



A Brief Guide to Ethical Recruitment for the Palm Oil Sector

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1. Introduction

According to recent reports, the global palm oil market is expected to reach USD 92.84 billion in 2021.¹ Palm oil and palm-based ingredients are found in approximately 50 percent of supermarket products², making them ever present in our daily consumption – yet the workers who harvest this ubiquitous oil remain largely hidden from the public eye. Research shows that forced and trafficked labor exists in some palm oil supply chains and that risks are higher in operations that rely heavily on migrant workers. One of the main contributory factors is that the palm oil sector is characterized by institutional fragmentation of the cross-border recruitment marketplace, where employers, recruiters, and their local and regional subcontractors may operate in different jurisdictions with limited accountability to one another, to regulators, or to workers. This has led to a host of problems that have for years plagued the sector, including excessive recruitment fee charging, passport confiscation and restriction of workers’ movements, contract fraud, unauthorized deductions in wages, poor working conditions and inadequate access to affordable food supplies, debt bondage, no freedom of association, a lack of legal and financial remedies, illegal outsourcing of foreign workers to labor contractors, and other exploitative host-country conditions.

Addressing these issues requires employers to take control of the recruitment process by: (1) gaining full visibility into how workers are selected, hired and subsequently brought to the work site; (2) ensuring that workers are fully prepared for and freely choose the job; and (3) ensuring that workers are able to pre-terminate their contract of employment freely and without any penalty. This paper aims to help companies in the palm oil sector improve their recruitment practices by promoting a “systems approach” to social compliance, and human rights-based due diligence as an ongoing risk management process in their operations and supply chains.

2. What is Ethical Recruitment?

Respect for and protection of workers’ rights starts with the workers’ ethical and responsible recruitment. Ethical recruitment refers to a process for hiring workers lawfully, and in a fair and transparent manner that respects their dignity and human

rights. Ethical recruitment principles are based on international human rights standards including those described in International Labour Organization (ILO) conventions and *General Principles and Operational Guidelines for Fair Recruitment*;³ the Institute for Human Rights and Business (IHRB) *Dhaka Principles for Migration with Dignity*;⁴ the International Organization for Migration (IOM) *International Recruitment Integrity System (IRIS)*;⁵ the UN Guiding Principles on Business and Human Rights;⁶ the Verité-ManpowerGroup *Ethical Framework for Cross-Border Labor Recruitment*;⁷ The Fair Hiring Initiative's *On The Level (OTL) Principles and Standards*;⁸ and related industry codes of conducts and best practice including the Roundtable on Sustainable Palm Oil (RSPO) *Principles and Criteria for the Production of Sustainable Palm Oil 2018*.⁹

Ethical recruitment principles include:

Respect for laws and fundamental principles and rights at work – All recruitment actors, employers and their representatives or labor recruiters, must comply with all applicable legislation, regulations, multilateral and bilateral agreements on labor migration, and policies related to the recruitment of migrant workers in the jurisdictions of origin, transit and destination countries, including those pertaining to the immigration or emigration of migrant workers. According to the ILO, ‘labor recruiter’ refers to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labor recruitment and placement services.¹⁰ Ethical recruitment principles explicitly prohibit the use or practice of trafficking in persons, forced labor, and child labor, and include respect for the right of freedom of association and collective bargaining and respect for equality of treatment and non-discrimination, as recognized in the *ILO Declaration on Fundamental Principles and Rights at Work*.¹¹

Ethical and professional conduct – Employers and their representatives or labor recruiters should have policies and processes in place, including due diligence, to ensure that their recruitment activities are conducted in lawful, transparent, and professional means; and in a manner that treats migrant workers with dignity and respect, free from harassment, coercion and degrading or inhumane treatment.

Prohibition of recruitment fees to jobseekers – According to the “Employers Pay” principle: Workers should not have to pay to get a job, i.e., the costs of recruitment

should be borne by the employer not the workers. The “Employer Pays Principle” requires that employers ensure that they are paying all the recruitment fees and related costs associated with recruitment and hiring, including service fees charged by labor recruiters. Employers should conduct *fees and costs mapping* to determine all costs and expenses related to recruitment that should be covered by employers. This process entails (a) understanding all the recruitment-related procedures and requirements, covering the first recruitment activity and all the steps workers are required to undergo as a condition for getting and keeping the job, in both the countries of origin and destination; (b) identifying all of the actual costs and expenses associated with these procedures and requirements; (c) identifying the actors and offices/agencies to whom the payments should be made; (d) determining the total cost, including service fees of actors involved in the recruitment process. Because recruitment policies evolve and costs change, fees and costs mapping should be regularly updated to reflect changes in requirements and costs. Analyses should be conducted for each migration corridor (Nepal-Malaysia, Bangladesh-Malaysia, etc.) represented in a company’s labor force. As a best practice to mitigate forced labor risks introduced into company supply chains by unscrupulous labor recruiter practices, employers are encouraged to hire workers directly where possible.

