Business and Migration
Roundtable For Collective Action: Strengthening migrant worker protection in the supply chain
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London, 24th March 2010

With generous support from Manpower and Pentland

Roundtable 1 - Meeting Report

Background:

The Institute for Human Rights and Business (IHRB) and the International Business Leaders Forum (IBLF) are working in partnership to host a series of Business and Migration: Roundtables for Collective Action for companies, governments and civil society. The Ethical Trading Initiative (ETI) joined IHRB and IBLF in convening the first roundtable in this series and will remain engaged with future developments.

The roundtables aim to:

i. Raise the debate on the role of the private sector within migration in key sending and receiving countries;

ii. Promote collective action on specific issues related to the protection of migrants’ rights which fall within companies’ spheres of influence;

iii. Identify entry points for dialogue between business and government on related policy matters.

Migrant workers represent a particularly vulnerable part of the workforce, and abuses occur throughout the labour supply chain whether the migration be international or internal. Recruitment of migrant workers by unregulated and frequently unscrupulous labour providers has given rise to much documented abuse of migrants, such as the deduction from wages of recruitment fees and pre-departure loans at extortionate rates of interest, leading to situations of debt bondage. Employment practices by suppliers often include the retention of migrants’ travel documents, violating workers’ freedom of movement, and rendering them bonded labour. No matter where in the supply chain, violations of workers’ rights will always have significant reputational impacts on global high-street brands. Promoting responsible and ethical recruitment and employment of migrants will become ever more important, not only during the global financial downturn but also as economies move out of recession.

No UN body exists explicitly to oversee migration at a global level and while NGOs campaign actively on the plight of migrants they have little sanction. Business has a clear role to play in influencing management of migration at a policy level with government as well as within its own supply chains. If key players with real leverage from different sectors
can be brought together to address common concerns there is real potential to minimise the risk of abusive labour practices and increase the protection of migrant workers’ rights.

**Objectives of the roundtable:**

This first roundtable in the series brought together a very strong, multi-stakeholder group of 35 representatives from high-street retailers, recruitment agencies, international trade unions and civil society to discuss the risks associated with migrant labour in the supply chain and the responsibilities of companies to minimise the risk to migrants as well as to their business. The objectives of this roundtable, conducted under Chatham House rules (hence no individual or company attribution), were as follows:

1. To explore areas of risk to migrant workers in the recruitment process in both sending and receiving countries
2. To identify and better understand common issues facing migrant workers in company supply chains.
3. To identify appropriate risk mitigation strategies in order to improve the protection of migrant workers within the supply chain
4. To explore cases of good recruitment practice by brands, suppliers and labour providers
5. To agree possible areas for collective action in reducing abusive recruitment and employment practices in the supply chain in South and South East Asia

**Participants:**

The meeting benefited from an excellent mix of stakeholders with global experience of engaging on the issue of migrant labour.

| Representatives from the following companies attended: | Adidas Group, Arcadia Group, The Body Shop, Boots UK Ltd, The Cooperative, GAP Inc, John Lewis, Marks and Spencer, Manpower Inc, Mothercare, Next, Nike Inc, Pentland Group, Waitrose. |

**Sessions:**

1. **Framing the challenge to business**

Despite the liberalisation of goods and trade heralded by globalisation, the associated international movement of people at unprecedented levels has been undermined by very little cross-border policy agreement between governments of sending and receiving countries, let alone between states and the private sector. If businesses are operating in a space where governments are not ‘joining up’, this creates a "governance gap", as
highlighted in the Ruggie business and human rights framework\(^1\) which brings with it risk of human rights abuses. Companies need to exercise human rights due diligence to mitigate the risks associated with this policy vacuum – the primary risk being abuses to individual workers, but also material and reputational risk to the business.

Labour providers represent a particularly weak link in the chain of good governance. It is within or as a result of their operations that many documented abuses of migrant workers occur. This roundtable, and the Business and Migration Initiative longer-term, will focus on bringing the labour providers into the debate with suppliers, retailers and government to begin to address risks in recruitment and employment practice and policy.

