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Migrant Workers



RESPONSIBLE
RECRUITMENT

and

FAIR HIRING
PRACTICES

to combat trafficking
in South Asia

Migrant Workers: Responsible Recruitment and Fair Hiring Practices to Combat Trafficking in South Asia

India Habitat Centre, Delhi 13th March 2012

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Migrant Workers: Responsible Recruitment and Fair Hiring Practices to Combat Trafficking in South Asia

Executive Summary

The Institute for Human Rights and Business (IHRB) and Verité co-convened a multi-stakeholder roundtable on responsible recruitment and fair hiring to combat human trafficking in South Asia in Delhi on 13th March 2012. This event brought together senior representatives of global brands, the recruitment industry in the region, local and international NGOs, and international organizations such as the ILO. It offered the opportunity for participants to explore the challenges, risks and human rights responsibilities surrounding the recruitment of South Asian migrant workers for overseas employment, and to discuss ways that business and other stakeholders can ensure responsible practices to combat abuses in supply chains.

The roundtable – which was held under the auspices of a project funded by the UK's Department for International Development – was a considerable success. Dialogue on the key challenges and vulnerabilities faced by migrants was informed and wide-ranging, touching on the key problems of fee charging, risks of debt bondage, forced labour and trafficking and restrictions on workers' freedom of movement. Presentations and interventions by participating brands (like Next and Coca Cola) and recruitment agencies and associations (like the Manpower Group and the Indian Staffing Federation) were inspired, with both focused on how they are "raising their game" against human trafficking and addressing the many challenges that lie before them, not least in scaling up their engagement.

Participants also heard from IHRB on its Dhaka Principles for Migration with Dignity, which provide a guide to responsible practice for companies in relation to labour migration and Verité on its Fair Hiring Toolkit and its Ethical Framework for Cross-Border Labor Recruitment. Taken together, these initiatives represent a broad framework of action to promote due diligence and extend labour and human rights protections to some of the most vulnerable workers in the global economy.

In the final session of the day, participants were asked to work together to generate a series of recommendations for the various stakeholders in the room. These recommendations were designed to inform ILO dialogue with the Government of India and other constituents in the country, and to guide the next steps of engagement by the stakeholders themselves. The wide-ranging recommendations were addressed to brands, the recruitment industry, governments, NGOs and international organizations:

To Brands:

1. Promote a joint brand-supplier dialogue about the use of recruitment agencies.
2. Create a common platform to call for higher standards of mutual accountability.
3. Exercise your lobbying voice with government for better regulation and enforcement within the recruitment industry.
4. Shift from looking at "business risk" to talking first and foremost about "human risk".
5. Invest in more awareness-raising and better training for brokers.

To the Recruitment Industry:

1. Final accountability for the recruitment of the worker should rest with the front-end recruitment agency because it is so difficult to map the labour chain down to sub-broker level.
2. There is a need for a regional association or coalition of recruitment associations (e.g. bringing together the Indian Staffing Federation, the Bangladesh Association of International Recruiting Agencies and the Nepal Association of Foreign Employment Agencies) so that they cannot be played off each other by brands or employers.
3. Recruitment agencies must provide employers and individual workers with an itemised bill of costs per

migrant to give a true sense of the cost of recruitment.

To Governments:

1. Fulfil international and domestic obligations.
2. Strengthen the judicial system to provide access to remedy for migrant workers.
3. Provide enhanced information to companies regarding their human rights responsibilities and a call for greater disclosure and transparency by companies about the use of labour brokers.

To Civil Society:

1. Promote more effective information dissemination to the worker through better use of technology and improved input into the education system.
2. Place greater emphasis on root cause analysis of workers' (especially women's) vulnerability to trafficking coupled with a greater push for investigation and prosecution.
3. Advance capacity building for migrant worker organisations to raise awareness of rights and risks.
4. Trade unions should play a stronger role in mechanisms for redress across sending and receiving countries.
5. The civil society sector should be more formalised with stronger accountability and communication systems to allow for more effective advocacy and engagement with government.

To International Organisations:

1. Identify and map what international organisations are doing in the anti-trafficking arena.
2. Push for greater ratification of ILO Convention 181 on Private Employment Agencies, and better enforcement of obligations and legislation at national level.
3. Advocate for a new ILO convention on labour migration – the current suite of relevant conventions is too complicated and diffuse.

4. Bring in other international players, for example the World Trade Organization and International Finance Institutions to push for conditionality regarding safe migration and anti-trafficking measures in loans and trade agreements.

