



Responsible Recruitment: Collaborative Remediation in Garment and Footwear Supply Chains

13 February 2019, 17:00 – 18:00

Partner

Fair Labor Association (FLA)

Objective of the session

Addressing and remediating forced labour in supply chains can be difficult for individual brands to accomplish working with their suppliers, especially when the risk is associated with complex off-site processes such as the payment of recruitment fees to intermediaries, a widely recognised indicator of forced labour. This session will explore how industry actors can collaborate to provide remedy in cases of forced labour in their supply chains.

Background

Migrants play an intrinsic role in garment and footwear manufacturing globally. A significant proportion of workers in the sector are domestic migrants, meaning that they have moved within their own country, often from rural to urban locations. For example, in China there were approximately 287 million rural-urban migrants in 2017, accounting for more than one third of China's total workforce.¹

Foreign-born migrants also contribute to the sector workforce in many OECD and non-OECD countries. For example, the sector in Jordan employs approximately 40,000 foreign migrant workers comprising 75 percent of the country's workforce in the sector.² There are approximately 160,000 foreign-born workers in the European textile industry. Foreign-born migrants may migrate for many different reasons and may intend to pursue employment in the sector for a short period, perhaps bound by fixed term working visa schemes, or to stay and settle in the country. Within this context, the textile, garment and footwear sector can act as an important first port of entry into the formal workforce, particularly for long-term migrants and refugees.

Human rights and labour risks

The circumstances of recruitment, employment and the level of protection afforded foreign migrants are highly variable and greatly affected by policies in both sending and host countries. However, across sourcing contexts, low-income migrant workers and refugees are often marginalised economically, socially and geographically and therefore particularly vulnerable to exploitation. Some characteristics of the garment and footwear sector, notably at

¹ China Labour Bulletin, Accessed at <http://www.clb.org.hk/content/migrant-workers-and-their-children>

² ILO, Unified contract for migrant garment workers in Jordan unveiled at buyers' forum and IO-IFC Better Work Jordan, Accessed at https://docs.google.com/viewer?url=http%3A%2F%2Fbetterwork.com%2Fjordan%2Fwp-content%2Fuploads%2FFacts-and-Figures-1.pdf&hl=en_US&embedded=true

manufacturing, may increase this risk of exploitation.

- **Low-wages:** Migrant workers may be provided different wage rates than domestic workers and may be paid rates well below wages necessary to meet their basic needs.³ Migrant workers are likewise vulnerable to delayed payments and illegal deductions.
- **Precarious work:** Workers without the legal right to work cannot enter into a legally binding employment relationship. The lack of a legal employment contract puts workers at high risk for abuse and exploitation due to a lack of recourse if their rights are violated. Furthermore, workers without legally binding contracts often lack access to related benefits such as social security and healthcare.⁴
- **Child labour:** Children of migrant workers may face unique obstacles to accessing education and in many cases may end-up in child labour. In some cases children and minors are unaccompanied.
- **Sexual harassment and sexual and gender-based violence:** Women account for a majority of the labour force across many of the stages of the garment and footwear supply chain. Women who are low-income workers, migrant workers, and/or are employed informally are particularly exposed to risks of sexual harassment and sexual and gender-based violence in the workplace.⁵ Migrant workers that are reliant upon their employer to renew their work visas, or where they cannot change their employer under the terms of their work visa, are particularly vulnerable to threats and reprisals. They likewise often lack information on where to turn in instances of harassment or violence.
- **Forced labour:** International migrant workers are more exposed to certain forms of forced labour, particularly those with an irregular status, whose vulnerability can be exploited through coercion. For example, migrant workers may be vulnerable to coercion through the withholding of documents, such as passports, work permits, identification cards, etc. Domestic and international migrant workers may also be vulnerable to debt-induced forced labour due to recruitment fees owed to private recruitment and employment agencies.⁶
- **Violations of the right to freedom of association:** Migrant workers who often hold short-term contracts often face a wide range of discriminatory policies against their right to freedom of association.

Forced labour risk in recruitment practices

The conditions in which migrant workers are recruited and hired can heighten the above risks. Third party labour recruitment agencies and contractors often facilitate the recruitment and hiring of domestic and foreign migrant workers. Such labour brokers often operate in the informal economy without legally enforceable contracts or agreements regarding wages, benefits, provisions of work and without oversight. Migrant workers may also be vulnerable to exploitive debt schemes.

The use of illegal subcontracting can likewise heighten human rights and labour risks. In some cases undocumented workers and refugees are employed in small undocumented suppliers that act as sub-contractors to first tier garment manufacturers. Due to the lack of visibility, illegal subcontracting can increase almost all human rights and labour risks including child labour, unsafe working conditions, forced labour, harassment and violence, etc.

