Interview in India, October 2017.

4

Business Approaches to Recruitment Fee Remediation

Several companies across a range of sectors including Apple, QDVC, Patagonia, HP Inc, Hewlett Packard Enterprise and NXP Semiconductors have implemented policies that prohibit the use of labour suppliers who have charged workers recruitment fees. These companies require the reimbursement of fee to workers identified as having paid them. Each of these companies have put the onus of remediating recruitment fees to their suppliers.

4.1 Apple Inc.

With over 2.4 million workers across its supply chains in China, Japan, South Korea and beyond, the technology giant faces significant exposure to labour exploitation associated with recruitment fees.²³ Apple has a zero-recruitment fee policy and requires suppliers to reimburse any recruitment fees paid by migrant worker within 30 days of the start of employment or within one month of the supplier finding out that the worker has paid fees.²⁴ Since 2014, Apple has required its suppliers to reimburse any fees paid by migrant workers.

Although Apple has committed to remediating worker recruitment charges, its over 200 suppliers are responsible for the remediation of recruitment fees.²⁵ Apple suppliers such as NXP Semiconductors NV have explicit human rights policies that prohibit the charging of recruitment fees, proactively absorb the costs of remediation and enforce ethical recruitment practices with their suppliers.²⁶ Since the start of the programme in 2009, Apple claims that a total of US\$28.4 million has been repaid to over 34,000 workers.²⁷

23 2.4 million migrant workers received human rights training by Apple and their suppliers, "Apple Supplier responsibility 2017 progress report", At p.2, available online at: <https://images.apple.com/supplier-responsibility/pdf/Apple-Progress-Report-2017.pdf>.

24 "Apple Supplier Responsibility Standards", Version 4.3, January 2017, available online at: <https://images.apple.com/supplier-responsibility/pdf/Apple-Supplier-Responsible-Standards.pdf>

25 "Apple Supplier List", February 2017, available online at: <https://images.apple.com/supplier-responsibility/pdf/Apple-Supplier-List.pdf>.

26 "2016 NXP slavery and human trafficking statement", NXP Semiconductors, At p.4, available online at: <https://www.nxp.com/docs/en/supporting-information/RESPECTING-HUMAN-RIGHTS-PDF.pdf>.

27 "Apple Supplier Responsibility 2017 Progress Report", At p. 7, available online at: <https://images.apple.com/supplier-responsibility/pdf/Apple-Progress-Report-2017.pdf>.

4.2 Patagonia

Patagonia is a leading designer of outdoor clothing and gear based in the United States of America. The company's migrant worker employment standards require that workers hired on or after 1 June 2015 are reimbursed all fees and expenses within 30 days of their employment start date. Workers hired before 1 June 2015 must be reimbursed fees that were paid above the applicable legal limits in domestic laws. Where these provisions don't exist, workers shall be reimbursed fees in excess of one month's net wages.²⁸ Patagonia assists suppliers in developing recruitment strategies to help lower the costs of recruiting workers and shares best practices amongst its suppliers.²⁹ Patagonia representatives interviewed for this report stated that the company is also collaborating with other brands in the apparel sector to enforce the Employer Pays Principle.³⁰

Patagonia established this policy after social audits conducted between December 2011 and September 2012 revealed that workers at their raw material suppliers in Taiwan were paying high recruitment fees. Patagonia's social and environmental responsibility (SER) team recognised that patterns of poor recruitment and employment practices were systemic to the industry and not unique to their supply chain.³¹ They developed a three-phase migrant worker programme with short, medium, and long-term remediation strategies. The first phase involved launching the programme, carrying out comprehensive research and data collection, speaking to other brands to share practices, developing migrant worker employment standards, educating suppliers, and completing additional focused migrant worker audits in Taiwan.

In the second phase, starting in December 2014, Patagonia began providing training and consulting support to its suppliers and monitoring their progress in implementing the migrant worker employment standard. Phase three of the plan, which is currently ongoing seeks to provide public information on their progress, challenges and best practices so that other brands and suppliers can begin the process of eliminating high recruitment fees and enable system-wide change.

Cara Chacon, Vice-President of Social & Environmental Responsibility at Patagonia, emphasises that sector-wide collaborations with other brands and industries are crucial in moving the industry towards effective remediation and ethical recruitment practices: "When you have a group of companies asking a particular supplier to adopt a shared ethical recruitment standard, it not only improves their influence," she said, "but provides suppliers with one, united clear joint action plan with timelines".³²

28 "Migrant Worker Employment Standards & Implementation Guidance", Patagonia, At p. 10, available online at: http://patagonia.typepad.com/files/migrant_worker_employment_standards.pdf.

29 "Best Practice Guidance on Ethical Recruitment of Migrant Workers", Interfaith Centre for Corporate Responsibility, April 2017, At p.25, available online at: http://www.iccr.org/sites/default/files/iccrsbestpracticeguidanceethicalrecruitment05.09.17_final.pdf.

