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

2020 Trafficking in Persons (TIP) Report

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The Institute for Human Rights and Business (IHRB)

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This Submission

We believe that flawed recruitment practices and in particular the payment of recruitment fees 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 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 in Thailand where many Thai and global businesses need the support of the Thai Government if recruitment practices are to be improved.

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 practice 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, leaving 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.

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 corporates such as The Coca Cola Company, GE, HP, 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 also.

The Responsible Recruitment Agenda in Thailand

Assessing the regulation, compliance and legal enforcement of recruitment practices should be a significant factor in making country assessments for the US State Department's Annual Trafficking in Persons Report. Exploitation during recruitment is likely to occur in all countries. However, the risks inherent in large scale migration of low-wage workers through particular recruitment corridors are of particular concern and are well documented.

The Leadership Group itself is a global initiative but due to many members having supply chains in Thailand (drawing workers from several surrounding countries) recruitment practices in that country has been a particular focus in recent years. This has involved organising stakeholder meetings, in partnership with the Consumer Goods Forum and the Responsible Business Alliance, with businesses, recruiters and civil society organisations to discuss recruitment practice and how it might be improved.² It has also included strategic dialogue with representatives from the Government of Thailand and a direct submission to a consultation on their National Action Plan for Business and Human Rights.³

¹ <https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

² See further: <https://www.ihrb.org/focus-areas/migrant-workers/se-asia-responsible-recruitment-roundtables-bangkok-kuala-lumpur>

³ See further: <https://www.ihrb.org/focus-areas/migrant-workers/submission-thai-national-action-plan>

Flawed recruitment processes and the payment of fees costs and charges associated with recruitment by workers remain a major cause of debt bondage and subsequent forced labour amongst migrant workforces in Thailand. The TIP Report 2019 country narrative found “*the regulations on recruitment fees were poorly defined and enforced, and recruitment agencies and brokers still required workers to pay recruitment fees and transportation costs*”.⁴ Technical assistance and advice for improvement by the Government of Thailand has been offered by the International Organisation for Migration and the International Labour Organisation.

The Leadership Group is fully supportive of their suggestions and note recent efforts by the Thai government to improve migration management laws and systems that include:

- Adoption of the *Royal Ordinance Concerning the Management of Employment of Migrant Workers* which applies the ‘Zero Recruitment Fee’ provision, whereby no recruitment fees should be charged to, or borne by, workers or jobseekers. This commitment is also included in the National Action Plan.
- Provisions to allow at least 2 million migrant workers (from Cambodia, Lao PDR, and Myanmar) to renew their work permits without having to return to their country and reducing the administrative burden for employers to hire migrant workers.

While those efforts to improve migration management laws and systems are commendable, we note with concern:

- The *Guidelines for Migration Management 2019–2020*, dated 29 August 2019 and approved by the Committee on the Migrant Worker Management Policy, adopts a contrary position in that it stipulates that a range of recruitment-related costs – including visa fees, work permit fees, costs for medical check-ups, medical insurance fees, ID card issuance fees, and deposit fees, amounting to between THB7,280 and THB10,480 (US\$257–US\$346) – should be paid by the migrant workers themselves.

Placing the burden on migrant workers to pay these costs and fees runs contrary to the Employer Pays Principle and to the ILO’s *General principles and operational guidelines for fair recruitment*, both of which state that no recruitment fees or related costs should be charged or otherwise borne by workers or jobseekers.

⁴ TIP Report 2019 Thailand Country Narrative Page 457 - <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

- It is also noted that the Government increased the visa fee from THB500 for a two-year work visa to THB1,900 per year for the same type of visa.

This runs contrary to global commitments to reduce recruitment and migration costs, as reflected in Sustainable Development Goal (SDG) Indicator 10.7.1. It should be noted that bureaucratic and expensive formal recruitment processes encourage workers to migrate through informal channels as can be seen by the large number of irregular migrants in Thailand; this status making them more vulnerable to exploitation including trafficking and forced labour.

In raising the above concerns we call on the US Government to urge the Thai Ministry of Labour to:

- Prioritise the development of secondary legislation that will elaborate the zero recruitment fee provision in the *Royal Ordinance* and stipulate in detail what constitutes recruitment fees and ensure that related costs are taken into account and not charged to the worker/job-seeker.
- Urgently consider reducing the visa fee with the aim of complying with international commitments to an overall reduction of worker paid recruitment costs and fees.

These steps would provide clarity and help to ensure that migration into Thailand for work is conducted in ways that ensure respect for international standards, help protect migrant workers, and support business efforts to improve recruitment practice within their operations. Increased focus on improving recruitment practices in Thailand by all stakeholders, including the US Government, will help bring about positive lasting change.

We would be happy to discuss any aspect of this submission or our work in Thailand and look forward to further engagement and collaboration with the US Government in support of preventing exploitation throughout the recruitment cycle.