5. Fewer meetings and more action, including promotional activities to make ILO more accessible to external stakeholders.

Background

Over 215 million international migrants living outside their countries of origin play a vital role in the global economy. Recorded remittances received by developing countries, estimated to be US\$325 billion in 2010, far exceed the volume of official aid flows and constitute more than 10 percent of gross domestic product (GDP) in many developing countries.

The vast majority of migrants today are low-paid workers in industries ranging from apparel, electronics and construction to agriculture, hospitality, and domestic service. From the point of recruitment, through employment and to the point of return home, these workers are vulnerable to exploitation. Protection mechanisms to safeguard their rights continue to be wholly inadequate and access to legal remedy is poor in both host and home countries.

Safe labour migration is a key driver of sustainable economic development in both sending and receiving countries. The protection of migrant workers is becoming an increasingly important issue for a number of global industries, as well as for home and host governments. Trafficking of workers, particularly women and girls, into global supply chains remains a significant reality, in part due to poorly regulated recruitment industries. Pockets of good and innovative practice in responsible recruitment and combating trafficking exist but have yet to be taken to scale.

Objectives of the roundtable

This roundtable, the fourth in a series hosted by IHRB – earlier events were held in Bangladesh, Mauritius and UK - offered an important and rare opportunity for brands from a range of industries to sit down with recruitment agencies, government, trade unions, NGOs and representatives of international organizations:

- to discuss candidly the risks which poor recruitment practices present to individual workers,

in particular women and girls, to employers and brands, and ultimately to sending-country economies

- to understand the internationally-agreed labour standards and human rights principles which underpin responsible recruitment of migrant workers
- to identify effective means of tackling these challenges in the context of South Asia
- This IHRB-Verité roundtable was convened under the aegis of a DFID-funded consortium project to combat trafficking of women and girls into the apparel sector in South Asia. Other consortium partners are ILO, ITUC and ITGLWF.¹ The meeting was conducted under the Chatham House rule.

Participants

Companies: Adidas, Carrefour, Casino Group, Coca Cola, Flextronics, Gap, Inditex, Jindal Steel, KappAhl, Li & Fung, Mothercare, Next, Primark, Target, Urban Craft, Walt Disney Company.

Recruitment industry: Indian Staffing Federation, ManpowerGroup, Nepal Association of Foreign Employment Agencies, Teamlease Staffing Solutions.

Civil society: Amnesty International, Anti-Slavery International, ASK, Business and Human Rights Resource Centre, Centre for International Migration and Development, Drishtee-Sustainable Communities, Era Films, Ethical Trading Initiative, Fair Labour Association, GIZ, Global Business Initiative on Human Rights, Institute for Human Rights and Business, Indian National Trade Union Congress, International Trade Union Confederation, Nimbus, Refugee and Migratory Movements Research Unit Bangladesh, Verité.

Government and intergovernmental bodies: UK's Department for International Development (DFID), Embassy of Nepal, International Labour Organisation (ILO), Indian Council of Overseas Employment, Ministry of Human Resource Development India.

1 International Labour Organisation, International Trade Union Confederation, International Textile, Garment and Leather Workers Federation.

Sessions

1. Labour Migration & Recruitment: Challenges & Risks for Business & Migrant Workers in South Asia

- Lack of international protection mechanisms for vast numbers of migrant workers globally. An estimated 50,000 people are trafficked every day. Children and undocumented workers are re-entering supply chains in growing numbers and audits are failing to convey the true scale of the problem.
- We must stop talking of ‘business risk mitigation’ and talk of ‘human risk’. Urgent action is needed now, and can only be achieved through multi-stakeholder collaboration and mutual accountability.
- The California Transparency in Supply Chain Act² of 2010 requires retailers and manufacturers doing business in California (bringing in more than \$100 million in annual gross receipts) to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for goods offered for sale. This is likely to trigger much greater supply chain due diligence right down to recruitment stage. The recently established Business Coalition Against Trafficking will be looking into this at CEO level.³
- The UN Framework and Guiding Principles on Business and Human Rights and ILO Convention 181 on Private Employment Agencies⁴ provide important frameworks articulating state duties and corporate responsibilities to respect the human rights of migrant workers, adding to existing core ILO conventions and the UN International Convention on the Protection of all Rights of Migrant Workers and their Families⁵. More governments must ratify these conventions, and laws must be properly enforced to ensure compliance.