Below is an example of a recruitment fees and costs mapping exercise conducted by an employer for migrant workers from Bangladesh to a palm oil refinery in peninsular Malaysia in 2019. The fees and costs were reported to auditors at the time, and are presented here to demonstrate how one employer carried out this sort of analysis only; they should not be viewed as authoritative or indicative of current costs.

*Tables 1 & 2: Sample recruitment fee and cost mapping exercise
(Bangladesh-Malaysia, 2019)*

Recruitment-related Fees & Costs in Malaysia	Cost (MYR)
Levy	1,850
Immigration processing	125
Visa	20
PLKS (temporary foreign worker permit)	60
Insurance	63
FWCS (foreign worker compensation scheme)	90
FOMEMA (mandatory health and medical screening)	180
SKIPPA (foreign worker hospitalization & surgical insurance scheme)	147
Agent service fee	130
Total in Malaysia per worker	2,665

Recruitment-related Fees & Costs in Bangladesh	Cost (MYR)
Passport preparation	300
Malaysian embassy visa stamping charge	200

VLN Malaysia visa stamping charge	300
One-year insurance cost	400
Tax for labor approval	250
Expediting fee for visa stamping and labor approval process	1,000
Immigration security clearance (ISC)	300
Medical exam fee	250
Transportation expenses from village (estimated ceiling based on costs and number of trips)	500
Accommodations in Dhaka (estimated ceiling based on costs and number of days)	2,000
Agency and sub-agent service fees	2,300
Air ticket and any tax and handling charges (estimated ceiling)	1,200
Site recruitment handling and expenses (estimated ceiling)	2,500
Other logistics and supplies expenses (estimated ceiling)	1,000
Estimated total in Bangladesh per worker	12,500
Estimated total recruitment fees and costs per worker	MYR 15,165 (2019 USD3,640)

Labor recruiters must not charge directly or indirectly, in whole or in part, any fees or related costs to migrant workers, for the services related to recruitment for temporary or permanent job placement or employment. Jobseekers should be

informed during the recruitment process that they do not bear any costs of recruitment. All transactions should be documented, and procedures must be in place to ensure and verify that workers were not charged. Labor recruiters and employers must be able to show proof that the employer has covered all recruitment costs. Any fees found to have been charged to workers must be repaid to the worker immediately, and no later than 30 days after arrival or discovery.

Assessing Labor Recruiters

Verité has conducted audits of labor recruiters for some of the largest companies in the world, and uncovered risks that previously were hidden from the employer and the buyer.¹² This experience has shown that an essential feature of effective ethical recruitment audits is interviews with recruitment agents and other labor intermediaries involved in recruiting workers for the business, as well as interviews with jobseekers and workers. One good practice is to interview workers at the point of recruitment or pre-deployment, and as well as post-arrival in the destination country. This can give the auditor full insight into the recruitment, selection, and hiring procedures used by labor recruiters, including sub-agents and other intermediaries, and the conditions facing migrant workers in pre-deployment, transportation, arrival, and placement.

Auditors should interview all labor recruiters involved in recruiting workers because each agent has their own practices and procedures. If this is not possible within the time frame of the audit, then a broad cross-section of labor recruiters should be interviewed in the origin and destination countries that is representative of the migrant worker population in the business. If constrained by time and resources, labor recruiters in origin countries can be interviewed by video conference, with particular focus on how they are working with sub-agents or informal brokers and the fees/costs involved.

Other issues to address with labor recruiters include:

- Legal permit/ license to operate in the origin and destination countries

- Contractual and financial relationship with the employer
- Pooling practices and screening procedures
- Contracting procedures with labor intermediaries and selected jobseekers
- Scope of service with the principal, e.g., whether they also perform human resource management functions for migrant workers, such as salary payment
- Pre-departure orientation or training provided to workers
- Fees and costs throughout the employment cycle
- Identity document retention
- Whether the agent has established an effective complaints mechanism or grievance procedure available to migrant workers.

Freedom of movement – During the recruitment process, jobseekers and workers should be able to access or withdraw their passports, identity cards, school records and other personal documents. Once employed, their passports, identity cards, bank books, work permits, and any part of their wages, or other personal belongings, should not be withheld or used to restrict their freedom of movement.

Transparency of job terms and conditions of employment – Employers and their representatives or labor recruiters, must ensure that jobseekers receive accurate information about the available job, the nature of the work, rates of pay and pay arrangements, working hours, vacation and other leave benefits, all potential deductions from pay, and any other benefits they will receive in accordance with national law. Prior to deployment, workers must be provided with written contracts in a language that they understand, with terms and conditions that are identical to the information given to them previously during the recruitment process (as above). Employers should ensure that migrant workers receive pre-departure orientation (PDO) training, which at a minimum, covers workers’ contractual rights and their rights while in the destination country, including at the point of repatriation, and ensure that the worker’s written consent to the employment contract is obtained without coercion. There must be no contract substitution, no unauthorized deductions, and no penalty to the worker for terminating contracts in accordance with legal requirements. Workers should only be assigned to the worksite and employer indicated in the employment contract and work permit.

