

# Consolidated Learnings from Research on Overseas Labor Recruitment in Vietnam

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This briefing document synthesizes the key themes emerging from GFEMS-funded research and advocacy efforts focused on Vietnamese labor migration between 2018-2020. Findings represent inputs from a range of labor migration stakeholders including government agencies, private sector entities, labor recruiters, service providers, and, crucially, migrant workers and their families. Collectively, these quantitative and qualitative insights find commonality in their emphasis of five key areas: (i) recruitment fees and associated debt among migrant workers; (ii) deceptive recruitment practices and significant exit penalties; (iii) lack of effective grievance mechanisms for workers; (iv) regulatory reform surrounding migrant worker recruitment; (v) opportunities for private sector commitment to ethical recruitment.

## Overview of GFEMS Investments Covered in this Brief

The brief highlights the work of the following partners funded by GFEMS. The views expressed are those of GFEMS and do not necessarily reflect the views of the organizations featured in this brief.

- **University of Massachusetts Lowell** completed a study aimed at estimating the prevalence of labor trafficking and other abusive employment practices among Vietnam labor migration<sup>1</sup> to Japan and Taiwan. The research involved a quantitative survey conducted with approximately 5,000 recent returnees focused on their overseas work experiences, supplemented by 100 semi-structured qualitative interviews with respondents who reported experiencing moderate to severe workplace abuses.
- **Responsible Business Alliance (RBA)** conducted a survey with migrant workers at four destination workplaces in Taiwan through an anonymous, encrypted mobile-based voice survey, aimed at capturing the recruitment and employment experiences of Vietnamese workers in Taiwan, as well as indications of opportunities for improvement in labor recruitment practices in this corridor. RBA further commissioned a feasibility study drawing on stakeholder consultations (including brands, suppliers, recruiters, and non-governmental organizations) to (i) better understand employer and labor recruiter sentiment to comply with international ethical recruitment standards and growing customer requirements, and (ii) assess industry stakeholders' available leverage to affect change.
- **International Organization for Migration** with co-funding from IOM's Development Fund, commissioned the Overseas Development Institute (ODI) in collaboration with the Institute for Family and Gender Studies (IFGS) to carry out qualitative research with migrant worker returnees in Nghe An province in October 2019. The research explores the vulnerabilities and risks of exploitation faced by Vietnamese migrant workers at various stages of their migration journey – before they migrate, during their employment at the destination country, and upon their return to Vietnam. The study was informed by focus group discussions and in-depth interviews with both male and female returnee migrant workers and their family members, as well as key informant interviews with government officials and representatives of recruitment agencies<sup>1</sup>.
- **International Labour Organization (ILO)** developed a paper considering the feasibility of the recruitment industry shift to a 'employer-pays' or 'zero-fee' model and recommendations to encourage and catalyze this shift, informed by interviews with key Vietnamese government staff at the national and provincial levels, Migrant Worker Resource Center (MRC) staff, Vietnam Association of Manpower Supply (VAMAS), recruitment agencies, businesses with migrant workers in their supply chains, representatives of international and UN agencies, academics and returned migrant workers. ILO further mapped the existing complaints referral mechanisms available to migrant workers and issued a guidance note for MRC staff to improve their understanding of the available complaints mechanisms for abuses commonly reported by migrant workers. ILO also provided support to the Vietnamese government during its revision of Law 72 which regulates the licensing and operations of Vietnamese recruitment agencies.

## Key Learnings

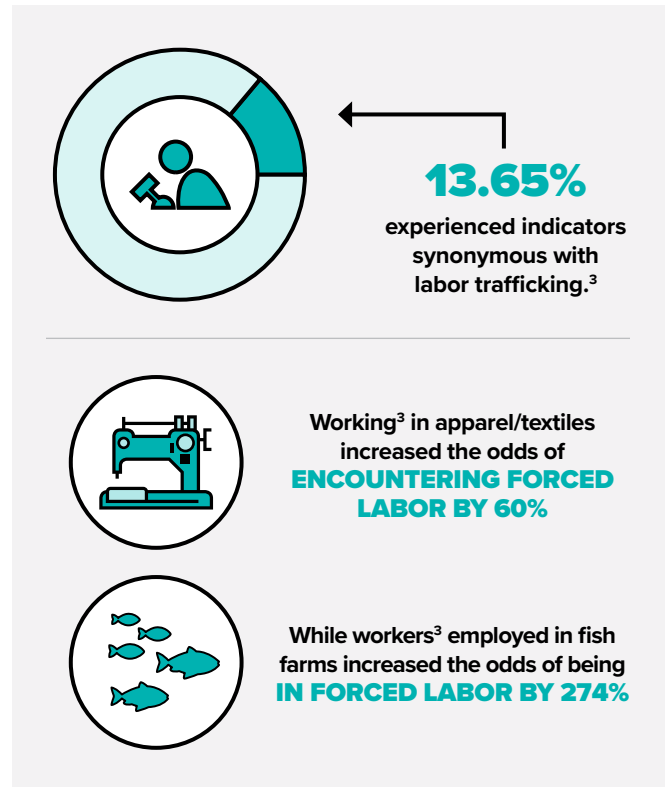
### Prevalence of labor trafficking and other abuses experienced by Vietnamese migrant workers

