MEKONG CLUB

FIGHTING THE BUSINESS OF SLAVERY

Addressing Modern Slavery Worker Vulnerability During COVID-19
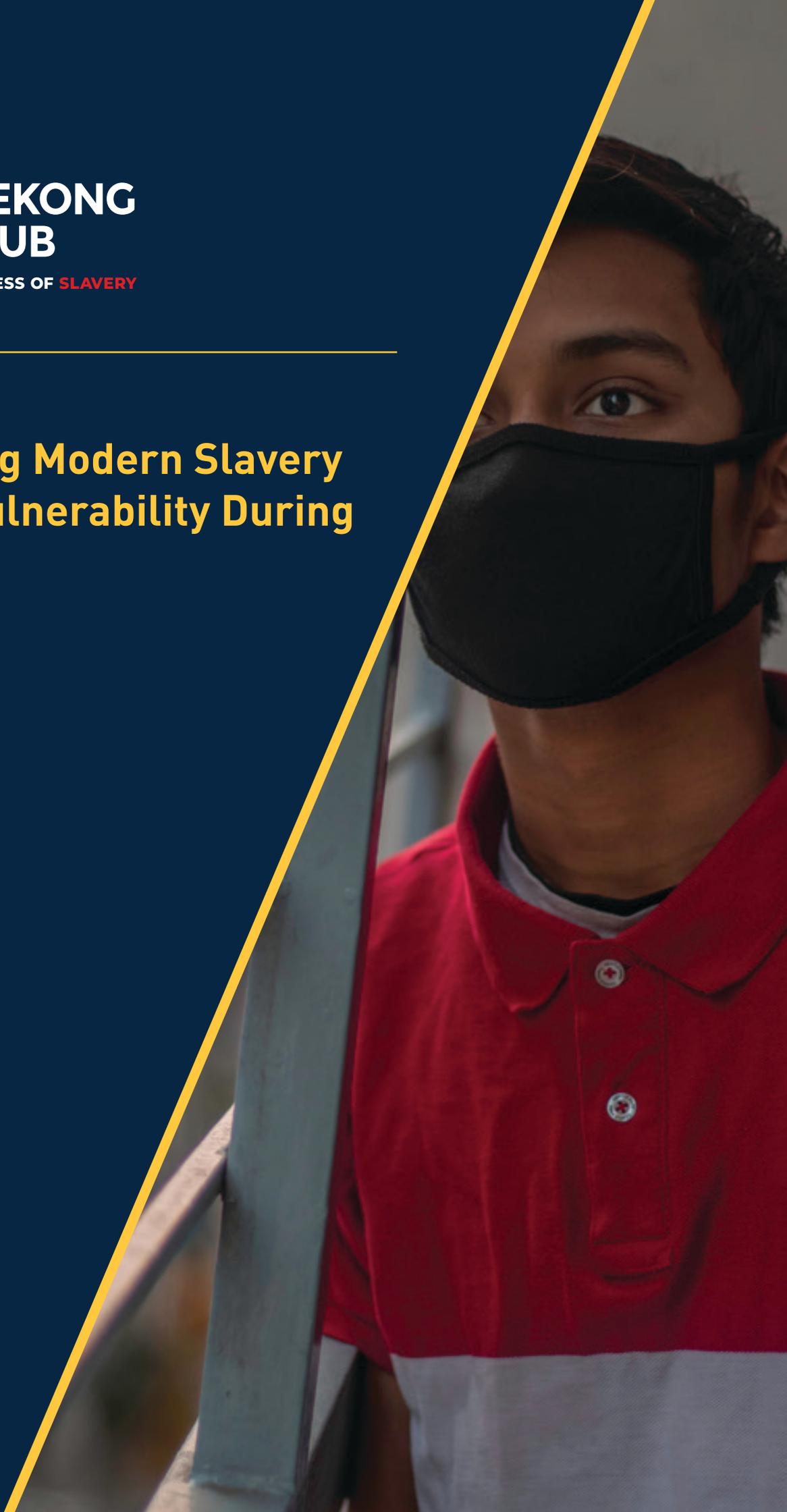
Introduction

The COVID-19 outbreak has been affecting Asia since January 2020. It is now a global pandemic, with over 4.5 million cases detected in 168 countries and over 300,000 deaths globally as of 15 May 2020. Much of the world has implemented severe quarantine measures in an effort to contain the spread of the virus, and these measures have significantly affected many businesses.