Forced labour risk in the spotlight of supply chain legislation

In recent years a number of national due diligence disclosure laws have come into being, requiring multinational companies to trace their supply chains and be transparent about the effect of their business practices on human rights, and particularly forced labour and trafficking risk, for example, the UK and Californian Acts⁷. An update in 2016 to the US Tariff Act of 1930⁸, essentially prohibits the importation into the US of any goods mined, produced or manufactured with the use of convict labour or “forced labour.” It gives US Customs and Border Protection the authority to exclude

³ The OECD Guidelines for Multinational Enterprises call on companies to “provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to satisfy the basic needs of the workers and their families.”(OECD Guidelines, V, 4b).

⁴ Fair Wear Foundation (2015) “Guidance for Affiliates, Risks related to Turkish garment factories employing Syrian refugees”, Fair Wear Foundation website.

⁵ ILO, Gender-based violence in the world of work: Overview and selected annotated bibliography, (2011).

⁶ Debt-induced forced labour is also commonly referred to as debt bondage.

⁷ Section 54 of the UK Modern Slavery Act (2015); California Transparency in Supply Chains Act of 2010 (SB 657)

⁸ Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307)

or seize products of forced labour at point of entry, and to pursue criminal charges against the importers. Under these laws companies should demonstrate they have an understanding of where the forced labour hotspots are in their operations and supply chains, and regular reporting on the actions they have taken to identify, prevent and mitigate risks, and remediate any actual instances of forced labour.

Targeted due diligence policies

Forced labour is a prevalent risk in garment and footwear supply chains, particularly where there is use of private recruitment and employment agencies, prison labour, migrant workers, and subcontracting, among other factors. Companies can address this risk by taking a due diligence approach, starting with the adoption of appropriate policies and supply chain practices relevant to the nature of the risk: for example, a policy on the use of private recruitment agencies and subcontracting. These policies should include appropriate identification, assessment and monitoring procedures that take into consideration the vulnerability and invisibility of workers at risk of forced labour in the supply chain.

Industry collaboration

Recognising the high risks associated with recruitment, in 2018, the Fair Labor Association and the American Apparel & Footwear Association launched the “Industry Commitment to Responsible Recruitment,” with 125 signatories to date. The Commitment is an industry effort to address potential forced labour risks for migrant workers in the global apparel, footwear, and travel goods supply chain. Targeted interventions aim to create conditions so that:

- No workers pay for their job
- Workers retain control of their travel documents and have full freedom of movement; and
- All workers are informed of the basic terms of their employment before leaving home.

The signatory companies also agree to take meaningful actions to implement these practices into their operations, to incorporate the Commitment into their social compliance standards, and to periodically report on their actions through sustainability and/or modern slavery legal disclosures.

The International Organization of Migration’s IRIS Principles, and Migration in Asia’s Recruitment Reform campaign provide codes of conduct for responsible recruitment, targeted at recruitment agencies and companies that use recruiters.

This session will follow the progress in adoption and implementation of such voluntary codes of conduct by recruiters, and what further action is needed by apparel and footwear companies and policy makers to bring an end to unethical recruitment practices in apparel supply chains, and provide remediation to those that are adversely impacted by such practices.

Discussion questions

- What are the key steps that companies should take to build capacity for prevention of forced labour risks associated with recruitment practices in their own operations and supply chains?
- How can companies address these risks when the recruitment in question is perhaps several steps removed from their own operations and first tier suppliers?
- Why is collaboration at the supplier level important to enable effective remediation for workers subject to unethical recruitment practices? What kind of collaboration with suppliers has been effective (give examples)? What changes can buyers make to their operating procedures to promote effective remediation?
- How can companies more effectively understand and communicate with workers as well as stakeholders when remediating recruitment fees and related issues? What are examples of good practice here? What is the role of government stakeholders?

For more information

AAFA/FLA Apparel and Footwear Industry Commitment to Responsible Recruitment, October 2018, https://www.aafaglobal.org/AAFA/Solutions_Pages/Commitment_to_Responsible_Recruitment

Fair Labor Association, *Addressing Risks of Forced Labor in Supply Chains*, 2017, http://www.fairlabor.org/sites/default/files/documents/reports/addressing_forced_labor_in_supply_chains_august_2

[017.pdf](#)

Recruitment Reform campaign, run by Migrant Forum in Asia project: <http://recruitmentreform.org/>.

IOM IRIS Standard, <http://iris.iom.int/iris-standard>

OECD, *Perspectives on Global Development 2017, International Migration in a Shifting World*, 2017