The UMass Lowell prevalence study quantified the rate of labor trafficking<sup>2</sup> among a sample of 5,017 returned Vietnamese migrant workers from Japan and Taiwan by identifying how many respondents had restricted freedoms or experienced abuses that were coercive in nature and were unable to leave their workplace situation without incurring significant costs or penalties. The findings showed that 13.65% (n=685) of the sample experienced indicators synonymous with labor trafficking. This was comprised of 8.33% of workers who had returned from Japan and 16.09% of workers who had returned from Taiwan. If the ratio of these findings were extrapolated to the overall number of migrant workers who were employed overseas during the same time period (274,890 workers to Taiwan and 107,975 workers to Japan), it is likely that forced labor conditions would have affected tens of thousands of Vietnamese migrant workers who worked in these countries.

Overall, 27% (n=1353) of migrant workers reported having experienced at least one form of restricted freedom, either limiting one's physical movement or communication. The rate of reported abuses was higher among those who worked in Taiwan (31.18%) than those in Japan (17.81%). The most frequent restriction of personal freedom was the confiscation of identification paperwork (13.10% of the sample), followed by being forbidden to leave the work site (8.01% of the sample).

Reports of coercive behaviors<sup>4</sup> against migrant workers were made by 8.07% of the sample (n=405). The rates were slightly higher in Taiwan (8.95%) relative to Japan (6.25%).

The research further analyzed respondents' demographic profiles, employment destinations, labor sector, and recruitment processes to identify risk factors that are associated with a higher likelihood of exploitation for workers. Older workers between the



ages of 30-40 were 17% more likely to have experienced forced labor than younger workers. Workers who had obtained training in a trade school or received a college education were 27% less likely to encounter forced labor. Working in Taiwan increased the likelihood of encountering forced labor by 71% relative to working in Japan. Working in apparel/textiles increased the odds of encountering forced labor by 60% while workers employed in fish farms increased the odds of being in forced labor by 274%.<sup>3</sup>

### Recruitment fees and associated debt among Vietnamese migrant workers

Results across all GFEMS-funded studies indicated the presence of on-going and persistent unethical recruitment practices, in particular, fee-charging in excess of legal thresholds and recruitment-related debt.

The RBA worker voice survey in Taiwanese factories revealed that fee charging was prevalent across the board among the surveyed population of workers, with reported fee amounts ranging from 150 to 6,200 USD and an average fee amount paid of 4,038 USD. Even when workers reported they did not pay a labor agent or other entity, they were still required

to cover costs for medical tests and/or other recruitment-related expenses. These findings were echoed in those of the prevalence study which found that, on average, migrant workers spent 137.48 million VND (about \$5,941 USD) to acquire a job overseas, a sum far exceeding the national average annual household income for the country's rural families. Jobs in Japan cost an average 194.33 million VND (about \$8,400 USD) to acquire, a figure higher than the overall national average household income in Vietnam, whereas jobs in Taiwan cost an average of 111.16 million VND (about \$4,804 USD) to secure.

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Worker responses to the qualitative research conducted by IOM indicated evidence of some recruitment agencies not following legal requirements related to recruitment fees and related costs when dealing with prospective migrant workers. In particular, the lack of transparency of different fees and costs involved often led to migrant workers paying over the legal limit, with costs varying by destination country, sector of work, and the type and length of contract.

*“I just skimmed through the basic salary and such... they hurried me to sign it fast. There was not enough time...I only read the basics.” (female, 29, migrant to Japan)*

*The brokerage fee was USD 9,200, in the official contract it's lower. But people forced me to pay USD 9,200, for living expenses. In terms of the company in Vietnam, when I left at that time, I had already paid the money. The law of Vietnam is that the maximum fees of labor export is 3,500 USD. (male, 25, migrant to Japan)*

*I gave the broker in my village 120 million VND (approx 5211 USD) but when in the airport, they told me to write a sheet of commitments. When I was about to get on the plane, they took me to a private room and told me if I want to go abroad, I have to write a sheet of commitments that said I gave them 4000 US dollar...They said to write that sheet to get onboard faster. I didn't think it through. I was happy that I could go abroad. I didn't think about how I gave them closer to 6000 USD but wrote that I only gave them 4000 USD. (male, 33, migrant to Taiwan)*

The paper developed by ILO found that these migration fees and costs are a significant factor in determining the outcome of migration. Due to high recruitment fees and related costs, migrant workers often obtain loans to fund their migration from banks, family, and communities, and may pro-void houses or land as collateral for loans. Fees and costs levied on a worker can lead to indebtedness and increase their risk of vulnerability to human trafficking.