2 <http://corporatelaw.jdsupra.com/post/california-transparency-in-supply-chains-takes-effect>

3 <http://blogs.state.gov/index.php/site/entry/bcat>

4 www.ilo.org/ilolex/cgi-lex/convde.pl?C181

5 www.ilo.org/global/about-the-ilo/press-and-media-centre/insight/WCMS_075619/lang--en/index.htm

- CIETT, the International Confederation of Private Employment Agencies, is committed to raising recruitment standards globally. Its leadership role is essential in driving good practice through its members.

- Discriminatory legislation in Nepal regarding women migrants forces women to use unregistered brokers, increasing their vulnerability to forced labour or trafficking.

- Pre-departure training, strengthened consular support in receiving countries, and access to grievance mechanisms are critical for strengthening protection of workers’ rights.

2. Raising the Game: The Response of Employers & Brands

- The lack of proper due diligence of the recruitment industry in sending countries, coupled with the widespread lack of enforcement of legislation means the risk of trafficking and forced labour is still significant.

- Sharing information between brands and collaborating on audits, through initiatives such as AIM-PROGRESS⁶ in the FMCG industry is essential to tackle systemic problems.

- Agency fees present a huge problem to employers and brands. One employer in the garment industry found a Bangladeshi worker had paid US\$3000 to secure the job in Jordan (visa, passport, medical checks) while the same procedures had cost the employer a mere US\$30. Much more research is needed into this differential.

- Brands must be prepared to pay more to suppliers to cover recruitment fees and move towards an industry norm of no worker fees.

- Models of zero worker fees, eg. by FSI International (a Nepalese recruitment agency) must be taken to scale.

- Brands must advocate collectively with governments to prosecute rogue brokers who are charging illegal fees.

6 www.aim-progress.com

3. Raising the Game: The Response of Private Employment Agencies

- CIETT's code of conduct provides the international benchmark of good practice to which all recruitment agencies and associations should adhere.⁷
- There is a responsibility on all recruitment agencies to take part (through their national associations) in CIETT, and meet global standards on recruitment practices.
- CIETT is aiming to increase its Asia membership of recruitment associations significantly over the next few years. This offers an important opportunity for BAIRA (Bangladesh), NAFEA (Nepal) and other regional associations to work towards international standards of recruitment practices. The challenge is taking pockets of good practice to scale to overcome the "agony and ecstasy of the labour market" with its dramatically varying standards in recruitment and employment practices.
- CIETT can work with national federations, such as the Indian Staffing Federation to advocate with government for the ratification of ILO Convention 181 (Private Employment Agencies)
- CIETT must also engage closely with unions to ensure workers' voices are adequately represented in discussions.
- Recruitment agency federations/associations have an important due diligence role to perform with members through spot checks, peer whistle-blowing, as well as information-sharing and collaboration where appropriate.
- Clarity in terminology is important – brokers, employment agencies, recruitment agencies etc. These are different legal entities and therefore different legal requirements apply.

4. Standards, Verification & Transparency in Recruitment: Emerging Initiatives

The following recently launched initiatives are intended to raise standards of responsible

7 <http://www.ciett.org/index.php?id=30>

recruitment of migrant workers and improve both verification and transparency in the recruitment chain.

- The Dhaka Principles for Migration with Dignity are nearing the end of their widespread consultation period and will shortly be finalised by IHRB and ITUC. It is hoped that ITUC and CIETT will endorse the Dhaka Principles which provide an overarching reference point for non-state actors looking at the role of responsible business in migration. They are based on international labour standards and represent the application of the UN Guiding principles on Business and Human Rights to the migration cycle.⁸
- Verité and ManpowerGroup have recently launched 'An Ethical Framework for Cross-Border Recruitment: an industry stakeholder collaboration to reduce the risks of forced labor and human trafficking'. This framework comprises a series of specific measures to improve the ability of responsible firms in different countries, at different stages of the recruitment pipeline, to recognize and selectively partner with one another in upholding ethical standards in cross-border movement of workers. The solutions are specifically designed to mobilize cooperation among ethical and responsible firms and between those firms and engaged stakeholders in order to reinforce good practices while marginalizing and excluding "bad actors."⁹
- Nimbus Mobi and Stop the Traffick are collaborating on 'Vivhaan', an innovative technology-based initiative aimed at reducing trafficking of women and girls by (i) improving the flow of information to workers at grassroots level, using mobile technology, and (ii) building strong communities. Vivhaan address two major issues; firstly, access to information for women and girls in impoverished communities, raising awareness of human trafficking and empowering them to make informed decisions about their future; secondly, to bring a greater level of co-ordination to stakeholders, across India and Bangladesh, engaged in fighting human trafficking, by gathering information and

