
Submission to U.S. Department of State Monitor and Combat Trafficking in Persons

Office to

2022 Trafficking in Persons (TIP) Report

IHRB on Taiwan

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The Institute for Human Rights and Business (IHRB)

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This Submission

Flawed recruitment practices, and in particular the payment of recruitment fees and associated costs and charges by migrant workers, are a major contributing factor to situations of forced labour and trafficking. Including scrutiny and analysis of recruitment regulation and enforcement in country assessments, in both countries of origin and destination, will help to draw attention to this systemic challenge and will encourage improved practice globally.

In this submission, we pay particular attention to the situation of migrant workers in Taiwan and how they are recruited. The analysis draws on IHRB's work with companies in the Leadership Group for Responsible Recruitment as well as recent IHRB events focused on recruitment of workers and a 2021 visit to Taiwan by an IHRB Research Fellow focused on consultations with stakeholders and awareness raising to prevent exploitation of migrant workers and to reform current recruitment practices.

Taiwanese companies produce goods for many international brands in the apparel and manufacturing sectors while others are major actors in the fishing industry. Taiwan's

electronics industry is also significant and dominates global production of semiconductors. Preventing exploitation during recruitment requires effective oversight and regulation of recruitment practices in Taiwan, specifically from the four countries of origin that make up its large migrant workforces: Indonesia, the Philippines, Thailand, and Viet Nam.

Responsible Recruitment

The issue of unethical and often illegal practice during recruitment of migrant workers in global supply chains is high on the agendas of business, governments, and civil society but remains a systemic challenge. The links between flawed recruitment practices and forced labour and trafficking are well documented and remain significant factors in worker exploitation. In particular, the common practice of workers paying large recruitment fees, often made possible by loans at usurious rates of interest on promises of future earnings that fall short of expectations, leaves many workers in situations of debt bondage – an indicator of forced labour. Recruitment debt also makes workers vulnerable to a range of further exploitations and abuse.

Flawed recruitment practice also negatively impacts development outcomes and realisation of the UN Sustainable Development Goals. Workers servicing recruitment debt will inevitably remit less money, which might have been used to support families and communities back home.

The Leadership Group for Responsible Recruitment

In 2016, IHRB established the Leadership Group for Responsible Recruitment.¹ Focused on correcting flawed recruitment processes, particularly the payment of recruitment fees by migrant workers, the Leadership Group is founded on the Employer Pays Principle, which states: No worker should pay for a job. The costs of recruitment should be borne not by the worker but by the employer. The Leadership Group is an alliance of currently 15 leading international brands including several US companies including The Coca Cola Company, GE, HP, Hewlett Packard Enterprise, Nike, PepsiCo, Target, and Walmart. The ILO, IOM, Interfaith Center on Corporate Responsibility, Verité, and Migrant Forum in Asia are non-corporate members. All members of the Leadership Group are committed to the Employer Pays Principle and are working together to drive responsible recruitment practice throughout their global operations consistent with international human rights standards and to use their collective brand leverage to advocate for others to do so as well.

Preventing the charging of recruitment fees doesn't just protect migrant workers from exploitation, it also ensures a level playing field for business. Companies who recruit ethically are currently disadvantaged in markets where they have to compete with those who bear no recruitment costs by charging workers fees. A prohibition on fee charging to workers would mean that all companies are able to compete fairly within the law.

Legislative Reforms for Responsible Recruitment

In September 2020, former Ambassador-at-Large to Monitor and Combat Trafficking-in-Persons John Cotton Richmond [openly called](#) on Taiwan to “ban recruitment agencies and employers from charging foreign workers recruitment fees, service fees, or deposits.” The ban should be enforced, with the costs moved to the employers. However, Taiwan has yet to embark on meaningful reforms of its recruitment system, despite more egregious cases of human trafficking having surfaced.

Three urgent reforms to the legislative framework governing the migrant recruitment system in Taiwan are needed:

- (1) Monthly service fees borne by migrant workers must be shifted to employers;
- (2) In conjunction, the ceiling on service fees paid by employers (NT\$2000 per year) for each employee must be removed; and
- (3) Registration and placement fees must be collected from employers for all sectors.

During the reporting period, migrant workers in Taiwan have continued to pay a monthly service charge to labour brokers in Taiwan, using a tier system based on the year of service (first-year NT\$1,800 each month; second-year NT\$1,700; and third-year and thereafter NT\$1,500), established by Article 6 in the [Standards for Fee-Charging Items and Amounts of the Private Employment Services Institution \(“Standards”\)](#). In comparison, the service fee that employers pay to labour brokers in Taiwan is charged on a yearly basis and capped at NT\$2000, according to the same standards of permissible fees (Standards, Article 3(2)).