Most footwear and apparel manufacturers have seen major disruption in many parts of their supply chains and business operations. For example, in Bangladesh, 72% of apparel buyers have not paid for materials already purchased by the supplier. This has resulted in over US$2.5 billion worth of order cancellations in garment manufacturing and the loss of over one million garment worker jobs. Similar trends are being seen all over the world.

This continuing crisis poses a number of challenges, some limited to moving activities online, others much more serious and related to the sustainability and profitability of business in the short, medium and long-term. While corporate professionals go through a major experiment of teleworking, supply chain workers directly employed by companies or by suppliers and sub-suppliers are facing much bigger challenges. There is no doubt that the COVID-19 crisis poses a higher risk to their wellbeing, job security, and basic rights.

Modern Slavery and Worker Safety Vulnerability

There are many reasons why workers will be more vulnerable to modern slavery during the ongoing COVID-19 crisis and beyond. These include loss of income, increased debt, low awareness of workplace labour rights, requirements to work excessive overtime to cover capacity gaps, increased demand due to supply chain shortages, and the inability to safely return to home countries.

Worker Vulnerability

Massive unemployment
With factory shutdowns, order cancellations, workforce reductions and sudden changes to supply chain structures, many workers have lost their jobs or been furloughed for an extended period of time. Without a paycheck and generally unable to rely on personal savings, this situation creates desperation that can expose workers to modern slavery and other forms of exploitation from unscrupulous employers. Unless factories and supply chains begin to function soon, this situation will become more dire with each passing week.

Debt bondage
As workers are told to stay home, often resulting in the absence of a paycheck, the possibility that they find themselves bearing excessive debt significantly increases. This debt might come from local money lenders, community institutions or family members. In taking on debts that they cannot repay, workers leave themselves open to exploitation by these various parties. Employers may offer to lend money to their employees, and in some cases this might be the best solution. However, it could also lead to a debt bondage situation, where the worker falls under the control of their employer due to the debts incurred. The situation is generally worse for migrant workers, many of whom will have already incurred debts as part of the recruitment process.

Quarantined workers
Workers may be unable to come to work because they need to be quarantined or live with someone who is sick or confined to their home. In the case of factory work, it is impossible to implement any type of online work replacement. This results in an absence of wages and a significant increase in vulnerability.

Contract workers

Contractors (e.g. canteen staff, security personnel, cleaners) are usually less protected than permanent employees when it comes to paid sick leave and paid annual leave. Even more at stake is their job security. Unless an effort is made to repurpose their roles, many of them will lose their jobs and face dire consequences.

Discrimination

Some workers who have come from virus-affected areas have been discriminated against through association with a certain country or region. Further, as countries suffer from recession, there will inevitably be a tendency for some parts of the population to turn against migrant workers, particularly where they are perceived as taking precious jobs.

Workplace Pressure

Excessive, involuntary overtime

With parts of Asia slowly re-opening manufacturing operations, there may be high pressure for workers to intensify production rates to cover for months of inactivity, thus resulting in unreasonable requests for them to work overtime. This additional work can be exploitative if it is involuntary and not compensated appropriately.

Pressure on workplace and suppliers

Suppliers themselves may be under pressure due to substantial demand for production of certain goods – notably personal protection equipment – at a cheap price on a huge scale; and their own financial difficulties resulting from the crisis through cancelled or delayed orders and renegotiated payments. These pressures are likely to affect the way that workers are treated.