Confidentiality and data protection - Employers and their representatives or labor recruiters, must take care to record only that personal data that is required to judge the workers' aptitude for jobs for which they are applying. Employers must ensure that all personal data that they collect, receive, use, transfer or store is treated as strictly confidential and shall not be communicated to any third party without the prior written informed consent of the worker or workers' representative, unless required by law.

Access to remedy - Employers must ensure that migrant workers have effective access to remedy, without fear of recrimination, reprisal, or dismissal, during the recruitment process and while employed. This can be in the form of internal grievance procedures of the labor recruiter and/or the employer. Workers must also have access to other remedies related to recruitment that are provided by law in the country of origin and destination. Effective grievance mechanisms should provide access to independent legal and technical advice for complainants.

Service contracts and agreements – All contracts and service agreements between employers, contractors, labor recruiters and other third-party suppliers should be in accordance with law and expressly prohibit forced labor indicators, including the charging of recruitment fees and related costs to jobseekers or workers. Contracts should clearly state all relevant information related to fees and expenses, including the entity responsible for paying, amounts to be paid and the currency, method, and frequency of payments. Employers must work only with labor recruiters who are licensed/authorized in their country of operation to recruit and place workers. Employers must ensure that other labor intermediaries or sub-agents who are involved in the recruitment process only earn from the employer's duly appointed labor recruiters and not from the jobseekers/workers. Employers must conduct effective due diligence on labor recruiters' recruitment and worker-management practices by regularly conducting audit/assessments and holding them contractually and financially accountable for compliance with ethical recruitment standards.

3. Why Is Ethical Recruitment Important in The Context of the Palm Oil Sector?

In order to maintain market share and ensure future investments, the biggest producers and exporters of palm oil and palm oil products, must address the growing global demands for ethical recruitment and sustainability.¹³ This can only be done by understanding what makes the palm oil industry particularly susceptible to labor abuses.

In Malaysia, for example, where the palm oil industry employs approximately half a million workers in refineries, mills and plantations, about 80 percent of workers are migrants who come from Indonesia, Philippines, India, Nepal, Bangladesh and Myanmar. With these migration flows and porous borders come risks of forced labor, debt bondage, involuntary servitude and human trafficking. Also, in Indonesia, the world's largest producer of palm oil, mills and plantations in Java and Sumatra employ internal migrants from across the country, incurring significant expenses and costs that are passed on to workers.

EXAMPLES OF COMMON RECRUITMENT CHANNELS AND RECRUITMENT COSTS REPORTED IN RECENT VERITÉ ASSESSMENTS

A. Using legal recruitment agents in origin and destination countries

Workers are generally recruited by sponsors in their hometown and registered to a recruitment agency in the origin country.

Indonesian workers report paying between IDR 6-9 million (USD 435-650) to brokers or agents to cover payment for recruitment-related costs to obtain a national ID (KTP), passport, medical exam, one-way airfare, visa, work permit and transportation to the work site. Some workers have reported being manipulated and deceived by their agent. For example, one reported having paid a recruiter IDR 7.5 million (USD 500) and was promised work at an oil company, but ended

up working at a palm oil mill.

Bangladeshi workers interviewed in a recent assessment said they learned about overseas jobs and the role of local labor brokers through relatives and peers in their community. After approaching the brokers with their wish to work in Malaysia, they traveled to the capital, Dhaka, where they stayed with relatives, or in agent-provided housing costing around USD 6/day, or in local hotels costing between USD 6-12/day. These workers reported paying fees ranging from USD 1,500 to 4,200 (MYR 5,600 to 15,000) to their labor agents to cover the cost of a passport, work permit, one-way airfare to Malaysia, medical checkup, and contract. Some workers reported paying for the medical checkup separately.

Workers then travelled by plane to Kuala Lumpur where they handed over their passports to receiving agents who arranged for transportation to the work site. Upon arriving at the work site, some were assigned to the mill, remaining under the direct supervision of the mill management. Those assigned to work on the estates were divided among labor contractors who manage them and their output. In the agreement between the estates and the contractors, the contractors were responsible for paying the workers and for complying with all statutory obligations, such cost-of-living adjustment (COLA), Employees Provident Fund (EPF), social security (SOCSO), workmen's compensation, maternity allowance, medical treatment etc., as well as providing tools, implements, transport and food to the workers.

The contractual fee paid to the workers was a fixed rate by metric ton (for fresh fruit bunch or FFB harvesting) or acre covered (for pruning or spraying, etc.).