The monthly service charge is a key impediment to reforms for responsible employment in Taiwan. This monthly service deduction is around USD 55-65 per month for each migrant worker and represents a significant income stream for labour brokers on the island. A major [report](#) written by Fair Square in 2021 on fair recruitment between the Philippines and Taiwan states: “Every year, the recruitment sector in Taiwan earns approximately US \$484 million in fully legal monthly service fees from its foreign workers, but many of these recruitment agents

appear to primarily serve the interests of Taiwanese employers, to the detriment of the foreign workers whom they are also supposed to represent.”¹

The profitability of the income received by labour brokers in Taiwan from the monthly service fees means that it is standard practice for labour brokers in Taiwan to charge [very little or none at all](#) from employers for migrant workers placed to work in manufacturing, since they can recoup the costs from the steady monthly service fees paid by migrant workers during their years of employment in Taiwan. This stands in sharp contrast to the practice in domestic care where employers pay registration and placement fees equivalent to the migrant worker’s first month salary to labour brokers (Standards, Article 3(1a)). Effectively, the current race-to-the-bottom system for migrant recruitment into manufacturing obstructs the implementation of responsible recruitment, where all employers bear the true cost of recruitment in Taiwan.

Taiwan should promptly amend the legislative framework that embeds the risks of forced labour through debts in the employment situation of migrant workers in all sectors of work.

Deep Water Fishing Fleet: Progress but Challenges Remain

In May 2021, Taiwan’s top ombudsperson institution, the Control Yuan, [released](#) a set of wide-ranging [recommendations](#) for the government to address the issue of forced labour onboard Taiwan’s distant water fishing (DWF) fleets. The U.S. Department of Labor [listed](#) Taiwan-caught fish in its List of Goods Produced by Child Labor or Forced Labor in September 2020. In parallel, three Taiwanese-flagged or owned vessels have remained on [Withhold Release Orders](#) (WRO) of the U.S. Customs and Border Protection since 2020, and this has driven significant momentum for domestic reforms led by the Control Yuan to address risks of forced labour in Taiwan’s DWF.

The active engagement of the Control Yuan, facilitated by the work of the recently established [National Human Rights Commission](#) (NHRC), has resulted in recommendations that focus on: capacity building for better specialist knowledge on the ILO indicators of forced labour; improved inter-agency cooperation; and international standard-setting on business and human rights, particularly on supply chain labour transparency. The Control Yuan further called on the Executive Yuan, particularly the Ministry of Economic Affairs and other relevant authorities, to evaluate and review the potential of an import ban list similar to the U.S. Department of Labor’s List of Goods Produced by Child Labor or Forced Labor for Taiwan.

These engagements by Taiwan’s top oversight institution led to an important announcement by the NHRC in November 2021 that “[\[h\]uman rights are the core of sustainable fisheries](#)

¹ FairSquare Projects, “The Five Corridors Projects – Corridor 4 Philippines to Taiwan: Fair recruitment in review,” July 2021, page 6, https://fivecorridorsproject.org/uploads/C4_Phippines_Taiwan.pdf.

[development \[and that\] Taiwan must conform to international standards.](#)” In the context of these reforms, there are notable steps that specifically address the role of labour brokers in Taiwan’s fishery sector. These include measures that call for more effective supervision of labour agencies so to tackle the exploitation of migrant fishers by their labour brokers. One example is the process of remitting migrant fisher wages, where the NHRC has asked for the gradual promotion of a direct remittance mechanism, so fishers’ wages would not need to be remitted via labour brokers, thus removing the risk of forced labour through the withholding of wages by brokers.

Serious challenges for Taiwan’s anti-trafficking efforts remain even in the DWF sector that has seen the most reforms. On 28 January 2022, shortly before the closing of the present reporting period, the U.S. Customs and Border Protection (CBP) issued a [forced labour finding](#) against the Vanuatu-flagged fishing vessel, Da Wang, which is owned and operated by the Taiwanese company Yong Feng Fishery Ltd. A Withhold Release Order (WRO) was already issued in August 2020 against Da Wang. In that respect, the forced labour finding against Da Wang was not unanticipated. Nevertheless, there is a broad question on whether the Taiwanese owner, Yong Feng Fishery Ltd, attempted to undertake any forced labour remediation since the WRO was issued. Moreover, there needs to be increased awareness on the importance of mandatory human rights due diligence in the push for reforms in DWF and more broadly in Taiwan’s business enterprises. As the Ministry for Economic Affairs seeks to [increase trade and investment between Taiwan and Europe](#), this also presents a good opportunity for Brussels and other European governments to promote the importance of [supply chain due diligence](#) and the [UN Guiding Principles on Business and Human Rights](#).