30 Telephone interview, November 2017.

31 "Protecting migrant workers: the unacceptably High Cost of Labor," Patagonia, available online at: <http://www.patagonia.com/protecting-migrant-workers.html>.

32 Telephone interview, November 2017.

4.3 QDVC

QDVC is a construction company in Qatar formed by Qatari Diar Real Estate Investment Company and Vinci Construction Grands Projets.³³ The company bears all the costs associated with the recruitment of its workers. It applies due diligence as early as possible in the recruitment process to prohibit and prevent the recruitment agents in the sourcing countries to charge extra-fees to the workers.

QDVC does not have a formal remediation policy to reimburse workers for recruitment fees paid as it is difficult to track recruitment payments that are made to recruitment agents and their sub-agents.³⁴ When cases were traceable, QDVC has ordered the recruitment agents to reimburse the workers concerned.³⁵

Instead of providing reimbursement of recruitment fees, the company is trying to prevent workers from paying recruitment fees at the source. QDVC conducts detailed audits on the recruitment process with newly arrived migrant workers, monitors the supply chain by sending staff to origin countries to monitor and review recruitment and has also increased the service charges being paid to recruitment agents to recruit ethically. "Following the roll-out of new recruitment policies, we have inducted over 1500 migrant workers and our audits revealed that only two workers had paid any fees," said Sarah Tesei, Social Innovation Director at Vinci, one of QDVC's parent companies, who was interviewed for this report. "In those cases, workers had paid less than \$20 and it was immediately reimbursed by the recruitment agency," she said.³⁶

4.4 HP Inc and Hewlett-Packard Enterprise³⁷

HP Inc (specialising in personal computing technology), and Hewlett-Packard Enterprise, (in technology services and enterprise products), were formerly known as the Hewlett-Packard Company, and as such, both HP Inc and Hewlett Packard Enterprise share the same human rights standards for migrant workers, including with respect to the payment of recruitment fees. Suppliers are required to pay for all recruitment fees and provide a detailed breakdown of these costs. Migrant workers who are legally required to pay for some costs directly in their country of origin must be reimbursed these fees by the supplier within 30 days of their arrival in the country of destination.³⁸

33 "Creation of QDVC", QDVC website, available at:<http://www.qdvc.com/index.php/en/features/company-profile/creation-of-qdvc>.

34 Telephone interview, October 2017.

35 "Q. 17 Vinci Company response 2016", Business and Human Rights Resource Centre, available online at: <https://business-humanrights.org/en/vinci-0>.

36 Telephone interview, October 2017.

37 HP Inc and HP Enterprise share identical human rights policies, and are linked to the same parent company. "Hewlett-Packard Company Supply Chain Foreign Migrant Worker Standard Guidance Document", Hewlett-Packard, 27 April 2016. Available online at: <http://www8.hp.com/h20195/v2/GetPDF.aspx/c05116077.pdf>.

38 "HP Supply Chain Foreign Migrant Worker Standard", Hewlett-Packard, September 2015, At p.4 available online at: <http://h20195.www2.hp.com/v2/getpdf.aspx/c04484646.pdf>.

For 14 months, prior to the implementation of the Electronic Industry Citizenship Coalition (EICC) Code of Conduct that HP Inc is now a party to, the company had a flexible recruitment fees reimbursement guideline drawn up for suppliers.³⁹ The company provides suppliers with different recommendations for repayment options urging suppliers to, at a minimum, partially reimburse workers for recruitment costs where full reimbursement is not possible.⁴⁰ This was implemented to increase participation and buy-in among HP's existing suppliers, as prior to the EICC Code of Conduct, there were no industry-wide standards which required the remediation of recruitment fees.⁴¹

4.5 NXP Semiconductors NV

NXP semiconductors is a global semiconductor manufacturer that works with over 10,000 suppliers from around the world.⁴² Responding to a large customer audit in 2011 and 2012, pointing to close to 500 cases of forced labour in two facilities in Singapore and Malaysia, NXP embarked on a comprehensive ethical recruitment strategy that abolished recruitment fees, prevented recruitment agents from withholding passports, reimbursed workers who had paid fees, and set up an exhaustive audit process of all NXP facilities to check for unethical recruitment practices. In the following year, this programme was subsequently expanded to NXP's suppliers.

The NXP supplier code of conduct requires suppliers to pay all fees and expenses related to the recruitment and employment of workers. Such fees and expenses include, but are not limited to expenses associated with recruitment, processing, or placement of migrant workers.⁴³ Although the code of conduct does not explicitly state the remediation of recruitment fees, NXP and their suppliers are required to reimburse migrant workers for any recruitment fees paid.