### 2. Mapping risk

Experience shared from three companies identified the following areas of risk posed both to individual migrant workers and to the retailer:

- **Rights**: migrant workers are unaware of their rights or too intimidated to raise grievances.
- **Access to justice**: if migrants do raise grievances, they very often lack access to remedy or justice
- **Poverty**: the poorer the individual the harder it is to walk away from employment, however unsatisfactory the conditions.
- **Language**: lack of knowledge of the local language and poor literacy levels mean migrants, even after 2-3 years, are unable to communicate with supervisors or factory management, read contracts or health and safety instructions, raise grievances etc.
- **Labour law**: local and even national labour law often explicitly discriminates against migrant workers
- **Debt**: fees deducted by recruitment agents or hidden deductions by employers for food, accommodation etc often leave migrant workers unable to escape debt bondage. Many are working simply to service their debt, unable to send remittances home. 3 months’ salary deduction for finding a job is not uncommon practice by some recruitment agents. Pre-departure loans at extortionate rates of interest add to the financial burden facing many migrants. It is important to note that often much debt occurs away from the immediate company operations and is often hidden by a multilayered recruitment and employment process that is difficult to map and regulate.
- **Vulnerable groups**: women and young people are particularly vulnerable to exploitation. Pregnant women, for example, may feel unable to assert their rights, if such rights even exist and are communicated to the workers.
- **Auditing**: factory audits are not flushing out the issue. Migrant workers often won’t engage with auditors or vice versa. As with child labour, it is impossible to remedy in the short-term when it does arise. Progress requires long-term, systemic change.
- **Communication with suppliers**: how can these concerns best be raised with suppliers? How do you change their mindset?
- **Trade unions**: this is often a difficult issue for trade unions as migrant workers are not members and in some cases are perceived as in competition with their members for jobs. Local unions are often weak.
- **Household registration**: in some countries, eg. China and Vietnam, internal migrants cannot transfer their household registration from their village to the city to which they have moved for work making them illegal residents.

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\(^1\) John Ruggie, UN Special Representative to the Secretary General; [www.business-humanrights.org/Links/Repository/965591](http://www.business-humanrights.org/Links/Repository/965591)
Lack of legislation: there is a clear lack of regulation regarding the activities of recruitment agencies. Applying recruitment legislation and regulation to one sector or location however can push the rogue labour providers into other unregulated sectors or migrant workers into the hands of illegal operators. The Gangmasters’ Licensing Authority’s experience of this in the UK applies overseas too.

In mapping down the labour supply chain in India, Sri Lanka and Bangladesh, one company had encountered significant problems ranging from bogus recruitment agents, intimidation tactics by recruiters, extortionate agency fees, poor living conditions, collective salary payments into the recruitment agent’s bank account, workers being 'rounded up' in holding centres pending exportation overseas for work, risks of trafficking.

Key Q&A
- How can we use business as a platform to share responsibility with government and civil society?
Business needs to take the issue of migration to a level beyond individual suppliers. Companies must engage collectively with government if there is to be any systemic progress on this issue. Labour providers, employers and retailers must sit round the table together to find common approaches. Shared responses are the only key to progress.

Sharing lessons learned
Three companies from the garment and sporting goods sectors shared experiences from South and Southeast Asia and the Middle East. Their recommendations included:

- Include migrant workers in human rights risk assessments and due diligence with suppliers.
- Forge relationships with the factories and supervisors to establish a reliable picture of the situation of migrants in their employment.
- Prepare Migrant Worker guidelines for suppliers/factories, drawing on ILO recommendations.
- Stress the importance of non-discrimination towards all workers, including migrants.
- Encourage local language training, translation of contracts and H&S instructions into appropriate languages,
- Share examples of good practice from other suppliers, eg. the provision of skype phones for migrants to call home, passports made available on request within 24 hours.
- Direct recruitment is preferable.
- Recruitment agents present a significant problem - lack of regulation, lack of incentive to end abusive practices. The very effective ‘naming and shaming’ and legal sanctions used by the GLA in the UK is not replicated elsewhere.

2 http://www.ilo.org/public/english/protection/migrant/areas/multilateral.htm
www.ilo.org/ilolex/cgi-lex/convde.pl?C143
Government is often weak and labour laws are not enforced, allowing for abusive practices to become endemic. The government in the sending country may have no power to influence its counterpart in the receiving country with regard to migrant welfare. Note-the Philippines government links with counterparts in the UAE provide a useful model which other countries such as Bangladesh are considering.

