



Ethical Recruitment Practices and Forced Labour in China: Guidelines for Employers



For workers' rights. For better business.

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Introduction

About ETI

For 20 years, ETI and our members have been a driving force in ethical trade. We influence business to act responsibly and promote decent work.

Taking a unique approach to business and human rights, our members are forward-thinking companies, trade unions and NGOs. Together, we tackle the complex challenges of today's global supply chains, improving the lives of workers worldwide.

For more information, visit our website at www.ethicaltrade.org.

Around the world, an estimated 21 million people are working in forced labour conditions, and many of them are part of global supply chains (ILO 2016). These guidelines are specific to China as one of the most significant supply chain sourcing countries in the world. As more international regulations specific to modern slavery and forced labour are put in place, businesses have a growing obligation to understand, address and report on forced labour conditions in their supply chains. Awareness of modern slavery risks is also increasing—an ETI survey found that 77% of companies think there is a likelihood of modern slavery in their supply chains, and more companies are taking actions to strengthen their compliance in this area.

While these guidelines cover potential forced labour risks throughout the employment process, from recruitment through termination, the in-depth focus is on ethical recruitment practices. Ethical recruitment is essential as the starting point for preventing forced labour. Workers looking for jobs can be vulnerable to misinformation and intermediaries who may charge fees or control their wages and activities. The use of informal or illegal recruitment channels also heightens the risk of forced labour. While most recent attention on ethical recruitment has been focused on international migrant workers, it is also important to understand ethical recruitment in the context of China's domestic workforce, which includes 286 million domestic migrants (NBS 2017).

These guidelines provide employers operating in China with practical recommendations for addressing forced labour risks in their own businesses. The recommendations are based on ETI research about local context and current practices, including online surveys of workers and human resources personnel regarding their experience with recruitment and employment practices. CCR CSR also provided information and case studies based on their experience investigating and remediating labour rights issues in China.

ETI Base Code Clause 1: ***Employment is freely chosen.***

- 1.1 There is no forced, bonded or involuntary prison labour.
- 1.2 Workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.

ETI has conducted a series of training in major countries where the supply chains are located, to disseminate information about relevant laws and standards, as well as introduce best practices to help suppliers prevent and eliminate modern slavery in the workplace. In response to possible risks emerging from labour supply chain, though outside the workplace, ETI recently partnered with MicroBenefits to launch a "Responsible Recruitment Survey" for factories and workers respectively. The survey aimed to:

- Understand current recruitment practices in Chinese factories
- Identify challenges and risks in the recruitment/job-seeking process

- Use survey data to inform the development of training materials on responsible recruitment

The questionnaire comprises questions about recruitment channels, risk management, pre-entry info-sharing & orientation or training, recruitment fees, child labour/juvenile workers, grievance, foreign workers and termination and freedom to leave.

The survey was deployed through multiple remote channels and responded by more than 4,000 workers and 200 recruitment/HR Managers from 20 labour intensive manufacturing sectors.

Relevant Legal Framework

I. Global Framework

The ILO's definition of forced labour is *any work undertaken involuntarily under threat of a menace of penalty.*

The two aspects of the definition are:

(1) Whether the work is voluntary

Some workers are employed through deception, coercion, or intimidation, or are forced to work in a particular job to pay off excessive debts owed to the employer or an intermediary.

(2) Whether there is a potential penalty

Examples include financial penalties such as the loss of wages or deposits, confiscation of identity papers or travel documents, physical violence or punishment, and removal of rights or privileges. Migrant workers are often particularly at risk of 'debt bondage' where they are forced to work to pay off debts incurred through fees collected in the recruitment process.

The ILO Indicators of Forced Labour identify common indicators that forced labour may be occurring. These include:

1. Restricted mobility of workers
2. Isolation of workers
3. Abuse of workers' vulnerabilities
4. Deception of workers
5. Physical or sexual violence against workers
6. Intimidation and threats against workers
7. Retention of workers' identity documents
8. Withholding wages
9. Debt bondage
10. Abusive living and working conditions
11. Excessive overtime working

UK Modern Slavery Act (2015)

Businesses are required to report on the steps they are taking to address modern slavery.

Modern slavery includes:

- Forced labour
- Servitude
- Human trafficking

Additional international laws regulate modern slavery, of which forced labour is one type along with servitude and human trafficking. The UK Modern Slavery Act (2015) requires commercial organizations to report publicly on the steps they are taking to address modern slavery risks, including those risks occurred and actions taken in their overseas supply chains. Similar legislation requiring businesses to report on modern slavery now exists in France and Australia (ETI 2018), and other G20 countries have legislation in place specifically related to forced labour in supply chains (Global Slavery Index 2018). 1

II. China Legal Context

China has laws and regulations against forced labour. The **Penal Law** prohibits “forcing another person to work by violence, threat or restriction of personal freedom” (Article 244, 2011 amendment). In addition, the **Labour Contract Law** (2007) has the following detailed provisions:

Article 3	Labour contracts shall be concluded in adherence to the principles of lawfulness, fairness, equality, voluntariness, consensus through consultation and good faith.
Article 9	Employers are prohibited from detaining identity cards or collecting recruitment fees or deposits.
Article 26	A labour contract shall be invalid if it is concluded or modified against a party’s true intention by means of deception or coercion, or when the party is in a precarious situation.
Article 38	A worker may have the labour contract revoked if the employer is found to be failing to pay labour remuneration on time and in full.
Article 38	If an employer forces a person to work by resorting to violence, intimidation, or illegal restriction of personal freedom, the worker may revoke the contract without notice.
Article 60	The labour dispatching unit and the receiving unit may not charge any fees to dispatched workers.
Article 88	Administrative and criminal penalties are in place for forcing a person to work by resorting to violence, intimidation or illegal restriction of personal freedom.

The use of agencies and intermediaries is also regulated. The **Labour Contract Law** regulates the use of employees provided by dispatch agencies, and the **Interim Regulations on Labour Dispatch** (2014) limit the percentage of dispatched workers in a company to 10%. The Regulations also restrict positions allowed for dispatched staff to 3 categories: temporary, auxiliary and replacement. Temporary staff can work for a term of no more than 6 months at one company.

The **Law on Promotion of Employment** (2008) regulates employment services, including labour agents and intermediaries. Under this law, a job intermediary must be registered and meet certain conditions, and may not provide false employment information, take away a worker's resident identity card, or take a deposit from the worker.

Guidelines for Preventing Forced Labour: Recruitment, Employment, Termination

I. Recruitment

Conducting the recruitment process in a transparent and ethical manner creates a strong foundation for protection of worker rights and mitigating risks of forced labour. Recruitment is a top business priority for the manufacturing sector in China, which relies on large workforces and where turnover can be as high as 15% per month (ETI interviews).

The continuous hiring of new workers for regular production and to meet increased workforce needs during peak production seasons makes it even more important for employers to thoroughly assess and monitor recruitment practices.