A key component of the NXP ethical recruitment strategy is being invested in the recruitment process and building trust among migrant workers even before they have arrived at an NXP facility. In the pre-departure phase, NXP representatives interview prospective candidates and recruitment agents in the origin countries. The company also conducts pre-departure training programmes for migrant workers and informs them about NXP's migrant worker standards, living and working conditions. Workers are interviewed soon after they arrive to check if they have paid recruitment fees.⁴⁴

39 See for example, workers shall not be required to pay employers' or agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker."Electronic Industry Citizenship Coalition Code Of Conduct", Version 5.2, 2016, available online at: http://www.responsiblebusiness.org/media/docs/EICCCCodeofConduct5_1_English.pdf

40 "Hewlett-Packard Company Supply Chain Foreign Migrant Worker Standard Guidance Document", Version 1.1, Hewlett-Packard, At p.9, available online at: <http://www8.hp.com/h20195/v2/GetPDF.aspx/c05116077.pdf>.

41 Telephone interview, October 2017.

42 "Supplier engagement", NXP Website, available at: <https://www.nxp.com/about/about-nxp/about-nxp/corporate-responsibility/engagement/supplier-engagement:SUPPLIER-RESPONSIBILITY>

43 "NXP Supplier Code of Conduct", NX3-00123, version June 2015, available at: <https://www.nxp.com/docs/en/supporting-information/NXP-Supplier-Code-of-Conduct-EN.pdf>

44 Telephone interview, November 2017.

Challenges

5.1 The Business Costs of Remediation

The actual and potential costs of implementing ethical recruitment policies are one of the biggest challenges faced by businesses and their suppliers. Ethical recruitment that ensures workers have not paid for work can have many benefits including higher worker satisfaction, greater labour productivity and better retention rates.⁴⁵ But there are substantial financial costs associated with the reimbursement of fees which employers and suppliers may be reluctant to cover. For example, in 2016, one of Coca Cola's primary suppliers committed to reimburse the recruitment payments of 165 migrant workers to a total amount of \$894,000.⁴⁶ For companies or suppliers with hundreds or thousands of workers who have paid these fees, the reimbursement cost could amount to millions of dollars.

NXP Semiconductors finds it easier to persuade their larger, established suppliers to comply with remediation policies than their smaller and newer partners. "A bigger, well-established supplier will have the financial clout to be able to comply," said Tony Khaw, Director, Corporate Social Responsibility at NXP, "But the smaller suppliers are going to find it more difficult to repay workers immediately or in a short period of time".⁴⁷

Suppliers need to develop financial plans and budget in advance for estimated future recruitment and remediation costs. But suppliers who have not accounted for these expenses in their business plans are unlikely to allocate resources for a remediation programme. Some suppliers also consider the recruitment of workers the responsibility of recruitment agents, and are reluctant to assume responsibility for recruitment fees. This could result in challenging contract and price negotiations between the business and the supplier.

5.2 Bargaining Power with Suppliers

Businesses may have limited leverage with their suppliers, particularly those that do not provide goods, services or labour exclusively to them. The extent of a company's leverage may be dependent on a range of factors including:

45 "Recruitment fees", IHRB Briefing, Institute for Human Rights and Business, May 2016, at p. 2, available online at: https://www.ihrb.org/pdf/reports/IHRB_Briefing_Recruitment_Fees-May-2016.pdf.

46 "Best Practice Guidance on Ethical Recruitment of Migrant Workers", Interfaith Centre for Corporate Responsibility, April 2017, At p.17. available online at: http://www.iccr.org/sites/default/files/iccrsbestpracticeguidanceethicalrecruitment05.09.17_final.pdf.

47 Telephone interview, November 2017.

- the value of the contract to the supplier's business and sustainability;
- the financial impact of remediation on the supplier;
- whether other clients require remediation of recruitment fees; and
- the willingness of suppliers to engage in a shared programme on ethical recruitment.

Suppliers can also refuse, obstruct or delay the remediation of recruitment payments. For example, in one case where HP Inc raised concerns with its supplier about workers paying recruitment fees, the supplier simply moved those workers to the production unit of another company.⁴⁸ HP's supply chain may have become more ethical, but it did not address the process as a whole.

5.3 Threat of Reprisals and Conflict of Interest in the Audit Process

Workers can risk threats and penalties from exploitative recruiters, employers and other perpetrators simply for seeking a remedy for recruitment-related exploitation. Migrant workers are often warned not to disclose the actual costs of their recruitment to regulators and employers, and may be pressured to sign declarations that they have only paid the minimum legal fee. If found out, fraudulent recruiters who are exposed could risk losing their jobs and supplier contracts. Reporting recruitment fees could also enable state authorities to blacklist, prosecute and sanction those responsible for illegal recruitment practices. These recruiters in turn could intimidate and threaten workers and their families at home. Iqbal, a Bangladeshi security guard working in Qatar, paid 350,000 Bangladeshi Taka (\$4,100) for his visa but was afraid of revealing the name of his labour broker to local regulators: "He is a powerful man [in Bangladesh], If he finds out, I am worried about what harm he could bring to me and my family."⁴⁹