**Migrant Worker Guidelines:**

Good practice from a number of companies suggests the following should be included:

1. Only use government-registered recruitment agents. Contracts between recruitment agents and suppliers must be fully transparent.
2. An annual independent audit of the recruitment agent must be conducted.
3. The supplier (employer) should pay all the costs associated with the worker’s recruitment. This is the ILO position. However, some companies suggest that one month’s salary deduction may be acceptable if there is full transparency and communication to the worker.
4. Pre-departure health checks of workers should be conducted and be non-intrusive.
5. The employment contract, covering all normal terms, must be in the language of the migrant, and illiterate workers should receive verbal explanations. The contract should be signed in both the sending and receiving country by worker and employer respectively. Contracts of employment should be between the employer and the migrant worker not a third party.
6. Retailers’ codes of conduct for suppliers must explicitly refer to migrant workers.
7. Supervisors and managers should receive training regarding migrant worker requirements.
8. Migrant workers should have access to records and documents which should be kept on-site. (The issue of passport retention is difficult as policy is often set by government, as in Malaysia where the Ministry of Home Affairs insists on this issue as a matter of national security, at odds with international human rights law.)
9. Direct payment of salaries to workers’ bank accounts not via recruitment agents.
10. Channels of dialogue and representation established, eg. on-site coordinators, freely elected migrant worker committees.

Business for Social Responsibility shared lessons from their 2009-10 International Labour Migration pilot in Malaysia, based on BSR’s ‘Educate yourself, Engage your Suppliers, Expand your Influence’ model.³

Key points:

- Indirect recruitment raises risks of abusive treatment for the worker.
- Lack of pre-departure training/awareness-raising increases migrant workers’ vulnerability in the receiving country.
- National labour laws often offer no protection for migrant workers.
- Audits are not flushing out the problems related to migrant workers. Retailers need to ‘get out there and talk to suppliers’.
- Involvement of NGOs is key – in Malaysia the NGO Tanganita was instrumental in forging a successful multi-stakeholder initiative which could enter into dialogue with government once the business and civil society partners had built trust.
- At a global policy level, eg. the Global Forum on Migration and Development, entry points for business input have been lacking and such gatherings have failed so far to engage business in any meaningful debate.

BSR is drafting an ‘International Labor Migration’ benchmark for good practice in migrant worker recruitment and employment, underpinned by a collection of good practice in the

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They will focus on Indonesia as a sending country for the next phase of their International Labour Migration Programme.

General discussion:

- Deduction of recruitment fees remains contentious. ILO Convention 181 states that the employer should bear all the costs of recruitment, a principle which is frequently ignored. In some cases companies, while upholding the ILO principle, have settled for interest-free loans to migrants, refundable on return, as a pragmatic solution to the problem of workers often being expected to pay their own airfare or visa costs. Nevertheless, the concern of hidden and/or onerous deductions leading to debt bondage remains extremely serious. The experience of the GLA has proven that legislation banning work-finding fees is essential to driving the rogue labour providers out of business (the concern being that they move into the next unregulated sector).

- Migrant workers who have been employed long-term in a particular factory may not benefit from new protection schemes introduced by retailers regarding fees, pre-departure training etc. resulting in unfair discrimination.

- The companies which have utilized existing regional teams to engage directly with suppliers around migrant worker issues claim this need not be an unduly costly process. Suppliers have appreciated the benefits and engaged with the process. Sharing lessons and tools with other retailers optimizes the benefits to all.

Key questions emerging

- How can the existing pockets of good practice, tools, benchmarks best be disseminated to create ‘snowball momentum’? A central portal/repository of information on good practice is required.
- How can companies enter into debate on government policy? This can only be achieved by acting collectively through a multi-stakeholder approach.
- How can we bring outliers into the frame? Islands of good practice will never achieve systemic change. A collective approach and leadership by responsible companies is essential.

3. Mitigating risk

In three smaller groups, the following questions were discussed:

What actions can be taken to help manage and mitigate the risks that migrant workers may be exploited in the production of goods in supply chains from the perspectives of (i) retailers, (ii) employers/suppliers, (iii) recruitment agencies; what is the role of government trade unions and NGOs in supporting or challenging business to act, and what partnerships would be useful?