Many manufacturers in China recruit workers directly, but third-party labour brokers and agents are active as well, particularly for hiring of dispatch workers and short-term workers. This guidance covers direct recruitment by the employer and indirect recruitment using third parties.



Principles for the Recruitment Process

(1) **No Recruitment Fees**

As a principle, workers should not pay any fees as part of the recruitment process, to employers or agents.

Many brands and industry associations have made a commitment to no recruitment fees, including the Responsible Business Alliance, American Apparel & Footwear Association and the Fair Labour Association.¹

Recruitment fees can contribute to forced labour especially when they are so high that the worker has incurred significant debt (whether to the employer or an intermediary) and is unable to leave his or her job until the debt is paid. International migrants are most at risk from high recruitment fees and potential debt bondage.

The ILO defines recruitment fees and related costs as: *“all fees, charges, expenses or financial obligations incurred in the recruitment process in order for*

¹ Detailed information about recruitment fee definitions and terms by the Alliance to End Slavery and Trafficking, Institute for Human Rights and Business, Open Working Group on Labour Migration & Recruitment, Responsible Business Alliance, UN Global Compact/Verité, Association of Labour Providers, International Organization for Migration, KNOMAD/ILO, ITUC, World Employment Confederation, and Consumer Goods Forum are [available here](#) via ILO research.

12% of workers report that they have paid money to obtain a job

29% of workers paid for their health examination, mainly in the footwear and electronics industries

workers to secure employment, regardless of the manner, timing or location of their imposition or collection.”

These include:

- Payments for recruitment services offered by labour recruiters
- Payments made by workers during direct hire by employers
- Costs for obligatory medical tests
- Costs for skills and qualifications tests and training
- Costs for travel
- Costs for introduction and orientation programmes
- Other administrative costs

For the case of international migration, recruitment fees and costs also include fees for international travel and transportation, clearances and permits, and pre-departure orientation.

ILO Principle:

Workers shall not be charged directly or indirectly, in whole or in part, any fees or costs for their recruitment.

RBA Principle:

Workers shall not be required to pay fees for their employment.

AAFA/FLA Commitment:

We commit to work with our global supply chain partners to create conditions so that no workers pay for their job.

US Government:

Government solicitations and contracts shall prohibit contractors, contractor employees, subcontractors, subcontractor employees, and their agents from charging employees or potential employees recruitment fees. As of January 2019, recruitment fees are officially defined as: “fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee.”

In China’s current labour market, workers are in high demand, and therefore are less likely to be charged recruitment fees. However, in the ETI survey, 12% of workers reported that they had paid money to obtain a job at some point, whether to a labour dispatch agency, an intermediary, or to the employer directly. Also, 29% of workers (mostly in the footwear and electronics industries) reported paying for their health examination.

China regulations mandate that workers cannot be charged recruitment fees, but does not specify regarding the fees for normal medical checks, which are sometimes paid for by workers in China. Research in 2017 found that a factory in Shaoguan required workers to undergo two rounds of physical examination and pay the medical fees themselves.

Employers should be responsible for covering the medical check costs during recruitment period in the following two situations:

- Occupational health checks: Per <Law of the People's Republic of China on the Prevention and Control of Occupational Disease> Article 35, employer should pay for occupational health checks for the employee.
- Juvenile workers' health check: Per <Juvenile Workers Special Protection Regulations> Article 10, employer should pay for juvenile workers' body check during recruitment.

Actions to Reduce Risks

- Do you have a policy that you do not charge any recruitment fees to workers, including for mandatory health exams?
- Do you have a policy on how to respond if recruitment fees are found to have been paid, whether to your staff or to an agent?
- Are your HR personnel and any other staff involved in recruitment trained on this policy and how to implement it?
- Do you ask job applicants how they found out about the position, and whether they have paid any fees to intermediaries or agents?
- Do you interview new workers after 3-6 months to ask whether they paid any recruitment fees or have any debt from the recruitment process?

60% of workers have found jobs through relationship networks

89% of factories recruit workers through internal referrals

(2) Transparency of Job Information

Providing clear and accurate information during the recruitment process helps to ensure that potential workers are fully informed and voluntarily participating in employment. Job advertisements and other information shared at job fairs, job centres, on online platforms, and by all intermediaries should clearly state all relevant information about working conditions, contract terms, wages and earnings, and those terms should be consistent from job application through contract signing and employment.

In China, 60% of workers in our survey said they have found jobs through their relationship networks, and 89% of HR professionals surveyed said that they recruit workers through internal referrals. In order to confirm that the applicant's information about the job is accurate, the hiring interview should include questions to confirm key aspects of the job being offered.

When recruitment information is not accurately transferred to workers, there is a higher risk of having workers who are not satisfied with the working and employment conditions, workers who claim to be deceived and exploited.

Actions to Reduce Risks

- Do you always include detailed and transparent information in your job advertisements that are posted physically or online, or shared with intermediaries?
- Do you monitor any agents or intermediaries to understand whether their descriptions of your jobs are comprehensive and accurate?
- Do you ask applicants what their understanding of the job terms and conditions are, to ensure that any misinformation or misconceptions are resolved during the hiring process?

(3) Contracts are Clearly Understood and Signed Voluntarily

Workers must be provided with a written contract of employment which they understand and voluntarily sign prior to employment. There must be no contract substitution or use of supplemental agreements with less favourable provisions. The contract should include the following content:

41%, 20% and 24%

of workers from electronics, garment and footwear respectively have been given false information during recruitment

Basic Information

- ✓ Nature of work and address where it will be performed
- ✓ Contract start and end dates

Working Hours

- ✓ Including voluntary overtime, maximum allowable overtime hours, frequency of rest days and holidays

Financial Information

- ✓ Wages: Regular, overtime and holiday wage rates
- ✓ Deductions: Estimates of amount and line item descriptions of each anticipated deduction
- ✓ Any fees or deposits that might occur during the recruitment and employment period
- ✓ Payment practices: Frequency, methods and format of pay slips
- ✓ Minimum and maximum net pay the worker can expect to receive each month

Termination Process and Terms

- ✓ Provisions for voluntary early termination of contract by worker with and without reasonable notice

Benefits and Accommodation

- ✓ Benefits: Description of work-related benefits including medical and social insurance and sick, emergency and annual leave
- ✓ Accommodation and living conditions where relevant, e.g. if a dormitory is provided by the employer

Every new hire must receive an in-depth explanation of the nature and terms of employment prior to signing the employment contract. The orientation

should include supplier policies regarding forced labour, recruitment fees and expenses, document retention and safekeeping, freedom of movement, harassment and discipline, grievance procedures, and terms and conditions of employment. This reduces the potential for workers to inadvertently agree to terms of employment they are not willing to accept, and mitigates the risk of forced labour by informing workers of their rights, the supporting policies and protections which are in place, and mechanisms for accountability and enforcement.