8 http://www.ihrb.org/about/programmes/dhaka_principles_for_migration_with_dignity.html

9 <http://www.verite.org/ethical-framework-for-intl-recruitment>

intelligence of trafficking activities. It is clear that there needs to be far greater emphasis on driving transparency in the recruitment chain right down to grassroots levels to empower potential migrant workers, especially women and girls to make informed decisions based on a better understanding of their rights and the risks they may face.¹⁰

5. Recommendations from Working Groups

Key recommendations to raise standards of migrant worker protection through progress in enforcing legislation, enhancing due diligence and taking good practice to scale:

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- Exercise your lobbying voice with government for better regulation and enforcement within the recruitment industry.
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To the Recruitment Industry:

- Final accountability for the recruitment of the worker should rest with the front-end recruitment agency because it is so difficult to map the labour chain down to sub-broker level.
- There is a need for a regional association or coalition of recruitment associations (e.g. bringing together the Indian Staffing Federation, the Bangladesh Association of International Recruiting Agencies and the Nepal Association of Foreign Employment Agencies) so that they cannot be played off against each other by brands or employers.
- Recruitment agencies must provide employers and individual workers with an itemised bill of costs per migrant to give a true sense of the cost of recruitment.

To Governments:

- Fulfil international and domestic obligations.
- Strengthen the judicial system to provide access to remedy for migrant workers.
- Provide enhanced information to companies regarding their human rights responsibilities and a call for greater disclosure and transparency by companies about the use of labour brokers.

To Civil Society:

- Promote more effective information dissemination to the worker through better use of technology and improved input into the education system.
- Place greater emphasis on root cause analysis of workers’ (especially women’s) vulnerability to trafficking coupled with a greater push for investigation and prosecution.
- Advance capacity building for migrant worker organizations to raise awareness of rights and risks.
- Trade unions should play a stronger role in mechanisms for redress across sending and receiving countries.
- The civil society sector should be more formalized with stronger accountability and communication systems to allow for more effective advocacy and engagement with government.

To International Organisations:

- Identify and map what international organizations are doing in the anti-trafficking arena.
- Push for greater ratification of ILO Convention 181 on Private Employment Agencies, and better enforcement of obligations and legislation at national level.
- Advocate for a new ILO convention on labour migration – the current suite of relevant conventions is too complicated and diffuse.
- Bring in other international players, for example the World Trade Organization and International Finance Institutions to push for conditionality regarding safe migration and anti-trafficking measures in loans and trade agreements.
- Fewer meetings and more action, including promotional activities to make ILO more accessible to external stakeholders.

¹⁰ <http://www.vivhaan.com/>

Conclusions and Next Steps

1. It is time for action to end human trafficking and forced labour into supply chains. Only a collaborative approach will achieve scale and impact and must involve government, business and civil society.
2. The current status quo of unregulated recruitment industries in sending countries is unacceptable. It increases the risk of forced labour and trafficking, especially of women and girls.
3. Migrant workers must have a greater awareness of their rights, the risks of illegal recruitment activities, and access to grievance mechanisms. Unions and NGOs have a critical role to play in raising awareness both pre-departure and after arrival in the country of work. Innovative uses of technology need to be further explored.
4. Governments must abide by international labour conventions and must be held to account by non-state stakeholders. Governments must be at the table in these important discussions on collaborative approaches to protecting migrant workers from exploitation.
5. The crucial issue of worker fees vs 'employer pays' must be tackled urgently by brands with their suppliers and, in turn, with recruitment agencies. International best practice of no worker fees must be driven through the industry with a commitment to cost-sharing by all the relevant players. There will be increasing scrutiny by NGOs and others in this area.
6. Preventive measures should be balanced with adequate means of redress for the individual worker. Much work is needed in the area of access to grievance mechanisms and remedy both in the sending and receiving country.
7. All stakeholders should commit to work collaboratively to adopt a '3D integrated approach' to migration: dignity of the individual, decency of work and due diligence of process.