Action for retailers

i. Develop policies on migrant workers and ensure they are embedded within their business practices and communicated to and implemented by suppliers.

ii. Sharing these policies and best practice and tools between retailers is essential. Standards will only be raised through industry collaboration.

www.bsr.org
iii. Build the business case for suppliers to demonstrate return on investment by adopting best practice, eg. improved productivity, better health and safety records, higher rates of worker retention, fewer grievances.

iv. Work with suppliers to map migrant workers’ situation, understand the reality of both the suppliers and the migrant workers, and build trust.

v. Provide training to suppliers to raise awareness and improve practices, making it clear that all workers should be viewed as equal but that migrant workers have certain requirements, eg. around language, accommodation, remittances etc which need to be explicitly provided for. Country-specific contexts/labour laws must be taken into account.

vi. Consider incentive schemes for suppliers to introduce migrant workers support mechanisms, eg. free skype phones, translated documents, orientation training on arrival etc. Reward best practice.

vii. Improve supplier audit processes to ensure:
- Better quality of information
- Smarter worker interviews
- Better detection of problems
- Better focus on migrant issues

vi. Supply chain transparency is essential to build trust and demonstrate long-term commitment to raising standards.

vii. A common set of guidelines/standards regarding migrant worker recruitment and employment are required within industry sectors and also across sectors applicable to all migrant workers.

viii. Need to make ethical commitment clear with a strong public message from senior management, and integration of relevant policies across different business functions. Retailers should come together to lobby governments in sending and receiving countries to level the playing field and meet international standards of migrant worker protection.

**Action for suppliers**

1. Retailers and suppliers need to jointly understand how the sourcing policies and practices including costs and price negotiations impact on supplier practice.

2. Establish good management systems, including training supervisors.

3. Use direct recruitment where possible.

4. Only use officially registered recruitment agencies in sending countries.

5. Ensure full transparency and reporting to retailers.

6. Introduce measures to ensure all necessary documentation is in migrant workers’ language or pictoral format for illiterate workers.

7. Ensure parity between local employees and migrant workers’ terms and conditions.

**Action with regard to recruitment agencies**

1. Need for retailers and suppliers to work together to establish benchmarks / key principles for responsible recruitment

2. Trying to deal with recruitment agencies without government help is extremely difficult.

3. Important to try to engage recruitment agencies as partners in a retailer-supplier-recruitment agent ‘supply chain circle’

4. Best practice by recruitment agencies wins business from informed suppliers and brands. Importance of communication with recruitment agents. Incentive schemes for responsible recruitment worth considering.

5. Establishment of a preferred list of recruitment agencies mooted as possibility but not popular with all retailers– seen as one more thing to check, audit, and face risk around.
Retailers could require suppliers to recruit only from officially registered recruitment agencies which are government-monitored, as in the Philippines.

Key points emerging
- Recruitment agencies represent a considerable area of risk in the current supply chain of workers, both to the migrant workers themselves and to the business of suppliers and retailers.
- Collective action by retailers is the only realistic way of making progress on issues of migrant worker protection and risk management, through developing common sets of standards for responsible recruitment and tools for working with suppliers to improve practice.
- Leadership and cooperation is required by high-profile retailers to engage government in dialogue around common areas of risk and poor practice.
- Partnership between retailers, suppliers and recruitment agencies is paramount to make sustainable progress in migrant worker protection.

4. Exercising leadership and influencing policy

Where there is an absence of a regulatory framework, criminal activity fills the void. The lack of regulation in the recruitment industry and the absence of an international regulatory framework has given rise to human trafficking on a massive scale (current estimates of 50-55,000 people trafficked every day), making it the second biggest crime sector in the world after arms dealing and ahead of drugs. The recruitment industry desperately needs increased government regulation to reduce the risk of trafficking and increase protection of migrant workers. The top 12,000 recruitment companies in the world don’t charge people for putting them to work. 250,000 illegal recruitment agencies exist in Europe alone. Retailers must be vigilant only to source from suppliers who use officially registered recruitment agencies.