Freedom of movement

Suppliers may decide to implement new measures to protect workers from being exposed to this virus. In some cases, this might include restricting workers' freedom of movement. For example, workers may be requested to remain on the factory compound at all times. While this is often considered a modern slavery 'red-flag', in this case the restrictions may be legitimate to ensure worker protection during the pandemic period. At the same time, some employers may take advantage of government-imposed freedoms of movement to keep workers on site for their own gain (i.e., to work more hours). It may not be communicated to the worker whether they are being held due to government restrictions or employer preference, which would be a grey area from a human rights perspective.

Worksite departure

In some cases, workers worried about their safety, in the agriculture sector for example, have been posed an ultimatum to either stay at their own risk of contracting the virus or leave and lose their job and payment thereof. Imposing fees or penalties for leaving employment is an indicator of labour exploitation and should not be permitted under any circumstances.

Health and Safety

Susceptibility to COVID-19

Workers may be required to work in close proximity and share equipment, making it impossible to socially distance. Worse, many migrant workers (both foreign and national) may live together in shared dormitories, often with several workers in one room. Already in close proximity, this situation has been exacerbated by lockdowns, with workers being confined together. There are already examples of outbreaks in worker dormitories.

Maintaining hygiene standards

In many locations, there is a lack of soap and running water available in worker dormitories and canteens. In addition, there is an absence of hand sanitiser dispensers in places where there is a high chance of hand-to-face contact, and of masks to protect workers who might work in close contact with others.

Workforce remains uninformed

Workers may not have a clear picture of the global COVID-19 phenomenon. They may be accessing broadcasted news in their own language only, and if they are not able to access the internet they may rely on bits of information provided by colleagues, family and friends. This increases the possibility of being misinformed. In some cases, workers may not understand the complexity of the unfolding situation. This could lead to resistance to new measures imposed by their employers and inadvertently pose risk to their or others' health.

Illness Disclosure

Because workers may fear losing their jobs if they are found to be sick, they may have little incentive to reveal any health conditions, particularly low-level COVID-19 symptoms, thus posing a risk to others.

Proposed Responses to Reduce Modern Slavery Vulnerability

The Mekong Club is working with companies within its network to support and advise them to ensure that, during these difficult times, workers' human rights and health and safety remain paramount, and modern slavery and labour exploitation risk is avoided or promptly addressed. Below are some basic recommendations and scenarios that companies should consider:

Clearly state your position

Put in place short-term, medium-term, and long-term mitigation plans to address the various stages of the crisis and recovery. As a brand, consider what implications the COVID-19 outbreak could have on your supply chains and develop a statement or policy to address this scenario. Use this brief as a template to model your COVID-19-related supplier policy. Communicate it to your suppliers and initiate a dialogue with them. *A transparent conversation is the most effective way to identify risks and manage any issues before they escalate.*

Respond to debt bondage vulnerability

Workers should be educated on the risks of taking out high-interest loans from unregulated sources, including their employers, and, if at all possible, from alternative loan sources. It is important that they understand the terms and conditions of any loan arrangements, including that they will not be forced to remain in a work situation against their will.

Ensure quarantined policies

During quarantine periods, employers should inform workers of what arrangements are possible. For example, the quarantine or part of it can be offset by the workers' paid leave, to ensure the worker can receive an income. This will lessen the risk of workers becoming indebted. This is particularly important for migrant workers who send remittances home, with families depending on them.

Illness disclosure policies

Workers should feel that they can rely on their employer to prioritise their health and wellbeing in this time of difficulty. There should also be a very clear escalation procedure in place for workers who feel unwell or suspect they may be experiencing symptoms of the virus that would allow them to report this and receive the appropriate medical attention as quickly and safely as possible.

Worksite departure policies

There are cases in which workers must temporally leave their employment under the COVID-19 outbreak for personal reasons. These workers should be properly compensated for any service provided up to their leave day, and there should be no termination or penalty ultimatums imposed.