Freedom of Movement and Job Mobility

The commitment by the NHRC to carefully examine the role played by labour brokers in the fishery sector can and should be applied to other sectors as well, such as manufacturing, domestic care, construction and [agriculture](#). This is especially important given that, during near lockdown conditions in the summer of 2021 due to COVID19, there were [consistent reports](#) of labour brokers and employers in Taiwan arbitrarily imposing more severe movement restrictions on migrant workers than those required for the general population or other Taiwanese workers. In the county of Miaoli, local authorities mandated movement restrictions that specifically targeted migrant workers as an official policy.

These reports illustrate the discretionary control that labour brokers and employers can exert on migrant workers with respect to many aspects of their daily life and can include deprivation

of their fundamental freedom of movement, an indicator of forced labour.

In addition, migrant workers in Taiwan during the reporting period saw restrictions placed by the Ministry of Labor (MOL) on their ability to change jobs. In August 2021, [MOL implemented new rules](#) limiting migrant workers' ability to work in a sector that is different from the one under which they had received their visa. This was a measure by the MOL to stem the flow of migrant workers changing jobs from domestic care to higher-paying jobs in manufacturing due to labour shortage as result of border restrictions during the pandemic. The inability for low-wage migrant workers to freely change jobs has long been highlighted by civil society in Taiwan. In January 2022, more than [400 migrant workers and supporters rallied in Taipei to call for job mobility](#), which would lessen the control that labour brokers have over their employment situation and, as the Miaoli movement restrictions had shown, over other aspects of their daily lives.

Deceptive Academic Opportunities and Exploitation of Students

In January 2022, a major [investigative news report](#) uncovered the two-year long exploitation of foreign students from Uganda, who arrived in Taiwan under the false pretence of higher education studies in English, scholarship support and technical training at a private, for-profit university in central Taiwan. Upon arrival, however, the students found that all classes were taught in Chinese. Moreover, the students were sent to work long hours under the ambit of the university's workplace training programme. The students frequently covered night shifts and at localities far away from their university. They were paid under the minimum wage and often in cash in unmarked envelopes and without proper wage slips. The students, whose promise of scholarships had failed to materialise, felt they had no choice but to take these job placements and do the excessive overtime hours owing to the amount of their tuition debt.

This example highlights the prevalence of forced labour raised in previous US TIP reports, which led to recommendations to Taiwanese authorities in 2021, to strengthen efforts to screen for trafficking among vulnerable populations, including foreign students recruited to for-profit universities. Although foreign student recruitment does not typically feature in discussion of supply chain transparency, the extent of the varied [overtime work undertaken by the Ugandan students in Taiwan](#)—ranging from tool and machinery production, food, transport logistics, contact lens and bike parts manufacturing, and construction—indicate the presence of exploitative labour in various sectors of the Taiwanese economy.

Taiwanese authorities should take a comprehensive approach towards addressing cases of forced labour and learn from ongoing reforms in the DWF sector. Such reports all point to a

migrant labour recruitment system in Taiwan that needs urgent and systematic reforms. Yet, until now, Taiwanese authorities have tended to address each human trafficking case as an isolated case and not as reflections of structural faults in its system of migrant recruitment. This is seen in how the government has dealt with, to date, the case of the human trafficking of Uganda students via the education route, by viewing it mostly as a [breach of compliance](#) by a higher education institution under the regulations of the Ministry of Education.

Similar rigorous investigations of breaches of employment and labour law, company law and of occupation health and safety, for instance, are not yet seen.

The Employer Pays Principle

By not embarking on structural reforms to shift all recruitment and recruitment-related fees from those already marginalised and vulnerable onto employers, Taiwan's system of labour will continue to embed the risks of forced labour in the roots of its labour recruitment system. Instead, Taiwan, which openly promotes human rights values in its foreign policy and whose economy has successfully withstood the global negative growth during the pandemic, should lead and lends its help to build a global future where no worker should pay for a job. The costs of recruitment should be borne not by the worker but by the employer.

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