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For further information on any of the above, please contact neill.wilkins@ihrb.org or phunter@verite.org



The Institute for Human Rights and Business is a global centre of excellence and expertise on the relationship between business and internationally proclaimed human rights standards. We provide a trusted, impartial space for dialogue and independent analysis to deepen understanding of human rights challenges and issues and the appropriate role of business.

www.ihrb.org



Verité is a US-based non-profit whose mission is to ensure that people worldwide work under safe, fair and legal conditions. Through our understanding of the perspectives of workers, we find solutions to human rights violations in good business practices. We work to remove dangers and abuses in workplaces around the world by providing knowledge, skills and tools to workers, employers, multinational companies, NGOs, trade unions, investors and governments. Verité has been a leader in supply chain social responsibility and sustainability since 1995.

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**Migrant workers: responsible recruitment & fair hiring
to combat human trafficking in South Asia**

India Habitat Centre, Delhi, 13th March, 2012

8.30am	Registration	
9.00am	Welcome & Introductions Objectives of the Day	John Morrison, IHRB Lydia Long, Verité
9.15am	Labour Migration & Recruitment: Challenges & Risks for Business & Migrant Workers in South Asia	Facilitator: Cindy Berman, DfID
	<ul style="list-style-type: none"> • Why are we here? Migrant labour in South Asia: scale, economic drivers, human and business risks • Lessons from the apparel sector • Risks of trafficking and forced labour; the particular vulnerabilities of women and girls; the case of Nepal 	<p>David Arkless, ManpowerGroup</p> <p>Lakshmi Bhatia, FLA</p> <p>Norma Kang Muico, Amnesty International</p>
	Q&A, discussion	
10.15am	<i>Tea/Coffee Break</i>	
10.45am	Raising the Game: The Response of Employers & Brands	Facilitator: Lydia Long, Verité
	<ul style="list-style-type: none"> • Combating forced labour and ensuring due diligence in global supply chains • Collective brand engagement – Developing a list of preferred brokers 	<p>Shubha Sekhar, Coca Cola</p> <p>Vikram Pandita, Next</p>
	Q&A, discussion	
11.45am	Raising the Game: The Response of Private Employment Agencies	Facilitator: Beate Andrees, ILO
	<ul style="list-style-type: none"> • Industry standards to combat abuse: The CIETT code of conduct • Linking pre-departure orientation to support in receiving countries – steps for good practice 	<p>David Arkless, CIETT (ManpowerGroup)</p> <p>Rituparna Chakraborty, Indian Staffing Federation</p>
	Q&A, discussion	

12.30pm	<i>Lunch</i>	
1.30pm	Regulating Recruitment & Migration: International & National Frameworks	Facilitator: Jeroen Beirnaert, ITUC
	<ul style="list-style-type: none"> • The UN framework of Protect, Respect, Remedy: What does it mean for migrant workers? • International labour standards to combat forced labour and trafficking for labour exploitation; regulatory frameworks in South Asia 	Salil Tripathi, IHRB Coen Kompier, ILO
	Q&A, discussion	
2.30pm	Standards, Verification & Transparency in Recruitment: Emerging Initiatives	Facilitator: Mark Hodge, GBI
	<ul style="list-style-type: none"> • The Dhaka Principles for Migration with Dignity • Building Effective Verification Systems to Safeguard Workers • Mobile Technology to Combat Trafficking 	Frances House, IHRB Philip Hunter, Verité Peter Holt, Nimbus
	Q&A, discussion	
3.30pm	<i>Tea/Coffee Break</i>	
3.45pm	Small Table Discussion: Articulating Recommendations for Action	Facilitated by Frances House, IHRB & Philip Hunter, Verité
	<ol style="list-style-type: none"> 1. <u>To gov't</u>: Regulatory Frameworks for Migration Facilitator: Viraf Mehta, GIZ 2. <u>To brands</u>: Voluntary Engagement Against Trafficking Facilitator: Lakshmi Bhatia, FLA 3. <u>To recruitment industry</u>: Meeting international standards of worker protection Facilitator: Abrar Chowdhury, RMMRU 4. <u>To international organisations</u>: Promoting international standards and legal frameworks for migrant worker protection Facilitator: Caroline O'Reilly, ILO 5. <u>To civil society</u>: Building capacity of grassroots migrant worker organisations Facilitator: Monica Ramesh, ASK 	
	Feedback to plenary from 5 groups	
4.45pm	Summary & observations on responsible recruitment in the region	Soumen Basu, Manpower Group
5.00pm	Conclusions & Recommendations	John Morrison, IHRB & Lydia Long, Verité
5.30pm	Close	