Temporary freedom of movement limitations

Workers may be requested to remain on the factory compound at all times. In addition, they may also be asked to refrain from assembling in common areas in large groups or be asked to keep distance from one another. These measures should be transparently disclosed by the suppliers to the brands they work with and be considered as exceptional measures given the unique circumstances. In no cases should passports be retained to avoid workers' movement. No financial penalty or wage deduction should be imposed by suppliers on workers who violate these rules – serious violations are a matter for the authorities, not employers. Providing regular updates to workers on the status of quarantine and the reasons for different measures is key to maximising compliance.

Ensure overtime policies

Overtime work should always be tracked by the factory, appropriately remunerated and freely chosen by the worker. The brand should have clear guidance and policies regarding overtime, and what it would consider to be excessive overtime for workers, as well as a requirement for transparency in overtime tracking.

Ensure no discrimination

No discrimination should be permitted when implementing new measures, which should apply to the whole of the workforce unless there is a demonstrable, reasonable explanation for any particular exceptions.

Offer consent forms

It is important that worker rights are respected at all times and that their position of disadvantage in most negotiations is recognised. At the same time, in these extraordinary circumstances, workers should have the right to make an informed choice about their contribution to maintaining a viable place of employment, including accepting – on a temporary basis only – lesser conditions. If there are new measures agreed with workers as a result of the COVID-19 outbreak (e.g. extended hours), it is recommended, after appropriate training, that a consent form be signed by the workers to show their agreement of such measures. It is essential to introduce a start date and an end date to these measures with any possibility of extension mutually agreed, and clearly and plainly communicated in the language of the worker.

Protect contract workers

Where possible, companies should encourage that contract workers be repurposed during shutdown periods to enable them to receive some payment. For example, if the canteen is closed to avoid large gatherings, kitchen/canteen staff could cover extra turns to clean and disinfect working equipment or support with temperature-taking and recording.

Maintain hygiene standards

Suppliers should ensure that soap and running water are available in every toilet and in the dormitories and canteen area. Procure and provide hand sanitiser dispensers in places where there is a high chance of hand-to-face contact. Provide masks to workers and clearly-marked bins to dispose of them.

Keep the workforce informed

Suppliers should develop and start implementing training on the COVID-19 virus immediately. Particular emphasis should be placed on the importance of self-hygiene and social distancing, which covers both proximity and duration of contact. This information should be promptly translated into migrant workers' languages. Simple but frequent updates on virus cases in the relevant country/region will help keep the workers informed, and reliable sources of news information should be communicated to workers to combat the spread of misinformation.

Annex A: COVID-19 Response Checklist

Internal Reviews and Updates

- Use available international resources to guide present and future due diligence processes related to the COVID-19 response;
- Use your internal sustainability, human rights, and/or modern slavery team to identify and mitigate risk of modern slavery within your business as the COVID-19 crisis continues to unfold;
- Identify an emergency plan to engage with suppliers that updates key policies under these unique circumstances;
- Put in place short-term, medium-term, and long-term mitigation plans to address the various stages of the crisis and recovery;
- Develop a detailed internal policy that lays out your company's decisions related to your suppliers and their workforces;
- Regularly provide information and updates on the impact of COVID-19 on modern slavery risk to your company's board of directors and senior decision-makers;
- Integrate these new mechanisms into existing broader sustainability responses; and
- Maintain ongoing communication with your suppliers to collect information and share updates on internal decisions that have been made.

Protecting and Supporting Workers

- Honour past and current production contracts with existing suppliers to reduce the impact on workers, when possible;
- Explore ways in which suppliers can be assisted, including paying for completed work, extending past orders, or providing a monetary subsidy to help cover ongoing costs, when possible;
- Explore ways in which workers who have been laid off or furloughed can be supported: this might include offering some subsidy wages or assurances of rehiring, when possible;
- Avoid seeking significant discounts to make up for corporate losses; and
- Encourage suppliers to meet their obligations under relevant laws and regulations regarding worker layoffs (e.g. notice periods and compensation).