Actions to Reduce Risks

- Do you have personnel who can communicate with new workers in their own language or dialect?
- Do you allow time before the contract signing to carefully read through the contract details together?
- Do you allow sufficient time for workers to ask questions about the contract before signing?
- Do you have policies in place regarding: forced labour, recruitment fees and expenses, document retention and safekeeping, freedom of movement, harassment and discipline, grievance procedures, and terms and conditions of employment?
- Are these policies provided to the workers, physically posted, or otherwise readily available for workers to access?
- Do you have any way to check whether workers understand these policies?



Recruitment and Employment Mechanisms in China

ETI's research identified different types of recruitment and employment mechanisms, which often vary by different types of workers as defined by Chinese law. The following are the typical recruitment and employment types in the manufacturing sector.

Full-Time Permanent Workers may be recruited directly by the factory or through a recruitment agent. They have an employment contract with the factory and are paid directly.

Labour Dispatch Workers are employed by a labour dispatch company, not directly by the factory. Regulations allow dispatch workers to hold temporary, auxiliary and substitute jobs in one factory for up to 6 months, and the number of dispatch workers is limited to 10% of the workforce.

Short-Term Workers are recruited directly by the factory or by another intermediary, and although required by law, in practice they often do not have a formal employment contract. An agent may manage and pay the workers, or the factory may manage and pay the workers directly. Short-term workers are commonly used to meet seasonal or short-term demand for increased pro-

duction. They are typically found through local relationships, local labour markets, or through a local labour 'boss' or 'headman' who organizes a team. Factories may hire short-term workers through informal channels to reduce their administrative burden and costs such as social insurance. Workers may prefer short-term informal employment when it offers higher wages.

Student Interns are placed in the factory through an agreement between a vocational school and a factory. They are subject to specific wage and OHS regulations.

International Migrant Workers are either hired through official arrangements (such as with the North Korean government) or are typically working illegally and/or informally, without official visas or authentic identity documents.

Recruitment Risk Areas

(1) Agents and Intermediaries

Use of intermediaries and third parties for recruitment increases the risk that information about the job will be misrepresented, and the risk that recruitment fees will be charged. Employers must ensure that any intermediaries operate ethically and according to Chinese laws and international standards. All third parties must be evaluated and monitored to ensure that people seeking employment are not compelled to work through force, deception, intimidation, or coercion.

In China, there may also be intermediaries involved that the employer has not engaged directly or may not be aware of. In ETI interviews, stakeholders mentioned many different types of intermediaries, both formal and informal, including family, friends and hometown networks. Many intermediaries operate as individuals without a formal business license, bringing workers to factories or passing job information to workers for a fee.

Chinese law requires intermediaries and recruitment agencies to complete business registration with capital and staff requirements, and local bureaus regulate the fees charged to workers for job introductions.² However, in ETI interviews, stakeholders stated that recruitment activities are often carried out through informal networks of job seekers or HR personnel with the involvement of informal agents, not via registered agents.

Employers should make an effort to understand whether the worker has paid recruitment fees to anyone in the process of finding and obtaining the job.

Due diligence should be performed to ensure that intermediary operations are professional and in accordance with all requirements. Third parties must

² 《The Provisions on Employment Services and Employment Management》 Article 53 states that professional intermediaries should openly display legal documents in the operation place, including business license, permits for agency services, intermediary service list, standards for charging fees, the name and telephone of supervision bodies. And it will be under supervision and inspection from the labour administrative departments and other relevant departments. Candidates can inquire the local Administration for Commodity Prices, and pay recruitment fees to intermediary companies per requirements and standards set and approved by the local Administration for Commodity Prices.

be licensed and have a history of ethical and legal operation, and contractually agree to meet client requirements which mitigate risks related to forced labour. Audits should be performed on a regular basis.

Incentives from employers for existing workers to help recruit new workers can create pressure on new hires to stay, if the workers must stay for a certain period of time (e.g. completing the probation period) before the incentive is paid. Incentives should be designed and monitored to make sure that new hires are not overly pressured to stay in the job.

Actions to Reduce Risks

- Do you interview job applicants to make sure their understanding of working conditions and wages and benefits is accurate?
- Do you interview job applicants during the hiring process to check whether they have paid any fees to intermediaries or agents?
- Do you interview new workers after 3-6 months to ask whether they paid any recruitment fees or have any debt from the recruitment process?
- Do you perform due diligence on any third parties that you work with for recruiting workers, to make sure they are registered and operate ethically?

(2) Short-Term Workers

When large numbers of supplemental workers are hired for a short period of time, employers often use a less rigorous process for recruitment and use agents or subcontractors to provide workers, increasing the risk of forced labour.

In China, unofficial or informal labour agents are active in the labour market for short-term workers, and may be paid a one-time recruitment fee or a percentage of the salary. These agents may not have an official license or registration. In addition, it is common for agents or 'labour bosses' or 'headmen' to contract with a factory for a certain volume of production and manage and pay a team of workers directly, either inside or outside of the factory. Short-term workers commonly do not have a formal employment contract with either the factory or with their agent or 'boss'.

When short-term workers are hired due to a sudden increase in orders, they are often at higher risk of forced labour. This could include involuntary overtime or not being allowed to resign without penalties. They may lose a deposit that was required when they started work, have their wages withheld, or lose mandatory savings.

CASE #1:

Short-term workers at an electronic factory facility in Zhengzhou were promised a 6000 RMB bonus by recruitment agencies, but went on strike in December 2018 because they had not been paid their bonuses that were promised (SCMP 2018).

CASE #2:

A factory was experiencing a labour shortage during the peak season, and subcontracted the production process within their own facility. The subcontractor organized short-term workers to use the factory's production line, without the factory's normal HR procedures. Workers sent to the factory did not have to show their ID cards or provide any personal information, and did not have a contract with either party, only an oral agreement regarding salary. No personnel records were kept on any of the subcontractors' workers. (CCR CSR research)

Actions to Reduce Risk

- Do all short-term workers have employment contracts, whether they are working for you or via a sub-contractor?
- Do all subcontractors or agents have official business licenses?
- Do all workers have their age and identity card verified by experienced personnel?
- Do short-term workers also have personnel records?
- If working with an intermediary, do you monitor workers to ensure they are working voluntarily, have access to their identity documents, and have the right to resign if they choose?
- Do you pay all short-term workers directly?
- Do you allow workers to leave without penalty, even during peak season?

(3) Labour Dispatch Agencies

Factories should sign a labour dispatch agreement with formal registered dispatching agents. The agreement should clearly agree on the number of dispatch workers, duration of dispatch, working hours, wages, social insurance arrangements etc., and the consequences of violation. Factories should ensure that dispatch workers are not paying recruitment fees, and are receiving at least equal pay for equal work and mandatory social benefits.

To reduce the risk of forced labour, dispatch workers should be provided with written documentation of their payments and any fees or deductions. Factories should ensure that there are no excessive fees or deductions.