There is clearly a moral argument for business engagement with the issue of human trafficking but progress will also be made by finding and developing other levers and incentives for governments and for business leaders to take action. Shareholder activists, NGO’s, trade associations and the example of peer companies can all exert reputational pressure on individual businesses. Another proven example is to provide economic incentives, such as credit agencies enhancing the credit rating of companies that check their supply chains for migrant labour. With foreign governments with weak governance and/or poor regulation, the private sector can use its collective buying power to exert leverage, including waving the ‘big stick’ of investment choices.

As the global garment sector has shrunk due to the current economic downturn, the issue of child labour and trafficking has increased massively, with many former garment sector women workers ending up being trafficked into prostitution. In India, the Ministry of Women and Children have proved strong partners for one company along with SPYM (Society for the Promotion of Youth and the Masses) in a public-private initiative addressing the risk of trafficking for workers in the informal sector. This highlights the need for linking policy to practice and finding means to achieve scale to address these huge, systemic challenges.

What can companies do?
- Forge a proactive global business alliance to raise the bar in recruitment standards.
• Appoint global internal monitoring teams to conduct mapping and self-auditing for trafficking or migrant worker abuse in global supply chains. Get away from the ‘tick box’ mentality of external audits which don’t work.
• Seek a common stakeholder platform to engage with government on regulation of recruitment agencies and migrant worker protection. In the UK, this engagement should begin immediately after the forthcoming general election.
• Share with suppliers existing research on return on investment including increased productivity and profitability, regarding responsible recruitment practices.
• Work collaboratively to make the link between policy and practice and to achieve scale through public-private partnerships in trying to tackle the massive problems of human trafficking.

5. Entry point to dialogue with governments

The Gangmasters’ Licensing Authority in the UK provides a highly successful example of an industry sector (agriculture and food-processing) identifying a problem of unscrupulous and unregulated labour providers and engaging with other stakeholders, including trade unions and ETI, to successfully lobby government for new legislation. The resulting regulation and enforcement has benefited workers, employers, retailers and reputable labour providers alike. As well as combating abuse, the GLA model is cost-effective and virtually self-funding as agencies previously operating illegally are incorporated into more formal arrangements including taxation. It also provides a level playing field for reputable companies and agencies to operate within.

However, the rogue recruitment agencies forced out of agriculture and food-processing by the successful enforcement of the GLA have surfaced in other sectors. The GLA should have its remit extended to the construction, hospitality and care sectors where migrant labour is common but labour provides remain entirely unregulated. The GLA model is eminently scaleable and offers many relevant lessons of good practice for companies and other stakeholders to consider for collective action overseas.

A number of company representatives commented that the UK Department for International Development (DfID) does not seem willing to take any leadership on this issue of business and migration. Companies within the group have approached DfID on this matter with no success. It was noted that ministerial departments are not the only channels through which to advance this agenda – there are also parliamentary committees, etc. It is also possible that DfID offices in-country may be more responsive to engagement in multi-stakeholder dialogue.

The Fair Labor Association shared its experiences of seeking to engage with the Malaysian government on human rights violations towards migrant workers where workers lack access to justice. The Ministry of Home Affairs overrides national labour law on the basis that migrant workers may represent a threat to national security. The FLA describe a ‘perfect storm’ where no one individual organisation (retailer, employer, union) has the power to change the system, and where ‘islands of good practice exist in a sea of discrimination’. The FLA has acted as ‘broker’ to bring a group of multinationals together with the Malaysian government to begin discussions. It is also working with the ILO in Thailand on a regional initiative to draw up a Model of Recruitment which provides transparent model contracts for employers to use with registered recruitment agencies. The FLA is undertaking a similar process with the ILO in Bangladesh, drawing on good practice from the Philippines’ government’s engagement with recruitment agencies and government ministries in receiving countries.

http://www.fairlabor.org/current_topics_migrants.html
6. Collective action – what’s needed?

There was agreement throughout the meeting that collective action and a common framework were essential for companies to make progress on issues around strengthening protection of migrant workers’ rights, at both practice and policy levels:

**Practice**

- Retailers need to provide suppliers with clear principles, policies and guidance on recruitment and employment of migrant workers. A number of companies have already developed and implemented these guidelines.
- A forum is required to facilitate the sharing of good practice, guidelines, tools etc and to continue to debate common challenges and appropriate responses.