Changes in Working Conditions During the Crisis

- Encourage suppliers to clearly inform workers when local government authorities restrict mobility and place limits on public gatherings;
- Encourage suppliers to avoid issuing ultimatums to force workers to accept longer hours without their consent;
- Encourage suppliers to only restrict migrant workers' freedom of movement where necessary for the purpose of preventing the spread of the virus and only for a given period of time;
- Encourage suppliers to organise and pay for the legal travel costs to countries of origin when migrants are laid off; and
- Encourage suppliers to explore ways to redeploy workers to mitigate the impact of workforce reductions.

Health and Safety

- Encourage suppliers to comply with public health requirements established by the government authorities and/or the World Health Organization (WHO);
- Encourage suppliers to ensure that health and wellbeing are a priority for all their employees;
- Encourage suppliers to offer supplies to protect workers, including masks, eyewear, disinfectant and protective clothes, when possible;
- Encourage that supplier policies provide sick and compassionate leave for those who need to address family needs, without fear of termination;
- Encourage suppliers to regularly clean and disinfect common work and living areas;

- Encourage suppliers to reduce overcrowding in dormitory sites to offer social distancing;
- Encourage suppliers to have a regular supply of soap and running water;
- Ensure that handwashing, social distancing and use of face masks are in place; and
- Encourage suppliers to put in place activities to address the stress and anxiety of their workers.

Collect Information Directly from Suppliers

- Maintain ongoing relationships with existing suppliers;
- Engage suppliers to consider ways to address increased modern slavery risks linked to COVID-19;
- If site visits are not possible, call to collect regular information on staffing levels, present and future workloads, staffing requirements, and emerging trends;
- Determine whether existing policies related to freedom of movement, overtime and health coverage have changed or been revised since the COVID-19 crisis started; and
- Ensure remediation processes continue to function.

Auditing and Monitoring

- Identify what can be done to collect worker-related information from suppliers during a time when third-party audits can't be done in person. This might include calls to factory managers or supervisors, as well as ways to collect worker feedback directly (see below);
- Encourage suppliers to carry out rapid assessments to identify the most pressing needs of workers;
- Encourage suppliers to monitor working hours more closely than usual to ensure that workers do not face excessive overtime and that they continue to receive required rest periods;
- Develop a schedule for resuming future audits; and
- Re-prioritise which modern slavery risks are addressed based on the impact of COVID-19.

Collect Worker Feedback

- Encourage suppliers to offer workers access to grievance mechanisms, such as hotlines and mobile apps;
- Encourage suppliers to open channels of communication and dialogue when questions arise; and
- Identify additional tech-related tools that can be modified to collect worker feedback (e.g. Apprise App).

Awareness-Raising Efforts Among Brands, Suppliers and Workers

- Encourage suppliers to provide training on the risks of modern slavery practices among workers and within supply chains to its subsidiaries in relevant languages;
- Encourage suppliers to provide modern slavery training online in relevant languages, where available; and
- Encourage suppliers to communicate clearly, accurately and frequently to workers about the situation in relation to COVID-19, current measures in place, expected timeframe and reasons behind them.

Multi-Stakeholder Efforts and Ongoing Collaboration

- Join multi-stakeholder initiatives that are addressing the COVID-19 crisis (e.g. The Mekong Club, Be Slavery Free, etc.);
- Collaborate with other organisations, including other brands, suppliers, and civil society organisations to identify and share best-practice approaches to protect and support vulnerable workers, including in relation to remediation;
- Engage with NGOs on options to address worker debt in ways that reduce vulnerability to exploitation; and
- Ensure that only verified news and information is shared with employees through official channels.

Stigma and Discrimination

- Encourage suppliers to treat all workers with dignity and respect; and
- Encourage suppliers to offer training and awareness-raising activities to reduce any stigmatisation and discrimination associated with the COVID crisis.

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