Actions to Reduce Risk

- Do you conduct due diligence on dispatch agencies to ensure they are licensed and registered, and operating ethically?
- Do you make sure dispatch workers are paid the same as normal permanent workers in the factory?
- If the dispatch agency pays workers, do you provide workers with documentation of pay and deductions, and ensure that wages are paid in full and on time?
- Do you interview workers to monitor whether labour dispatch agencies are charging fees or deductions?
- Do dispatch workers get the same treatment as normal permanent workers hired by the factory in terms of benefits, training and promotion opportunities, etc.?

(4) Vocational Schools and Student Internships

There are thousands of vocational schools in China providing workers to the manufacturing sector in the form of student internships, and some factories hire large numbers of student interns. Certain buyers have addressed concerns about the use of student interns as low-cost labour by limiting their suppliers' percentage of student interns to 10 or 20% of the workforce. There have also been efforts by government and other competent institutions to certify schools that are professional and reputable as a way to provide employers with confidence.

Internship programs for skilled positions such as engineers tend to be more rigorous and credible, while those to fill unskilled positions such as operators are more problematic. Issues include:

- ✓ Underaged labour
- ✓ Wage were kept by the teacher stationed in the factory
- ✓ Student interns working overtime
- ✓ Work that is unrelated to the student's area of study
- ✓ Excessive deductions made by the school resulting in net wages that are lower than the minimum wage
- ✓ Working with minimal training and protection
- ✓ Students unable to leave because completing the internship is required for graduation

The internship agreements made with vocational schools should include information about ethical operations and prohibitions on use of force, deception, intimidation or coercion. Due diligence should be conducted before any such agreement is made, and monitoring should be in place to ensure compliance.

Employers should ensure that the students are participating voluntarily and that students are not required to pay an introduction fee to their school or a labour agent.

CASE #3:

At a computer facility in Chongqing, student workers were found to be illegally working night shifts and were told they would not graduate if they didn't complete their internships (Ifeng 2018).

Regulations³ require that wages must be paid directly to the student rather than the school. The employer should provide written documentation of pay and monitor the amount of deductions and wages received.

Employers should also check and verify identity documents to ensure that workers are not underage.

³ Article 17 of the Regulations on Management of Intern Students of Vocational Schools

Actions to Reduce Risk

- Do you hire student interns only for positions and tasks related to their area of study? Do you make sure the number of student interns is not above 10% of the total workforce of factory, and not above 20% of workers working in same positions, workshops, etc.?
- Do you verify registration and eligibility of schools?
- Do you check the intern students are not organized and sent by labour agents?
- Do you sign a tripartite agreement between the factory, school and student to agree on internship conditions?
- Do you make sure that clear responsibilities are agreed upon when arranging student interns' insurance during the internship?
- For student interns below the age of 18, do you get the signed permission of their guardians agreeing to the internship work?
- Do you have experienced personnel verify the age of student interns with identity documents and during face-to-face interviews? Do they verify all the student interns are at least grade 2 or above?
- Do you interview student interns about whether they are under duress to work in the factory?
- Do you make sure that student interns are not paid below 80% of the probation period wage of the same position in the factory?
- Do you pay wages directly to the student?
- Do you interview students to check whether they have access to their wages, and whether schools are charging fees or deductions?
- Do you provide student interns with clearly visible tags or uniforms that identify them as students?
- Do you make sure that students are not working overtime or night shifts?
- Do you make sure student interns work in the factory no longer than 6 months for intern program

(5) Domestic and International Migrant Workers

In general, migrant workers are more at risk of forced labour due to the costs incurred for travel, the potential involvement of third parties (including relationship networks) and the potential for the lack of information in long-distance recruitment and misunderstandings, especially in cases of different dialect or language. The hiring process should include questions about whether the worker has paid fees or incurred debt during recruitment, and possible

involvement of unauthorized recruiters, especially if the worker comes from a remote and lower-income area of China or may be a foreign national.

Foreign migrant workers such as from Myanmar, Vietnam or North Korea have been increasingly found working in China's factories, and are especially vulnerable to forced labour due to deception in the recruitment process, language barriers, and the lack of legal employment status in China. Foreign workers are usually working without authentic visa or identity documents, and are typically working with no contract and for lower pay. Language barriers make it difficult for them to communicate with management and even with other workers to air their grievance even if they are the victims of a crime, such as trafficking.

CASE #4:

In Northeast China, around 50,000 workers from North Korea are working in textile and apparel factories and restaurants. Workers that are officially sent abroad by the North Korean government are managed by government representatives and are highly likely to be working under conditions of forced labour, which typically includes restricted movement, no access to their passports, and very low net wages (ETI 2016). Employers should avoid working with the DPRK government to recruit workers.

In the ETI survey, workers reported that their factories had foreign employees including from Vietnam, Cambodia, Laos and North Korea. Some of these are concealed by the factories or reported to be ethnic minorities. If foreign workers are identified, employers should investigate whether they were trafficked and come up with options for protection and repatriation.

CASE #5:

In March 2018, a 15-year-old Myanmar national was found working at a shoe factory in Dongguan. He was recruited in Myanmar by a labour agent, who then arranged a fake ID for him in Kunming and transported him to the factory. The factory had been told by the labour agent that he would find them ethnic minority workers from Yunnan and did not vet or sign a contract with the agent. The agent continued to control the worker after he was hired by the factory and took a portion of the wages (CCR CSR research).

Actions to Reduce Risk

For domestic migrants:

- Do you evaluate intermediaries involved in domestic long-distance recruitment to ensure their operations are ethical?
- Do you require all agents to be officially licensed and registered?
- Do you interview workers to ensure they are working voluntarily and have not paid recruitment fees?
- Do you ensure that HR and operational staff can communicate with workers in their local dialect, and that contracts and policies are fully understood?

For foreign migrants:

- Do you exercise caution in hiring ethnic minorities and check and verify identity documents to ensure authenticity?
- Do you assess and make sure international migrants have identity documents kept by themselves?
- Do you avoid hiring migrant workers from North Korea through official channels?
- Do you have policies and procedures in place for how to respond if foreign workers are discovered in your workforce?

II. Employment

During employment, management and payment practices should be designed so that workers have freedom of movement and are working voluntarily, meaning they would be able to leave their jobs without penalty if they so choose, after a reasonable notice period.



Employment Risk Areas

(1) Fees and deductions

If workers are subject to overly high fees and deductions as part of their employment, their net pay may be lower than the minimum wage. These fees might include room and board, transportation, purchase of clothing and tools, mandatory medical exams, job trainings and orientation.

The fees for mandatory housing and transportation should not be higher than market price, or workers should have the option to choose other accommodation and transportation.

Workers should also not be required to purchase essential personal protective equipment—PPE should be provided by the employer. All deductions must be made with the worker's knowledge and informed consent.

Substantial deposits or mandatory savings accounts also function as a way to withhold worker wages and discourage them from leaving.

Actions to Reduce Risk

- Do you ensure that deductions and fees do not reduce any worker's net wages below the minimum wage?
- Do you ensure that any deductions are voluntary and clearly documented and understood by the worker?
- Do you provide PPE free of charge for all employees?
- Have you eliminated any mandatory savings accounts for workers?