To claim repayments on recruitment fees, workers must typically identify the amount paid and the individual or recruitment agency that was paid. However, if workers do not feel they can report abuse safely and confidentially, their experiences will go unreported and the exploitative practices are likely to persist. Supply chain auditors usually guarantee workers that their findings will be recorded anonymously. However, if a supplier has to remedy a worker who has paid recruitment fees, the auditor will need to tell the supplier exactly which workers had paid fees and how much was paid. A QDVC representative described the challenge faced when a contractor audit found a number of workers had paid recruitment fees. "I could tell that the supplier wanted to remedy the situation," the representative said. "Rather than revealing the identity of a sample of workers interviewed for the purpose of the audit, QDVC encourages its subcontractors to implement due diligence during the recruitment process and monitor on a systematic basis whether their workers have paid undue fees".⁵⁰

48 Telephone interview, October 2017.

49 Interview in Qatar, October 2017.

50 Telephone interview, October 2017.

5.4 Evidence of Recruitment Payments

It can be a challenge for companies to reimburse workers for illegal recruitment fees because agents rarely, if ever, provide receipts or other documents that evidence the actual costs of recruitment. The standard practice is for recruitment agents in the worker's origin country to give them receipts that only refer to the amounts legally permitted by state authorities or their employer. Testimonies are often the only source of information regarding the actual fees paid by workers.

It may be possible to verify what migrant workers have paid for if the responsibility of identifying these costs is shifted from workers to suppliers. Legitimate commercial agreements for recruitment should have supplier contracts between the recruitment agency and the supplier, purchase orders, receipts and proof of electronic bank transfers. The supplier can work out the agreed-upon expenses with the itemisation provided by the recruitment agent and the information provided by newly arrived workers. But, this practice is usually only possible when there are formal agreements between the recruitment agents in origin countries and the suppliers that require this documentation. Recruitment agents in origin countries are encouraged by poor monitoring and regulation mechanisms in origin countries to evade taxes for their recruitment billings.

Reimbursement payments often represent months or years of potential wages for migrant workers. In order to secure this settlement, workers may be encouraged to inflate or lie about recruitment payments. It could also encourage other corrupt practices including fake recruitment fee receipts, possibly in collusion with recruitment agents.

5.5 Effectiveness of Existing Company Mechanisms to Detect and Remedy Recruitment Debt

Meaningful oversight of recruitment practices across a business is especially difficult in the context of large and complex supply chains. Audit procedures may not uncover the conditions of workers at the lower ends of supply chains, especially when operations are complex and involve multiple suppliers, labour contractors, and recruitment agents.

Some businesses have recognised the need to improve internal procedures to detect recruitment-related exploitation. But further work is still needed. For example, in its 11th annual report on supplier responsibility, Apple noted that it had audited 705 suppliers with a catchment of over 1.2 million workers.⁵¹ But the number of workers interviewed represents less than 50 per cent of Apple's total workforce. When Apple's senior vice-president Jeff Williams was asked why despite various initiatives the company continued to

⁵¹ "Apple Supplier Responsibility 2017 Progress Report", At p. 9, available online at: <https://images.apple.com/supplier-responsibility/pdf/Apple-Progress-Report-2017.pdf>

encounter labour abuse, including recruitment-related exploitation in their supply chains, he said, “The answer is, we continue to add suppliers, and we continue to go deeper into the supply chain.”⁵²

Social audits also usually prioritise living and working conditions and often fail to uncover labour recruitment issues.⁵³ Most audit processes do not look back up the supply chain and labour brokers and agents are not generally part of the scope of the research. Auditors may not be sufficiently equipped or trained to conduct sensitive, impartial and independent investigation audits. When remedy audits are not rigorous, and are not conducted by trained and professional staff, debt-related issues could go completely undetected in the supply chain.

Company audits usually do not extend to all workers in a supplier facility. Instead, interviews are conducted with a statistically significant random sample of workers that are representative of the supplier’s operations. There are concerns that in some cases, the auditing process may not be rigorous enough, excluding workers who had paid recruitment fees. If remedy audits do not extend equally to all migrant workers, remediation with respect to repayment of recruitment fees will not be equally applied. This means that only selected workers will receive payments while there may be many others in the supply chain who are not guaranteed reimbursement of recruitment fees paid.

52 “Despite successes, labor violations still haunt Apple”, James Vincent, The Verge, 12 Feb 2015, available online at: <https://www.theverge.com/2015/2/12/8024895/apple-slave-labor-working-conditions-2015>.

53 “The Cost of a Job Systemic Forced Labor in Asia and What Companies Can Do to Eliminate It”, Verite, At p. 11, available online at: <https://www.verite.org/wp-content/uploads/2016/11/CostJob-WhitePaper-102215-Final.pdf>.

Conclusion

6

Recruitment fees charged to migrant workers is one of the most pervasive forms of labour exploitation. It is often the entry point for a cycle of abuse that can impact workers and their families and communities for months, years or a lifetime. Businesses in all sectors and at all levels face significant challenges in preventing and remedying the charging of recruitment fees to migrant workers.