The workers interviewed said that recruitment agents in Bangladesh had promised them different jobs in Malaysia, such as at a factory, or at government plantation sites, although some had a vague idea that they would be working in fruit orchards. Until they arrived at the estates, none of the workers interviewed knew where in Malaysia they were going, or the nature of the work they would be doing.

B. Using an agent to enter Malaysia with a tourist visa

Most of the Indonesian workers interviewed by Verité entered Malaysia as tourists using a regular passport. They flew from Lombok to Batam and then took a ferry to Belungkor port in Johor Bahru. At the immigration check point, they told the official they were visiting family or on holiday but explained that immigration officers usually knew they were going for work but let them continue their journey. Upon arriving in Malaysia, an agent at the port took them to the plantation where they were assigned. Subsequently, they paid a fee to receive new passports with work permits attached.

C. Using an agent to enter Malaysia without documents

Some workers repeatedly enter Malaysia without documents. One reported paying IDR 1.3 million (USD 90) to a person who arranged his journey. He had done this five times, in order to work for the same employer. His journey included flying from Lombok to Batam and crossing the border by boat. He did not land at an official port and continued his journey on foot to a location where the agent arranged for him to take a bus to the work site.

Palm oil plantations are vast and isolated - Due to their remoteness and size, palm oil plantations are among the least monitored worksites in the world, which significantly increases the vulnerability of workers. Plantation workers tend to be segregated from larger communities, leaving them dependent on owners or managers to provide reasonable working and living conditions, or to guarantee important worker rights. Workers in uncertified refineries, mills, and plantations that are not required to undergo audits and assessments are especially vulnerable, as there are very limited opportunities for their working and living conditions to be verified, or for their grievances to be heard. In this regard, certification audits, buyer assessments and similar activities such as those undertaken by the Roundtable on Sustainable Palm Oil (RSPO), can play an important role in promoting worker rights.

RSPO 2018 PRINCIPLES AND CRITERIA ON FORCED AND TRAFFICKED LABOR

The recently updated 2018 Principles and Criteria (P&C) include stronger and more robust labor standards, moving away from mere documentary compliance, towards requiring compliance in practice and procedures. Critical standards in Principles 1 and 2 include the following:

- The ethical conduct requirement is extended to all transactions, including recruitment and subcontracting
- Due diligence and zero-tolerance for child labor and forced labor are applied to service providers
- Management systems are required for human resources and recruitment practices
- Gender-specific requirements are incorporated into various criteria pertaining to documentation and records, training and communication

Importantly, Principle 6 emphasizes that all work is voluntary, and prohibits the following:

- Retention of identity documents or passports
- Payment of recruitment fees (evidence of such payment by migrant workers is considered discriminatory)
- Contract substitution
- Involuntary overtime
- Lack of freedom of workers to resign
- Penalty for termination of employment
- Debt bondage
- Withholding of wage

These indicators are consistent with the ILO forced labor definition and risk indicators. The P&C further requires that where temporary migrant workers are employed, specific labor policy and procedures should be established and implemented.

The palm oil sector is labor intensive and, in countries like Malaysia, relies on

migrant workers – Locals often shun the work on plantations because it is difficult, dangerous, and dirty. Consequently, for decades plantations have relied on the manual labor of thousands of low-skilled migrant workers for the supply of stable, affordable labor. Many of the plantations in Malaysia source workers from Indonesia, Philippines, India, Nepal, Bangladesh and Myanmar who leave their families, sell their lands or borrow money to finance the cost of migration for work. The need to earn a living, plus a lack of knowledge of the job and the country they are being recruited into, makes them particularly vulnerable to deception and false promises.

Informal and unregulated labor brokers and sub-agent practices lead to deception of workers and huge debt – As a form of labor recruiter, labor brokers and sub-agents often play a legitimate and useful role in job placement by acting as intermediaries between job seekers and recruitment agents hiring on behalf of employers. However, the system of labor brokerage can be opaque, sometimes corrupt, and largely lacking in accountability. Broker practices can range from formal and regulated, to highly informal and unregulated. Unregulated broker practices spark a host of issues including charging unauthorized and excessive recruitment fees, which can lead to substantial levels of worker debt, and deception about the nature of the job in the host country. Many workers have reported securing jobs through personal contacts and migrating without work permits; some employers report that work is always available in plantations and they do not always have the time or resources to verify where workers come from, or how they learned about the job. In some parts of Malaysia (Sabah, in particular), hundreds of workers and their families have been rendering their labor to and living in plantations for decades without proper identity and employment documents. They did not go through formal recruitment channels, or documentation processes, and therefore cannot avail themselves of legal protections afforded to documented workers, or advocate for better conditions and benefits. All of these factors significantly increase workers' vulnerability to forced labor.