(2) Payment practices

Wages should be paid in full in a timely manner, directly to workers. Withheld pay or mandatory contributions to savings funds are sometimes used to encourage workers to stay at a job longer but contribute to forced labour if workers are therefore not able to leave their job without financial penalty.

Actions to Reduce Risk

- Do you pay all wages on a regular schedule on a monthly basis or more frequently?
- Do you pay wages directly to workers?
- Do you ensure that workers do not experience a financial penalty for leaving with reasonable notice?

93% of workers said they are responsible for their own identity documents

(3) Access to identity documents

Workers should always manage their own identity documents. 93% of workers in our survey said that they were responsible for their own identity documents, but a small number of respondents said that their ID cards were held by their employer or an agency.

Actions to Reduce Risk

- Are employees responsible for their own identity documents? Do you provide safe and secure storage if needed, such as a safety locker with key given only to the workers?
- Do you interview workers to check whether their identity documents are being held by a third party?

(4) Overtime

Overtime should be entirely voluntary, and workers should have freedom of choice whether to participate without penalty. Even with worker consent to overtime, excessive overtime should not be allowed. If overtime is unavoidable, the total working hours should be communicated with relevant stakeholders including workers and brands in advance.

Actions to Reduce Risk

- Have you eliminated any penalties for workers who choose not to volunteer for overtime hours?
- Do you ensure that minimum wage can be earned if workers work only regular hours with no overtime?
- Do you interview workers to check whether they are being pressured to work overtime?

15-31% of workers said they need to sign a paper to promise a minimum period of service in the factory after the probation

6.4% of workers couldn't quite the job during the probationary period.

71% of workers said it is not difficult for workers to leave their job with notice

19% said that managers would not give approval for workers to leave, especially during busy periods

3% of workers said they would lose some or all of their deposit

1% of workers said they would have to get their identity documents back from an agent or their employer

(5) Freedom of movement

Workers should have freedom of movement during working hours to access drinking water and toilets. Outside of working hours, workers should be able to move without restrictions, without curfew or limits on personal activities.

Migrant workers should be free to return to their homes during periods of annual or personal leave without having to pay any form of deposit, and free from the threat of termination or other penalty.

Actions to Reduce Risk

- Do you have clear policies about freedom of movement during working hours, that are communicated to workers?
- Have you trained security personnel and supervisors to ensure that freedom of movement is allowed in the workplace and on and off the premises?
- Have you eliminated any penalties for workers to take annual or personal leave?

(6) Harassment, abuse and discipline

The workplace should be free of any form of harsh or abusive treatment, including the use or threat of physical or sexual violence, harassment and intimidation, and physical or verbal abuse.

Sanctions should not result in wage deductions, reductions in benefits, or compulsory labour.

Actions to Reduce Risk

- Do you evaluate the effectiveness of existing grievance mechanisms, including interviews with workers to check if any reported grievances get solved within a set timeframe, etc.?
- Do you have clear policies about harassment, intimidation and abuse?
- Have you trained security personnel and supervisors in appropriate methods of management and discipline?
- Do you have a way to monitor whether grievance mechanisms are being used by workers to report any cases of harassment and abuse, and that they are able to submit confidential and/or anonymous reports which are then formally evaluated?
- Do you interview workers to check whether there are any current or historical cases of harassment and abuse?

(7) Child Labour

Underage workers are most often brought to a factory through informal channels, frequently through current workers. CCR CSR found that for 37% of the cases collected in 2018, relatives working in factories introduced the children to the jobs, without going through a standard hiring procedure. Other CCR CSR cases found that for internal referrals no formal age verification was carried out.

In a small number of cases (6%), labour agents brought in underage workers. The risk of child labour increases during school holidays and during peak production time when the recruitment process is rushed due to the urgent need for labour, and steps such as thorough verification of identity cards may be ignored.

Employers must have a clear policy and procedures regarding the presence and participation of children in the workplace.

ETI interviews found that, while child labour cases are not widely spread, there have been more cases reported in recent years, likely due to labour shortages.

CASE #6:

In August 2018, a 12-year-old boy was found helping his mother on the production floor, sticking labels and badges on hats. The mother was a migrant worker from Sichuan and was sent by a subcontractor to use the factory's production line to complete an order. When interviewed, the mother said she brought her son to work because she was worried about his safety and didn't want to leave him home alone during the summer holidays (CCR CSR research).

Actions to Reduce Risk

- Do you ensure that age verification is part of the recruitment process, even during peak production periods?
- Do you have clear policies in place regarding the presence of children in the workplace?
- Do you have a remediation mechanism in place in case any under-age worker or child labour is discovered, which removes the child from the workplace and provides for educational fees until the age of 16?

III. Termination

The risk of forced labour increases when workers are unable to leave their current job without penalty. Examples of penalties include withholding of wages and bonuses, termination fines or deductions, or forfeiture of deposits or savings accounts. Penalties for termination should not be in place through either the employer or any third party involved in recruitment.

In the ETI survey, 71% of workers reported that in their factory, it was not difficult for workers to leave. Many said that a one-month notice period was required. However, 19% said that managers would not give approval for workers to leave, especially during busy periods. 7% said that it wasn't possible to get your full salary owed to you on the last day of work. 3% said that workers would lose some or all of their deposit. And 1% said they would have to get their identity documents back from an agent or their employer.

A few others reported 'black factories' or other abusive situations where they were afraid to leave and risk physical abuse.

Actions to Reduce Risk

- Do you have a clear policy about termination that allows workers to leave at any time without penalty, with a reasonable notice period?
- Have you eliminated any fines or deductions for a worker not working a certain length of time?
- Do you pay workers all the wages entitled by law during termination?
- Do you ensure that workers who provide reasonable notice do not lose deposits or have other financial penalties for termination?
- Are grievance mechanisms available and in use by workers to ensure that managers are complying with the termination policy?
- Do you interview workers to check whether they owe debts to any third party that prevents them from leaving their current job?

Management Systems to Prevent Forced Labour

An effective management system is the foundation that enables ethical and respectful employer-employee relationships. A robust system should include:

- A **written policy** that specifies the voluntary nature of employment, the prohibition of forced labour, and the protections in place for workers throughout the employment process, from recruitment through contract termination. This policy should be accessible and actively communicated to all workers and HR team and any third parties involved in recruitment and hiring of workers, and included in any service agreements and contracts.
- A **risk assessment** of current practices in direct and indirect recruitment
- **Management and monitoring** of risks in third party recruitment and hiring of workers, and of sub-tier supplier employment practices
- **Service agreements and contracts** that clearly state operational requirements and terms of employment
- **Documentation** to demonstrate compliance, such as orientation records and financial records that track any deductions or fees paid
- **Mechanisms for monitoring** performance, such as audits, interviews in incoming workers, grievance mechanisms
- **Corrective actions** that are taken in response to any issues identified
- **Review and revision** of systems and processes based on monitoring outcomes

Additional Resources

I. [ETI Base Code Guidance: Modern Slavery](#)

Guide for businesses to understand key concepts, legal definitions and their responsibility to tackle modern slavery. Includes practical steps on how companies can apply Base Code Clause 1: *Employment is freely chosen*, with advice on identifying risks of modern slavery and remediation.