Despite the challenges, leading businesses in collaboration with civil society, experts and regulators have developed initiatives such as the Leadership Group for Responsible Recruitment to drive positive change in the way that migrant workers are recruited.⁵⁴ The Interfaith Centre for Corporate Responsibility has launched the “No Fees” initiative, designed to help business create management systems and structures that ensure that workers in supply chains are not paying for jobs.⁵⁵ Company audits including human rights due diligence and risk assessments are now better equipped to identify and evaluate the impact of recruitment debt on migrant workers.⁵⁶

One of the most significant challenges for companies is shouldering the financial costs of reimbursing recruitment payments. It can be difficult to detect recruitment fees charged to workers and other associated practices because of gaps in supply chain due diligence and the inability to adequately map supply chains. But businesses can take concrete steps to address these challenges: along with taking responsibility for their own value chains, businesses should adopt collective approaches that incentivise ethical recruitment practices across their supply chains and make it more difficult for suppliers and recruitment agents to charge workers for jobs.

Businesses themselves can help remediate recruitment fees directly by providing financial assistance and contributing towards worker remediation. Remediation costs can also be better absorbed if they are amortised over the period of the worker’s employment. This can help suppliers spread the costs of recruitment over time. While remediating recruitment fees might represent an upfront cost, in the long-term, businesses that adopt the ethical recruitment model can expect that as time progresses the need to reimburse workers will fall and the costs of recruitment will fall in line with the true costs of recruitment. Over time, the real cost of recruitment can be reduced.

No business can address these practices alone. The most effective route to ethical recruitment is collective initiatives lead by business, with the support and guidance of governments, unions and civil society, experts and migrant workers themselves. Businesses working together and with the wider community can eliminate the practice of charging migrant workers for their recruitment and reduce the risk of exploitation associated with it.

⁵⁴ “The Leadership Group for Responsible Recruitment”, Institute for Human Rights and Business (IHRB), available online at: <https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

⁵⁵ “The “No Fees” Initiative”, Interfaith Center on Corporate Responsibility (ICCR), available online at: <http://www.iccr.org/no-fees-initiative>

⁵⁶ “Emerging Good Practice by State Authorities, the Business Community and Civil Society in the Area of Reducing Demand for Human Trafficking for the Purpose of Labour Exploitation”, Mike Dottridge, Council of Europe, June 2016, at p. 31, available online at: <https://rm.coe.int/16806846be>.

Recommendations

7

The following recommendations respond to the challenges identified in Chapter 5. Businesses committed to the reimbursement of recruitment fees should:

The Business Costs of Remediation:

- Map supply chains including suppliers and sub-suppliers, recruitment agents and sub-agents, and develop a strategy to effectively explain the Employer Pays Principle and remediation to all tiers of suppliers.
- Determine the extent of worker-paid fees within the supply chain through migrant worker audits, including the number of workers impacted and the costs of remediation.
- Develop a robust and objective self-assessment programme to evaluate where suppliers are placed on the issue of recruitment fees and their remediation.
- Train suppliers on ethical recruitment policies and techniques on independent and impartial human rights audits.
- Explore various options including providing financial assistance to suppliers for remediation programmes. Spread the costs of remediation by dividing the repayment of fees over the remaining period of worker contracts.
- Encourage and assist suppliers and other business partners to develop their own grievance mechanisms for workers that remediate worker-paid fees.
- Ensure any grievance mechanism applied satisfies the effectiveness criteria of the UN Guiding Principles on Business & Human Rights, namely that it is: legitimate; accessible; predictable; equitable; transparent; rights-compatible; a source of continuous learning; and, based on engagement and dialogue.

Bargaining Power with Suppliers:

- Reinforce the importance of responsible recruitment across business activities to suppliers and other business partners. Emphasise collaboration and capacity building over policing and penalising where appropriate and possible.
- Motivate suppliers about the benefits of remediating worker-paid recruitment fees.
- Identify key personnel within suppliers responsible for hiring decisions and gauge their willingness and ability to align with remediation policies.
- Influence other businesses and brands that work with the concerned supplier to collaborate on a joint policy and implementation plan on ethical recruitment and remediation.

Threat of Reprisals and Conflict of Interest in the Audit Process:

- Develop and adopt appropriate and transparent procedures for receiving, escalating and resolving worker grievances, including ensuring confidential channels of communication for migrant workers to raise grievances regarding the recruitment process.
- Implement a robust, impartial and sensitive audit process to check for payment of recruitment fees upon arrival, after three months, and after six months. To protect workers and to prevent them being identified, these audit practices should be extended equally to all workers in the supply chain.
- Develop or review grievance mechanisms in consultation with workers and their legitimate representatives, as well as staff, departments and other internal stakeholders to understand any cultural differences and build business-wide ownership of it.
- Ensure that any supplier auditors are trained to include recruitment processes in their assessments.