Limited freedom of movement and freedom of association – Migrant workers generally have fewer rights than local workers. In Malaysia, while they have the legal right to become members of unions, they cannot take leadership positions or start their own unions. Their work permits tie them to one employer and a specific location of work, and thus their conditions of stay are dependent on their employers or

sponsors. In other cases, such as in Sabah, many workers lack proper documentation and thus are at risk of being detained and deported, or of facing other forms of exploitation such as harassment, extortion, and physical abuse. In the case of documented and formally recruited workers, employers/agents often retain workers' passports, effectively restricting their movement. Consequently, workers cannot easily refuse the terms of the job given to them, nor can they advocate for better conditions or easily change jobs even if the conditions are untenable.

Grievance mechanisms – Migrant workers on palm oil plantations often do not have access to grievance mechanisms, either because they don't exist or because of other barriers including language, culture, and gender. In practice migrant workers are unable to join unions due to fear of retaliation, which also adds to their vulnerability.

Government regulation related to supply chain transparency and due diligence:

Consumer, investors, and government regulators are becoming more sensitive to these issues and have increasingly been insisting that companies and their suppliers take action to ensure that their supply chains are free from forced labor and human trafficking. Pressure from advocacy organizations is also intensifying. For example following NGO petitions, US Customs and Border Protection (CBP) issued Withhold Release Orders in 2020 to block imports into the US of palm oil products produced by two major Malaysian companies and their respective subsidiaries and joint ventures: FGV Holdings Berhad (FGV) and Sime Darby Plantation Berhad (SDP).¹⁴¹⁵

The governments of Indonesia and Malaysia, the biggest palm oil producing countries, have taken measures to address the issues underlying such concerns, by coming up with their own mandatory sustainability standards and certification schemes. Malaysia has launched the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme, which is the country's national scheme for oil palm plantations, independent and organized smallholdings, and palm oil processing facilities to be certified against the requirements of the MSPO Standards. The Indonesian Sustainable Palm Oil (ISPO) scheme also developed its own set of policies and standards of environmental and social sustainability, adopted by the Ministry of Agriculture on behalf of the Indonesian government.

Buyer or consumer countries are increasingly enacting supply chain transparency and due diligence laws, which include:

<p>The U.S. Trafficking Victims Protection ACT 2000 (TVPRA) includes criminal provisions prohibiting forced labor.</p>	<p>2000</p>	
<p>UN Guiding Principles on Business and Human Rights (2011 update) A set of principles describing how governments and business should implement the UN Protect, Respect and Remedy Framework.</p>	<p>2003</p>	<p>TVPRA expanded to allow civil causes of action against traffickers and, since 2008, anyone who benefits from a venture which they knew or should have known has engaged in actions in violation of the TVPRA.</p>
	<p>2011</p>	
<p>ILO Protocol of 2014 to the Forced labor Convention emphasizes the link between forced labor and trafficking in persons.</p>	<p>2012</p>	<p>The California Transparency in Supply Chains Act requires large companies doing business in CA to disclose efforts to eradicate slavery and human trafficking from their supply chains.</p>
<p>The U.S. Trade Facilitation and Trade Enforcement Act (TFTEA) prohibits importation into the US any goods mined, produced or manufactured with the use of convict labor or forced labor.</p>	<p>2014</p>	<p>EU Procurement Directive 2014/24/EU requires public authorities not to award a procurement contract to any business that has been convicted for child labor or human trafficking.</p>
<p>US Federal Acquisition Regulation to implement Executive Order 13627 regulates the recruitment practices of the Federal Government and contractors. Prohibits: using misleading recruitment information; charging employee-recruitment fees; denying employees access to identity documents; and not paying for migrant workers' return to their home country.</p>	<p>2015</p>	<p>The UK Modern Slavery Act requires companies to disclose steps taken to eliminate slavery and human trafficking in their supply chains, and any parts of their own business.</p>
<p>OECD Due Diligence Guidance for Responsible Business Conduct (2018) Provides practical guidance on how companies can implement the OECD Guidelines and UNGP by providing plain-language explanations and examples of its due diligence process recommendations and provisions.</p>	<p>2017</p>	<p>French Corporate Duty of Vigilance Law requires large companies to create vigilance plans to identify and prevent severe violations of human rights and fundamental freedoms, serious bodily injury or environmental damage, or health risks that could occur as a result of the company's activities, and those of its suppliers and contractors.</p>
	<p>2018</p>	<p>The Australian Modern Slavery Act requires large companies based or operating in Australia to report on the risks of modern slavery in their operations and supply chains, and actions to address those risks.</p>
<p>EU Mandatory Human Rights Due Diligence Law (in process) will require companies to perform due diligence for human rights, environmental and other governance risks in their operations and supply chains in alignment with the UNGP and OECD Guidelines.</p>	<p>2019</p>	<p>The Netherlands Child Labor Due Diligence Law obliges companies that sell or supply goods and services to Dutch consumers to find out whether their goods have been produced using child labor and come up with a plan to prevent child labor in its supply chain if they find it.</p>
	<p>2021</p>	