II. [ETI Good Practice Note, Managing Risks Associated with Modern Slavery.](#)

Explanation of modern slavery and related standards and safeguards, along with tools for mapping supply chains and conducting risk assessments. Describes methods for risk mitigation, remediation, monitoring and reporting.

III. [ETI Access to Remedy: Practical Guidance for Companies.](#)

Guidance for companies on how to prevent and respond to labour rights abuses, including forced labour, with effective remediation strategies in line with the UN Guiding Principles.

IV. [SEDEX: Guidance on operational practice and indicators of forced labour](#)

Guidance on how to spot the signs of actual, likely or possible cases of forced labour. The guide provides the basis on which to detect forced labour by using warning/'alert' or key indicators of known forced labour components and an assessment tool to support businesses and auditors to identify forced labour.

V. [ILO-IOE: Combating forced labour: A handbook for employers and business](#)

Guidance for employers and business on how to strengthen capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains. The 2015 edition reflects updated ILO statistics and research on forced labour and provides updated guidance on forced labour (what it is, how to detect it and effective ways to combat it). The handbook is presented in a series of seven booklets, which includes case studies, a checklist and guidance for assessing compliance and tips for taking action.

ILO Helpdesk for Business

The ILO Helpdesk for Business on International Labour Standards is a one-stop shop for businesses on how to better align operations with international labour standards. It includes a list of key resources as well as practical resources and tools. Specific queries on applying principles of international labour standards can be directly submitted by:

Email: assistance@ilo.org
Telephone: +41 22 799-6264

This service is free and confidential. Replies are prepared by an ILO expert team and draw on the different ILO normative instruments, policy documents and tools.

ILO Indicators of Forced Labour

The ILO has developed eleven indicators that can be used to help identify actual, likely or possible situations of forced labour.

The following descriptions relate specifically to situations that have been reported for workers in China and provide examples of practices employers engage in that can lead to forced labour situations.

I. Restricted mobility of workers

There are unreasonable restrictions on leaving or re-entering premises (including accommodation) and movements in/outside of the workplace are controlled and monitored through surveillance.

II. Isolation of workers

Foreign workers are isolated by social, cultural and language differences, and may be segregated from the rest of the workforce.

III. Abuse of workers' vulnerability

A forced labour situation may arise when an employer takes advantage of a worker's vulnerable position, for example, to impose excessive working hours or to withhold wages. Workers with limited experience, such as young workers and student interns, are especially vulnerable to abuse.

IV. Deception of workers

Deception relates to the failure to deliver what has been promised to the worker, either verbally or in writing. It includes deceptive or coercive recruitment where key employment terms and conditions are systematically not provided prior to employment or are worse than those indicated to workers at the point of job application and/or after contract signed.

V. Physical and sexual violence against workers

Violence can be used to force a worker to undertake tasks. It is not acceptable as a disciplinary measure under any circumstances, and is therefore a very strong indicator of forced labour.

VI. Intimidation and threat against workers

Workers may suffer intimidation and threats when they complain about their conditions or wish to quit their jobs. The credibility and impact of the threats must be evaluated from the worker's perspective, taking into account his or her individual beliefs, age, cultural background and social and economic status.

VII. Retention of worker's identity documents

Retaining the identity documents of workers is a problem where they feel they can't obtain access without the process being onerous and intimidating. For migrant workers, without papers they cannot freely and safely move about or leave a host country, and are at risk of imprisonment if stopped and questioned by police.

IIX. Withholding of wages

Irregular or delayed payment of wages may indicate that wages are being systematically and deliberately withheld as a means to compel the worker to remain, thereby denying their opportunity to change employers. In some cases, large deductions can mean that wages are reduced to below minimum wage.

IX. Debt bondage

Forced labourers are often working to pay off an incurred debt, a situation that is created due to an imbalance of power between the employer and the worker such that the employer is able to dictate payment terms that effectively bind the worker to them for an unspecified period of time.

X. Abusive working and living conditions

Forced labour victims are likely to endure living and working conditions that would never be freely accepted, but the workers may be compelled to do so because of the lack of any alternative jobs. Abusive conditions should provide an alert to the possible existence of coercion that is preventing the exploited workers from leaving the job.

XI. Excessive overtime

Obligatory overtime can be indicative of forced labour if the hours worked are above the limits permitted by legislation/collective agreements and if workers have no choice due to vulnerability and the need to earn the minimum wage and/or keep their jobs. It is forced labour if worked under some form of threat (e.g. of dismissal).

Appendix I: ETI Survey

I. Background Information

ETI recently partnered with MicroBenefits on a Responsible Recruitment Survey for workers and human resources professionals. The survey aims were to:

- Understand current recruitment practices in Chinese factories
- Identify challenges and risks in the recruitment and job-seeking process
- Inform the development of training materials on responsible recruitment

The questionnaire included questions about recruitment channels, risk management, pre-entry information sharing and orientation or training, recruitment fees, child labour and juvenile workers, grievances, foreign workers and termination and freedom to leave.

The survey was deployed through multiple remote channels and responses were received from more than 4,000 workers and 200 recruitment or HR managers from 20 labour-intensive manufacturing sectors during November-December 2018, using the MicroBenefits CIQ App.

II. Basic Statistics

Industry

Textile	73%
Shoes	7%
Electronics	7%
Toys	3%
Other	11%

Region

Pearl River Delta	51%
Yangtze River Delta	16%
Bohai Bay	1%
Other	32%

Gender: 72% of workers participating in the survey were female.

Age: 36% of workers were between 25-35 years old, another 36% were between 35-45 years old. Only 11% of workers were under 25 years old.

Education Level: 87% of workers graduated from junior high school (初中) or above.

Years of Work Experience: 59% of workers had at least 5 years of work experience, and 23% of workers had 10 or more years of work experience.

Appendix II: Case Studies (written & provided by CCR CSR)

I. When Labour Shortage and Weak Checks Become Catalysts for Irresponsible Recruitment

Background Info

In May 2018, an auditor had found an underage child working in one of its supplier factories, a cosmetics manufacturer located in Dongguan, China. The child in question was a 15-year-old girl (born Aug 3 2002) called “Xiao Hua”* from Henan Province who had been working in the packaging section of the factory since the previous December. She worked 9-10 hours a day, six days a week and shared a dorm room with five others. Her average monthly salary was 2000 RMB, a little more than the minimum wage, which was transferred into her bank account each month. Although the family’s financial situation was not too bad, Xiao Hua’s mother kept her bank card and gave her the occasional pocket money on request.