Evidence of Recruitment Payments:

- Require suppliers, labour contractors, and recruitment agents to demonstrate that they have borne the costs of recruitment. This should include: purchase orders, electronic transfers for payments, receipts and detailed itemisations of costs, and evidence of all other expenses incurred in the recruitment process. Ensure these costs correspond with service agreements for the recruitment of migrant workers.
- Investigate periodically if suppliers have paid all fees and expenses for the recruitment of migrant workers and ensure that under the Employer Pays Principle, suppliers are contractually obliged to prove they have paid all recruitment fees.
- Interview all migrant workers upon arrival, after three months, and finally after six months of arrival at your facility to learn what, if any, fees and expenses they incurred. Determine if they were provided with receipts and ask them to show them to you.
- In cases where receipts are not available, authenticate the agreed-upon expenses with the itemisation provided by the recruitment agents and the information provided by newly arrived workers.
- Adopt a progressive improvement approach for suppliers, and use monitoring information to reinforce recruitment agents maintaining itemised and accurate receipts.

Effectiveness of Existing Company Mechanisms to Detect and Remedy:

- Follow a risk-based approach to conducting audits that includes identifying particular contexts, regions, and suppliers who present the greatest risk to the supply chain and prioritise research into their practices.

Responsible Recruitment:

Remediating Worker-Paid Recruitment Fees

- Ensure that audits are done with a statistically significant sample of migrant workers and that the methodology used is transparent, inclusive and non-discriminatory.
- Ensure migrant workers know about and trust the mechanism, including ensuring decision-making processes, whether financial, legal or other, are clearly communicated in appropriate languages and formats.
- Inform ongoing due diligence processes with data and findings from grievance mechanisms. Share information with suppliers and engage them on successful interventions.
- Assess whether there is sufficient internal capacity in terms of time, skills and experience to be able to enforce remediation programmes. Where gaps exist, reach out to relevant experts to assist in developing these programmes.
- Review the effectiveness of the mechanism on an ongoing basis through regular reporting to senior management on how it is functioning.
- Publish a comprehensive and practical human rights standard to assist suppliers with implementing human rights due-diligence practices and the remediation of recruitment fees.



Annex: Questionnaire on Recruitment Fees for Migrant Workers

Name: _____ Age: _____

Nationality: _____

Date: _____ Place of Interview: _____

I. CURRENT EMPLOYMENT

1. What job were you recruited for? Which company?

2. How did you hear about this job? Why did you choose to migrate?

II. DIFFERENT TYPES OF FEES

3. How much did you pay in recruitment fees?

4. Could you provide a detailed break-up of the recruitment fees? (recruitment agency charges, air-tickets, medical tests, visa processing insurance, etc. etc.)
[PLEASE BE AS DETAILED AS POSSIBLE]

5. When did you pay the recruitment fees? (Was it paid in full in the beginning, or in regular installments, please describe) [PLEASE BE AS DETAILED AS POSSIBLE]

III. HOW DID YOU PAY RECRUITMENT FEES

1. How did you pay the recruitment fees?

2. Where did you borrow from? (Banks, Money lenders, family) What were the interest rates?

3. What was the plan for repayment of the loan before your departure? (How often would you pay? How much? Were the terms strict, what would happen if you defaulted) [PLEASE BE AS DETAILED AS POSSIBLE]

4. How did you feel about taking such a large loan, before your departure? [PLEASE BE AS DETAILED AS POSSIBLE]

5. How did your family feel about taking such a large loan, before your departure? [PLEASE BE AS DETAILED AS POSSIBLE]

6. Did you have other debts before this loan? (If yes, please specify)

IV. IMPACT OF RECRUITMENT DEBT

1. How did recruitment debt have an impact on you, before your departure?

2. Did you have to do anything differently because you had taken this debt?

3. How did recruitment debt have an impact on you, after your arrived in the foreign country?

4. How does debt have an impact on your family? What adjustments do they make? What issues affect them? (Did your family shift houses, did your spouse start working? Were they also dependent on other family members?)

V. EMPLOYMENT AND WORKING CONDITIONS

1. Are the conditions the same as what you were promised before recruitment? (If not, please specify) [PLEASE BE AS DETAILED AS POSSIBLE]

2. If the conditions were different, how did that impact you? How did that impact the debt you had incurred? Did you try and do anything i.e: negotiate anything with the lender of recruitment fees?

3. Does your manager/company know you have debt?

4. What is your salary? Could you give us a detailed break-up of your salary? (including basic salary, any allowances etc.)