4. What Do Palm Oil Buyers and Growers Need to Do to Comply with Requirements?

In order to prevent the exploitation of migrant labor, palm growers and producers, traders and buyers, consumers and end-users must invest time and resources in ensuring the ethical recruitment and fair hiring of migrant workers. Especially for those who employ migrant workers, this requires close examination of recruitment practices in the source countries, districts, and villages where workers are coming from. Employers should have clear and formal service agreements with labor recruiters and suppliers incorporating laws and ethical recruitment standards, and a documented process to actively verify compliance with ethical recruitment and employment policies. Additionally, there should be credible mechanisms for workers or stakeholders to report any noncompliance, and there should be a process for corrective action and remediation for suppliers who are not in compliance.

The typical formal process for recruitment, selection and hiring for foreign workers involves the following steps:

- Notice of vacancy and request to hire is received by human resources who reviews job requirements and identifies worker nationalities
- Destination country approval (generally from the Ministry of Home Affairs) is secured to recruit and hire foreign workers
- Origin country approval (generally from the Ministry of Labor) is secured to recruit and hire foreign workers
- Job vacancies advertised
- Applications for passports and insurance
- Initial pooling (applicants provide passports)
- Pre-screening of applicants/shortlisting
- Screening (interview and skills test) and selection
- Selected applicants undergo medical examinations
- Names of selected applicants are submitted for calling visa and visa stamping
- Successful applicants undergo pre-departure training
- Pre-deployment documentation is processed as required by origin countries (pay insurance, secure pre-departure training certificate)
- Origin country issues final approval to deploy workers

- Workers sign employment contracts
- Deploy workers to destination country
- Employer receives arriving workers; completes requirements for a work permit
- Workers complete facility requirements and attend orientation program.

Employers should understand where in the foregoing process they are most open to risks of unethical recruitment. For instance, the process of soliciting potential workers does not always happen anew for each new job opportunity because sending country recruitment agents are under pressure to deploy workers in the quickest time possible. Labor recruiters in sending countries, including sub-agents, usually have a database of jobseekers ready to be processed once the job order comes through. This means that, in practice, agents are actively recruiting workers for jobs that may not exist yet, and promising conditions of work that are not legally verified. Workers may already be committing to jobs even before recruitment agencies receive job orders or notices of vacancy. While employers may not be able to change this practice, they can mitigate the risk that it could lead to workers being deceived about their conditions of work by:

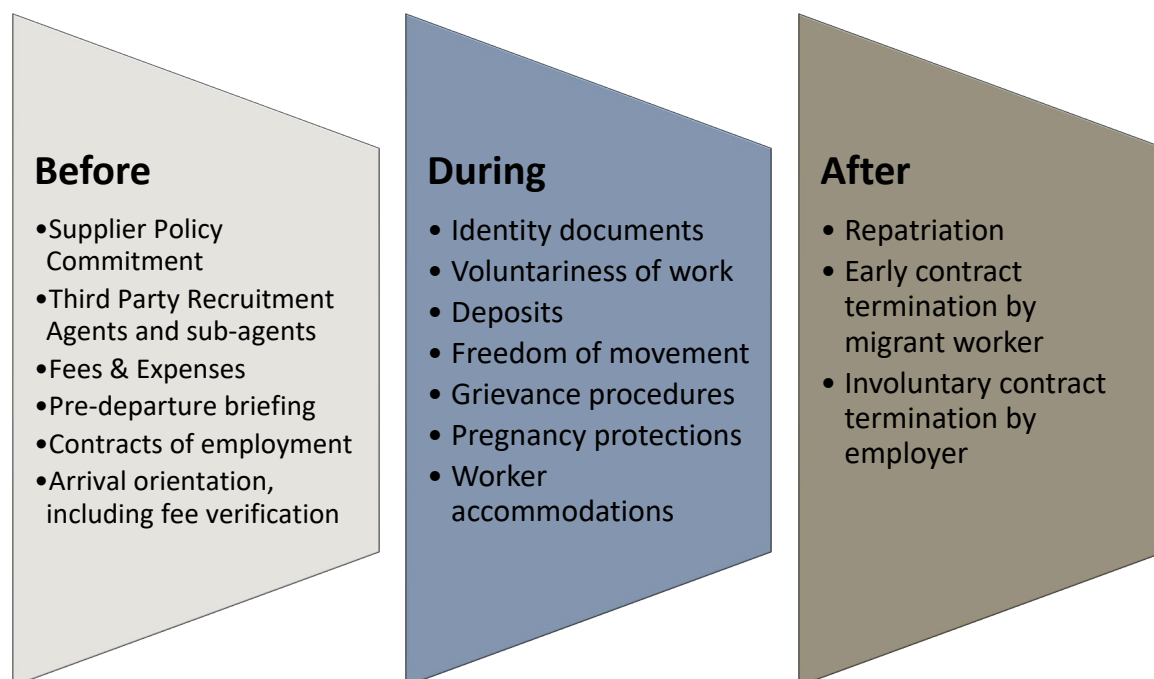
- a. Including enforceable mechanisms in service contracts with labor recruiters to hold them accountable for recruitment fee repayment in the event that workers paid for recruitment-related costs and for reimbursement of all recruitment costs incurred by both employer and worker where deceptive recruitment is discovered.
- b. Giving labor recruiters explicit instructions on how the available job should be explained to the jobseeker. One option is to ask the agent to broadcast the initial screening live through a video messaging platform so that the principal can hear how the information is relayed to jobseekers, taking into account the employers language requirements.
- c. Validating the information received by jobseekers directly from them before they sign the contract. This can be done through various video messaging technology platforms.
- d. Opening grievance mechanisms and helplines to jobseekers and selected workers in case they have questions about the recruitment process or the job, taking into account the language requirements.
- e. Ensuring that workers taking part in pre-departure orientation understand what the job entails, that they should not have paid any recruitment-related