Xiao Hua never finished the nine-year compulsory education. Citing “a lack of interest and poor grades”, she dropped out in Grade 8 and headed straight for Dongguan where job opportunities were abundant according to what she heard from relatives. Xiao Hua knew an employee at the factory in question who encouraged her to apply, and so, borrowing her older cousin’s ID card, Xiao Hua went to the factory’s reception area and filled out a recruitment form. She gave her birth year as 1996 on the form – the year her cousin was born, which would have made her 21 at the time of application. She also used her cousin’s name on the form and showed her cousin’s ID card to the receptionist at the recruitment desk. Xiao Hua was hired immediately and signed a labour contract with the factory in her cousin’s name.

What happened after being found?

On 30 May 2018 an internal auditor spotted the young-looking Xiao Hua and raised the alarm after asking her basic questions. Xiao Hua was removed from the factory immediately and a remediation programme was drafted up and put into action. Meanwhile, the factory paid Xiao Hua her outstanding salary for the month of May.

The remediation plan was based on Xiao Hua’s interests and age, which entailed signing her up for a two-month make-up course in her hometown and receiving a monthly living stipend of 1510 RMB per month (equivalent to the minimum wage in Dongguan at the time) until her 16th birthday in early August.

As the factory failed to check whether Xiao Hua’s ID was actually hers, the factory ended up paying for all related remediation expenses, a sum that came to over 20,000 RMB.

What Went Wrong?

In this particular case, several major gaps and errors resulted in a bad recruitment practice. First of all, the factory failed to do a thorough ID check and verify that the person pictured on the ID card was actually Xiao Hua. Instead, HR staff simply relied on an ID authentication device and did not take any other steps beyond that to verify the age. Awareness about the prevalence of using borrowed IDs as an avenue for employment was therefore lacking or simply not incorporated into the recruitment protocol.

Secondly, the information that she provided on the form was taken at face value and no interview was conducted to verify the info. The fact that no suspicion was raised when she claimed to be 21 despite looking very young, suggests that very little eye contact and dialogue took place between the HR staff and Xiao Hua during the recruitment process.

Thirdly, the recruitment process was rushed due to the factory's urgent need for labour. It was peak production season when Xiao Hua was hired and the factory was under immense pressure to recruit more workers. However, the factory was struggling to attract workers, while also grappling with a 30% average annual turnover rate. The factory is located in a remote part of Dongguan City that has a similar cost of living as the nearby first-tier city of Shenzhen, making it an unattractive location to work.

Fourthly, the hiring process was not well coordinated among the responsible staff. When Xiao Hua was hired, three staff members were responsible for recruitment: one who was in charge of the recruitment notices at the factory entrance, a receptionist who collected the application forms and an HR manager.

However, there was very little communication between them and after Xiao Hua gave her application form to the receptionist, no further steps were taken to pass on or review the info. The on-boarding process began there and then.

In conclusion, this case could have been avoided if a more robust recruitment mechanism had been in place, one that did not merely rely on an ID authentication device. A quick interview asking a few simple questions about the child's age may well have exposed her true age, as would spending just a few more minutes to thoroughly review and cross-check her ID card. Had there been better coordination between the hiring staff – including having a clear and well-communicated workflow with a review process after application forms were submitted – then there is a good chance that this situation could have been avoided.

**Pseudonym*

II. A Supplier's Lack of Due Diligence and Awareness when Outsourcing to a Sub-Contractor Led to a Bad Recruitment Practice

Background Info

In July 2018, an underage boy was found working for a sub-contractor of an international brand's main supplier in Shandong Province. The first-tier supplier had subcontracted the printing process to a small printing workshop that hired 10-12 workers at the time. Among those workers was Li Wei, a 15 year-

old boy from Shandong who was just two months shy of his 16th birthday. He was discovered by a brand auditor during a routine audit of their tier 2 factories for garment printing.

According to the auditor, the child was hired as a temporary worker on the day the audit took place. The child said he was introduced to the factory by his aunt who knew the factory manager. Li Wei was looking for a way to fend off boredom and earn some pocket money over the summer before starting senior high school that September.

On the day he was hired, the factory owner picked him up at his aunt's house and gave him a lift to the factory. Li Wei didn't bring an ID card and no-one asked him his age or to see his ID. He did not sign any contract and was not informed about his salary amount. He was just told that the working hours would be 7.30-17.30 with one hour lunch break, and that his salary would be dependent on his production output.

Chemicals were handled at this printing workshop, deeming the workplace hazardous for children and juvenile workers. Li Wei's task was to assist one of the workers in the printing process.

What happened after being found?

When Li Wei was detected he was immediately removed from his work station and went to his aunt's home where he stayed during the summer holiday. Since he had no intention of dropping out of school, he agreed to stay at home for the rest of the holiday and that CCR CSR – the remediation service provider in this case – would monitor him until he started school again that September.

The factory had to pay the costs for the remediation, which included a health check for the boy because he was underage and working in hazardous conditions, a living allowance for two months based on the local minimum wage, the tuition fee for one semester at his public school, and CCR CSR's service fees for conducting a rapid assessment and monitoring the case.

What went wrong?

The root of the problem can be attributed to the tier one supplier's lack of awareness about their responsibility to sub-contract from a factory that meets its client's standards and requirements. When the 1st tier supplier outsourced the garment printing process to this small workshop, they were wholly unaware of the risks despite the fact that most processes in the workshop were informal, with no guidelines, policies or contracts with workers. According to an interview with the first-tier supplier, they did not consider it their responsibility at the time to do due diligence before working with the sub-contractor. As a result, prior to this case, the first-tier supplier had never checked the compliance status of the workshop and only focused on quality, price and delivery time. According to an interview with the workshop factory owner, she was not aware that the legal minimum working age in China is 16 and said she would not have hired the boy had she known this. For years, the workshop had been working with the first-tier supplier, and they would often hire temporary workers for rush orders and peak season.

The first-tier supplier's practice to outsource a production process to a workshop with no responsible recruitment system or child labour awareness was therefore an extremely risky move. To prevent these unacceptable hiring practices from occurring in the future, the first-tier supplier was told to share their key policies and procedures with the workshop, to ensure regular visits of tier-2 factories and to roll out a child labour prevention and remediation training in tier-2 factories.

III. A Factory Learns a Lesson about Recruiting Illegal Migrant Workers through Labour Agents

Background Info

On March 23, 2018, an importer notified CCR CSR that an auditor had found an underage child on March 21 working in one of its supplier factories, a shoe manufacturer located in Dongguan, China. The factory is among the top 20 suppliers for the importer.

The child in question was a 15-year-old boy (born June 21, 2002) called "Chit"*. Chit belongs to the Burma ethnic group, living in the Sagaing region (central part) in Myanmar. His family was poverty-stricken and in debt in rural Myanmar. Chit dropped out from school after grade 9 and worked in agriculture with his parents.