5. When is your salary paid? How is it paid?

6. Is it paid on time? (If not, please give details)

7. How do you divide your salary for your expenses and other costs?

- a. _____ to send home
b. _____ to pay debt
c. _____ living expenses
d. _____ any other expenses

8. What happens when salaries are delayed? How does it affect your loan repayment?

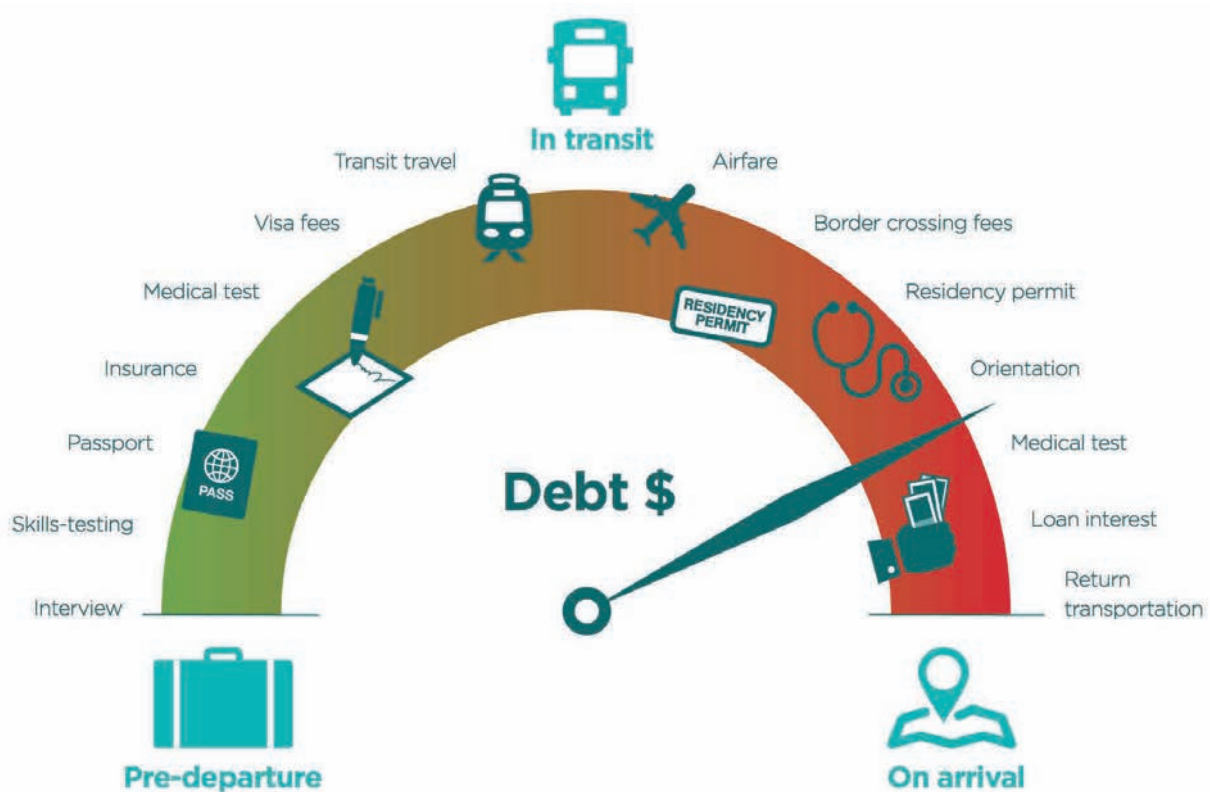
Annex: Migrant Worker Recruitment Fees

B



Migrant Worker Recruitment Fees

The Increasing Debt Burden



Recruiting migrant workers comprises a range of costs, all of which should be met by the employer. Workers often bear the costs of some or all of these expenses, plus substantial facilitation payments. These costs and the interest on loans taken out to pay them can leave workers in situations of debt bondage.

Employer Pays Principle

No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.

Migrant workers should not pay recruitment and service fees and costs at any stage of the recruitment process, during or after employment, including:

1. Any fees for applications, recommendations, recruitment, hiring, placement, and administrative, overhead, and processing fees of any kind.

2. Fees to any parties, including agent, sub-agent, intermediary, or employer.

3. Pre-departure fees and costs including but not limited to:

- a) Skills tests
- b) Additional certifications beyond those required for job eligibility
- c) Medical exams/screening
- d) Pre-departure training or orientation
- e) Any other requirements to access the job opportunity

4. Costs associated with documentation and/or permits:

- a) New passport, identity documents, or visas needed for the purposes of obtaining employment, including renewal(s)
- b) Temporary work or residence permits (including renewals)
- c) Police clearance fee
- d) Birth certification fee
- e) Certificate of good behaviour fee
- f) Other certifications, identity or clearance documents required for residing in the country of employment

5. Transportation and lodging costs (including all taxes and fees):

- a) Transportation and lodging costs after the employment offer has been made and accepted in writing from the worker's home to the port of departure
- b) Transportation from the worker's home (sending) country to receiving country port of entry
- c) Transportation from receiving country port of entry to workplace or provided accommodations
- d) Border-crossing fees
- e) Relocation costs if asked to move once employment has begun
- f) Return transportation to employee's home country at the end of employment

6. Arrival / orientation / on-boarding including but not limited to:

- a) New-hire training or orientation
- b) Medical exams/screening

7. Legal requirements including but not limited to:

- a) Deposits and/or bonds (including those required by law or not required by law)