fee, that they understand the terms and conditions of employment, and that they have access to the grievance mechanism throughout the recruitment and employment cycle.

- f. Conducting post-arrival interviews with workers.

In addition to paying the full and true cost of ethical recruitment and ensuring workers do not have to pay for their jobs, key considerations for employers seeking to effectively implement ethical recruitment include (1) understanding and scrutinizing the involvement of labor recruiters, including brokers and sub-agents; (2) ensuring that labor brokers, intermediaries or sub-agents only collect payment from the recruitment agency they supply to, and not from the jobseekers/workers; (3) and making sure that workers have decent working and living conditions and access to communication and grievance mechanisms, are protected from discrimination, and are able to enjoy their basic rights to freedom of movement and association.

Table 3. Scope of Ethical Recruitment and Employment Policies



Supply chain compliance programs should apply to the whole supply chain and to the whole business, including labor supply chains, and be designed for continuous

improvement. Compliance programs should include:

1. **Strong policies** that include a commitment statement and policy on ethical recruitment; and clear and formal service agreements with labor contractors, labor recruiters, and suppliers indicating requirements and auditable standards.
2. **Risk Screening** including: risk mapping of supply chains; segmentation of suppliers vs. interventions; risk management provisions; thorough background checks of all contractors, labor recruiters, and suppliers (including 1st tier suppliers, labor recruiters in origin and destination countries, labor suppliers/contractors and outsourced services, and other on-site service contractors such as janitors, security, canteen staff, maintenance providers, etc.); ensuring that suppliers are complying with their own country's law; review of suppliers policies on forced labor and other standards; undertaking a complete recruitment process review.
3. **Training** - Supplier training (including labor contractors), company-wide training, technical assistance and capacity building of different stakeholders/actors, worker training programs; signed declaration that suppliers will comply with supply chain code of conduct, or the RSPO P&C, prohibiting forced labor; educate key people on the relevant standards and other social responsibility programs.
4. **Continuous monitoring and evaluation** of suppliers, onsite contractors, labor recruiters, and service providers and business partners. This should include due diligence or audits to check controls; periodic assessment of worker grievance and feedback reports, comprehensive audits and systems assessments, employee satisfaction and customer satisfaction surveys, periodic due diligence documents reviews, periodic verification checks of fees and expenses.
5. **Performance management** to establish performance criteria and a documented process to actively verify compliance of labor recruiters, suppliers and contractors to the ethical recruitment and employment policies.

6. **Remediation** – ensure there are credible mechanisms for workers or stakeholders to report any noncompliance to standards; a corrective action process; improvement of performance; and reimbursement of recruitment fees.
7. **External Reporting** – not only to report on what companies have done, but more importantly to share lessons learned and continuing challenges.

Background – Verité’s Work in Ethical Recruitment

Verité is a US-based NGO whose mission is to ensure that people worldwide work under safe, fair, and legal conditions. Verité’s programs leverage the power of multinationals to deliver positive change for vulnerable factory and farm workers in company supply chains. The organization’s partnerships with Fortune 500 companies, global NGOs, trade unions and governments reduce child labor and forced labor; eliminate unsafe working conditions; increase incomes for workers; and decrease inequality and discrimination.