Chit was approached by a labour agent who told him about promising work opportunities in China. He made the decision to embark on a journey to China via bus. When he arrived in Kunming, the agent helped arrange a fake ID for him with 50 RMB, and transported him to a shoe factory in Dongguan. He provided his fake ID, got accepted by the factory and started working on March 1, 2018.

Chit worked 6 days per week, 12 hours every day from 7:30am to 9:30pm with a total of 1.5 hours as lunch and dinner break (meals were provided for free for the workers). The factory didn't have any record for his working hours and days, and Chit wrote down in his note book the number of days/hours he was working. The hourly rate was 12.5 RMB but the agent took 0.5 RMB and Chit's take-home pay was 12 RMB per hour. He wasn't sure when he would receive his salary, but heard from his co-workers that the factory would pay workers in cash every 2nd day of the month. Since Chit was spotted by an auditor on March 21, he stopped working on the same day and did not receive his salary for the days he worked in March. There was no employment contract, and Chit had received neither induction nor skill training. Since he could not speak Chinese, he learned the tasks by observing others on the production floor.

What happened after being found?

Chit was repatriated to Myanmar on April 19. After gauging the needs and intention of Chit and his guardians (parents), a remediation plan was drawn up and agreed upon. Chit aspired to become a car and motorbike mechanic; since there was no viable options available in the vicinity of his hometown, he was enrolled in a 6-month mechanic training programme in Yangon, including 2 months of basic mechanic training, followed by a 2-month advanced course

and a 2-month apprenticeship. The cost of remediation was 54,999 RMB, including tuition, dormitory and transportation support of 4,000 RMB and a monthly stipend of 1,510 RMB from March 21 to Oct 31 2018 (the end of the training programme). The trading agent paid for the remediation.

Chit completed the training programme and received a certificate from the Myanmar Engineering Society. He plans to return to high school to finish Grade 10, and the trading agent has agreed to sponsor him to continue studying to earn a diploma in automotive engineering. To mitigate the risk of more families sending their under-age children away to work, the trading agent sponsored an awareness training on “Child Protection: Child Labour Prevention & Anti-Trafficking” in Sagaing Region, Myanmar from June to August 2018. Twenty-eight volunteers from seven villages were trained on child labour and human trafficking. They in turn disseminated the messages to 158 families.

What Went Wrong?

This is a case of human trafficking and a number of systemic gaps contributed to that.

First of all, the need to meet labour needs swiftly took precedence over the due diligence of labour agents. The factory faced labour shortage after the Chinese New Year and posted a notice outside the factory wall to recruit workers. A labour agent active in Dongguan approached the factory and promised to refer ethnic minorities from Yunnan. Factory management ignored the warning signs (e.g. the gang background and thuggish attitude of the agent) and accepted the referred workers without any vetting of or contract with the agent.

The factory also did not have a system to manage the agent and hold them accountable for their illicit behaviours. For instance, factory arranged to pay the referred worker via the agent, and was aware of the deduction of salary by the agent as a commission, but either neglected or sanctioned the practice. The agent continued to yield control over the child after he started working. For instance, representatives from the labour agent were present during part of the assessment, and the child was visibly scarred in their presence. The labour agent normally rented houses for the workers if factories didn't provide dormitories (monthly rent of 100 to 200 RMB), and could therefore control workers' movement. Chit originally lived in the factory's dormitory but moved to stay with the labour agent after he was discovered by the auditor.

Secondly, there was a lack of awareness about the vulnerability of ethnic minority workers. The factory failed to question the origin of the child, even when it was clear that he could not speak any Chinese. No interview was conducted as the child could not speak Chinese, and this appeared to be a common practice with workers from ethnic minority groups. The factory did not provide orientation or skill training to workers in the first place; difficulty in communication further increased the risk to the child's health and safety, as he could only learn by observing and doing.

Thirdly, there was a gap between policy and practice in this family-owned and run business. The HR staff responsible was the owner's sister and did not have

proper training on human resources management. She was not even involved in the recruitment process, as a production staff (owner's brother-in-law, who was also not trained) managed the process and only asked to see the IDs of the workers when he recruited new workers; no age verification was carried out. Documentation was non-existent, as workers were not required to fill in an application. Among the 200 workers, only one-fourth of them signed a contract, and the factory did not sign contracts with temporary workers.

The factory has a written child labour policy and claimed to have conducted relevant training to responsible staff, but staff who handled the case was not aware of the policy. The lack of protection also applies to juvenile workers, as there were no special arrangements for them in terms of working positions, working hours or health check arrangements.

**Pseudonym*

IV. Factory at Risk after Flouting Normal HR Procedures for Sub-Contractor's Temporary Workers

Background Info

In August 2018, a 12-year-old boy was spotted helping his mother on the production floor of a supplier for a Western clothing brand during a routine CSR audit. The mother, a migrant worker originally from Sichuan Province, was hired by a sub-contractor and had only been working at the main supplier factory for a couple of days before the audit. The reason she and her son were discovered is because the sub-contractor doubled up as a labour agent and sent workers to the main supplier to use their production line to complete an order. None of the workers brought in through that channel had formal labour contracts.

During the audit, the boy was seen sticking labels and badges on hats. According to an interview with the mother, she had brought the boy with her to work because she was worried about his safety all alone in their small rented room near the factory. It was the summer holiday, so the boy wasn't in school at the time.

When she saw that her son was glued to his phone, she gave him a few small tasks to do to distract him and claimed that there was never an intention to make him work properly. However, CCTV footage disputes this claim as a line manager can be seen instructing the boy on the tasks at hand. While it could not be fully verified how much the boy actually worked, a remediation plan was developed to ensure his schooling would not be interrupted.

What happened after being found?

The boy was sent home upon being discovered and a rapid assessment of the situation took place to determine the best course forward. Since the boy was still in primary school, priority was given on ensuring his return to school after the summer holiday. It was agreed to provide the boy with educational support until his 16th birthday, which entailed giving him a sum of 200 RMB each month.

What Went Wrong?

It was peak production season when this case happened, and the factory was suffering from a labour shortage. They therefore sought out a quick-fix solution, namely subcontracting the production process within their own facility. The sub-contractor organised temporary workers to produce on the factory's production line, flouting all HR procedures the factory normally had in place. This approach was used throughout all peak seasons; whenever things got extremely busy, the factory would turn to the subcontractor to use their workers or lease out full production lines to the sub-contractor.

Sub-contractors' workers sent to the supplier did not have to show their ID cards or provide any personal information. Nor did they have a contract with either party. According to the mother, only an oral agreement was made with regards to the salary. In fact, no personnel records were kept on any of the subcontractors' workers. Although in this case, it was the mother who was officially sent to work there, no eyebrows were raised when her 12-year-old son sat by her side working. In fact, the practice was accepted and even condoned since the line manager showed the boy what to do. This shows that the line manager had zero awareness about the gravity of having a child helping out on the production floor in terms of compliance. In general, ignoring all basic hiring procedures when using their sub-contractor's workers made the factory highly vulnerable to severe compliance risks.

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