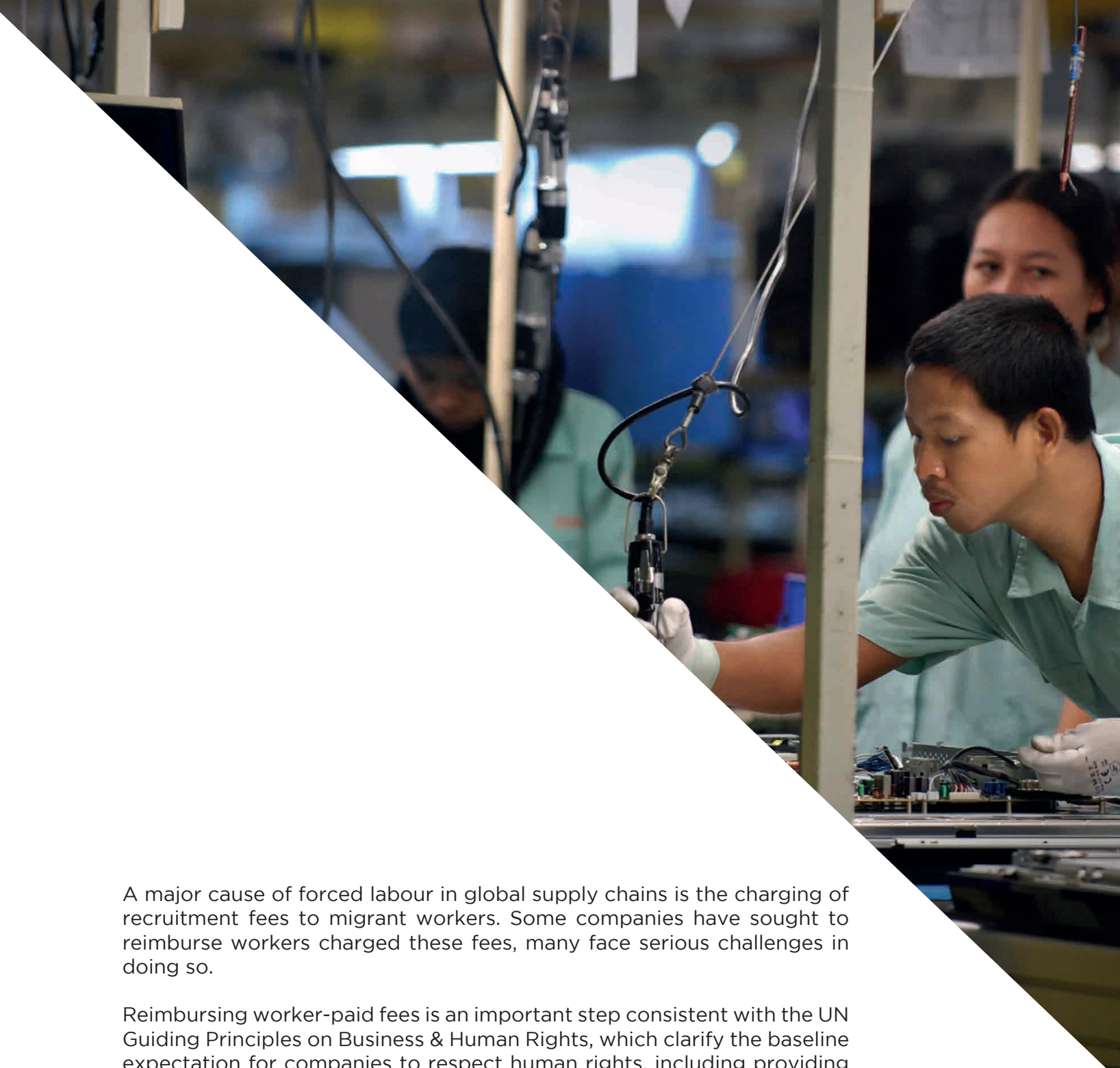
Leadership Group for
Responsible Recruitment



Reflecting the Dhaka Principles for Migration with Dignity, the Employer Pays Principle is a commitment to ensure that no worker should pay for a job. It is endorsed by the Leadership Group for Responsible Recruitment, a collaboration between leading companies and expert organisations driving positive change in the way that migrant workers are recruited.

www.employerpays.org





A major cause of forced labour in global supply chains is the charging of recruitment fees to migrant workers. Some companies have sought to reimburse workers charged these fees, many face serious challenges in doing so.

Reimbursing worker-paid fees is an important step consistent with the UN Guiding Principles on Business & Human Rights, which clarify the baseline expectation for companies to respect human rights, including providing for or cooperating in remediation when they have caused or contributed to adverse human rights impacts.

This report profiles six multi-national companies who have sought to address access to remedy by reimbursing workers found to have paid fees. Each of the remediation programmes vary in size and structure and have been shaped by the local contexts in which these companies operate. Together, they have provided a form of remedy for thousands of workers amounting to millions of dollars in the last decade.