**Policy**

- Unanimous agreement on the urgent need for better regulation of recruitment and employment practices. Recruitment fees and document retention are two key entry points for this.
- Business, unions and NGOs all agreed on the need for collective action to engage governments internationally on the need for better law enforcement.
- There is a need to establish a regular lobbying / campaign forum from which to leverage influence internationally.
- Similar discussions to those today need to happen in the supply base in-country, e.g. Bangladesh, bringing together retailers, suppliers and recruitment agencies to discuss risks, challenges, good practice and to work towards developing a common set of principles for responsible recruitment and employment of migrant workers.
- Two levels of in-country engagement could be considered, whereby policy and practice discussions take place in tandem, one feeding the other:
  i. High-profile brands with influence on host governments to engage relevant ministries in dialogue on key migrant worker issues;
  ii. Practical workshops with retailers, suppliers and recruitment agencies to address these same issues from a practical implementation perspective.
- In the UK the London Olympics 2012 could provide an opportunity to exert leverage in the catering and hotel sector, and a media hook for calling for the extension of the GLA to the hospitality and construction sectors.

**Where next?**

1. **In-country engagement** will be considered at two levels of policy and practice to trial common guidelines, share good practice, and identify common approaches to tackling systemic and endemic problems within the migrant worker supply chain:
   i. High-profile brands to engage with relevant government ministries in dialogue on key migration policy and labour law enforcement issues.
ii. Practice-orientated roundtables with brands, suppliers and recruitment agencies to address key risks, challenges, opportunities regarding migrant worker protection. Possible locations for these roundtables: Bangladesh, Jordan/UAE, Vietnam.

2. Establish a multi-stakeholder forum to share good practice, develop a governance agenda for collective dialogue with government, and work towards a common set of principles for responsible migrant worker recruitment and employment. (ETI will lead on this)

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Organisations:

The Business and Migration Initiative (includes company codes, links and other resources)- http://www.business-migration-initiative.org

Ethical Trading Initiative - http://www.ethicaltrade.org

Institute for Human Rights and Business - http://www.institutehrb.org


Useful Reading:

Business and Migration; From Risk To Opportunity - IBLF- March 2010 http://iblf.org/resources/publications.aspx


Annex 1

Roundtable Agenda

9.30 Registration and coffee

9.45 Introduction to The Business and Migration Initiative
   Framing the challenge  
   J. Morrison IHRB
   Risks of exploitation in both sending and receiving countries  
   D. Rees ETI

10.15 Vulnerable workers, vulnerable brands  
   G. Baxter IBLF, L. Roberts Pentland
   The risks, the evidence, the need for action
   Pentland’s experience – stumbling blocks, remedies, lessons

10.45 Coffee

11.00 Mapping the risk in my supply chain  
   D. Mackay Arcadia, B. Leppard Next, G. Morgan BSR,  
   Chair – F. House
   IHRB
   Working with first tier suppliers. Developing the experience and tools to map and address key issues within supply chains for labour.
   Understanding and managing the role of recruitment agents in the supply of migrant workers.
   Raising standards – the BSR Malaysia pilot
   Question and Answer Session

12.30 Lunch

1.30 Mitigating the risk – what can I do?  
   Small groups
   Individual company approaches - concrete action
   Respecting rights and remedying wrongs
   Working in partnership with NGOs, govt. and others
   Cases of good recruitment and employment practice

3.00 The call for leadership  
   Chair - D. Rees ETI
   What role can business play in influencing migration policy?  
   D. Arkless Manpower Inc
   What don’t we know about migration trends?
   The need for a multi-stakeholder alliance
   What needs to be done?
   Questions and discussion

3.45 Tea

4.00 Working collectively – where are changes needed?  
   Panel – P. Whitehouse GLA, A. Van Heerden FLA,  
   Chair J. Morrison
   IHRB
   Leverage and entry points for dialogue with governments
   Collective action: what value can it add?
   Specific options for next steps:
   i) supply chain management – S/SE Asia roundtables: brands, suppliers and employment agencies
   ii) ‘red flags/green flags’ checklist for companies
   iii) multi-stakeholder forum

5.00 Close