Some of the tools developed and initiatives supported by Verité to further these goals include:

- The **Responsible Sourcing Tool (RST)**: a website created to help visualize and understand the risks of human trafficking in supply chains as well as the mechanisms to implement effective management systems to detect, prevent, and combat trafficking. The RST website contains a model compliance plan with downloadable templates and other.
- **Help Wanted: Fair Hiring Toolkit**: Verité’s Help Wanted initiative, a research and advocacy effort, aims to clarify and publicize the ways in which current labor broker practices can create hiring traps; and provides web-based approaches, guidance, policies and methods for multinational companies, and their suppliers to address labor brokerage risks in recruitment and hiring. It includes guidance and tools to help companies:
 - Assess whether current monitoring and corporate accountability activities are protecting the company from broker-induced forced labor;
 - Establish and implement management structures and key

- performance indicators that will substantially reduce the risk of broker-induced slavery in corporate supply chains;
 - Interact effectively and safely with labor brokers either directly and/or in coordination with supply chain contractors; and
 - Address the needs of victims where broker-induced abuses are found.
- **Verité Ethical Recruitment Auditor Training:** Verité’s Ethical Recruitment Auditor Training is an experiential workshop for lead auditors that simulates a site investigation of forced labor indicators, including documents review and ‘live’ interviews of migrant workers, employers and labor agents. Participants gain an understanding of the drivers of forced labor risk in the recruitment/labor broker system and employment practices, as well as the recruitment business models, risks in different migration corridors, and the impact of these practices on the employment sites’ ability to screen out the risk of forced labor and trafficking. Students who successfully complete the course will be able to:
 - Apply effective strategies in gathering, validating, and analyzing information to determine the systems and practices of labor agencies (in origin and destination countries) to ensure that all workers are recruited according to ethical recruitment standards;
 - Demonstrate effective interviewing skills and techniques;
 - Prepare reports and corrective action plans; and
 - Successfully complete all aspects of an ethical recruitment audit.
- **The Fair Hiring Initiative (FHI) and On the Level (OTL):** OTL – a certification initiative for private recruitment agencies was developed by The Fair Hiring Initiative to address the need by stakeholders—businesses, workers, civil society and even governments—for robust, credible and independently-generated information on the practices of cross-border recruitment agencies. OTL seeks to assess and certify good players based on a set of generally accepted ethical recruitment standards. The information provided by OTL will help companies make sound procurement decisions that help screen out recruitment practitioners that place workers in forced labor, trafficking, and modern-day slavery situations. The information will also provide guidance to workers and other stakeholders in the choice of ethical recruitment practitioners. Verité is the exclusive OTL auditing partner, and trainer of OTL

auditors.

- **Responsible Business Alliance (RBA) Auditor Training:** Verité participates in the Responsible Business Alliance’s Validated Assessment Program (VAP) which is the leading standard for onsite compliance verification and effective, shareable audits. As part of the program Verité trains lead auditors on common labor issues, compliance and legal standards, social systems auditing, investigative skills, management systems, validation, and reporting.¹⁶
- **Development of Certification Standards-Setting for Roundtable for Sustainable Palm Oil (RSPO):** Verité has been deeply involved in RSPO standard setting and contributed to the most recent 2018 Principles and Criteria which address systemic labor and human rights issues. Importantly new standards include: ensuring that the rights of local and indigenous communities impacted by the production of palm oil are not violated, that there is better protection for human rights defenders and whistleblowers, increased attention on vulnerable worker groups (such as migrants, refugees, women, and young workers) and clearer requirements for labor standards and working conditions, including workers’ right to freedom of association.¹⁷
- **Verité/Manpower Standards:** Verité worked with Manpower, the third largest staffing firm in the world, to develop an “Ethical Framework for Recruitment” that will 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. 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.” The Framework includes Standards of Ethical Practice (SEP) that build on established and recognized industry best practices as well as core global labor standards. Also included are basic requirements for independent systems to verify and certify compliance, so that any recruitment firm, employer, value chain ‘owner,’ stakeholder or individual migrant can confidently know whether a labor market facilitator is observing and upholding these standards.

- **CUMULUS:** Verité's CUMULUS Forced Labor Screen™ is a cost-effective, technology-driven approach to identifying forced labor and human trafficking risk in global supply chains. Through a secure online platform, member companies securely share pre-competitive labor supply chain data about recruitment practices and recruitment agents with Verité, an independent subject-matter expert. Company data is fused with targeted field research and publicly available risk information, then analyzed by Verité to develop comprehensive risk profiles. Common exposure among members to validated risky practices and recruitment agents is shared across the platform in a confidential and redacted fashion. A web-based dashboard interface shows the complex network of entities that comprise a company's labor supply chain. Members are provided with previously unavailable, actionable, data-driven information to highlight prioritized due diligence and recommended preventive measures.
- **The Verité Palm Oil Producers' Toolkit on Labor:** Verité's toolkit for palm oil producers provides useful information and practical resources to help palm oil mills and estates of all types and sizes, and at all stages of compliance, to eliminate egregious worker rights issues, manage labor risks, and ensure decent, humane, and productive conditions for their workers. The toolkit is addressed specifically to palm oil producers to help them understand and assess their systems and practices against key labor standards and work towards a sustained performance with respect to labor standards.

ENDNOTES

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