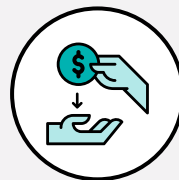
The results of RBA's factory worker survey in Taiwan indicated that many workers had to borrow money to pay for the cost of getting their job, with the majority of workers who borrowed money estimating that it would take between seven and 24 months to pay off the debt. Some returnees surveyed during IOM's qualitative research reported that debts associated with

recruitment fees left workers no option but to continue the migration process to be able to repay their debt.

*“Because I had already borrowed VND 150 million then, if I hadn't gone, I wouldn't have had money to pay back, so I had to take the risk. If I hadn't gone but stayed in Vietnam, I would have earned only VND 3 million to 4 million a month – when could I have paid off the debts? Therefore, I had to go; it was risky, like a gamble. (male, 34, migrant to the Republic of Korea)*

*At that time, I borrowed money from the brokerage company. The company said that I could borrow from it. I also borrowed VND 5 million from other sources. VND 5 million was a very huge amount of money at that time. I had to sell property in my family and borrowed from my younger sister who had worked in Taiwan already. (female, 56, migrant to Taiwan)*

The pervasive debt burden among Vietnamese overseas migrant workers is also reflected in the results of the prevalence study, which found that the vast majority (81.08%) of these migrant workers had to borrow money to finance the significant upfront costs required for their journey – workers who went to Japan were slightly more likely to have borrowed money (83.95%) than those who went to Taiwan (79.85%). Critically, those who borrowed money to finance their trip overseas were 2.56 times as likely to have experienced conditions consistent with forced labor as those who did not.



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## Deceptive recruitment practices and significant exit costs/penalties

Deceptive recruitment practices perpetrated on Vietnamese migrant workers begin pre-departure and often carry over to destination. Worker response to both the IOM and UMass Lowell studies revealed that in a number of cases, parts of the recruitment fees and costs were obtained through significant deductions from migrant workers' salary during employment, exacerbating situations of indebtedness and debt bondage.

*When I signed [the contract], it was 17 million. But when I came, they deducted all. The whole [cost] was only 7 million but meal and accommodation was not deducted. All of this should be clearly stated. For example, the contract stated 14 million, but in this case, a person can actually earn how much, that must be clear. Vietnamese brokers are very ambiguous. On this side, the contract is like this. But over there, it is another thing. I cannot trust the broker. (male, 30, migrant to Taiwan)*

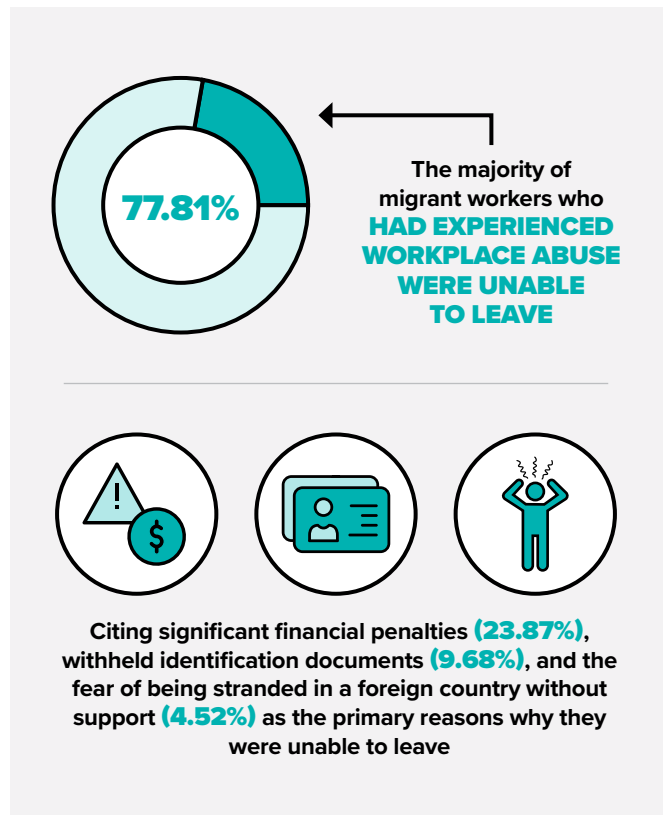
*Before leaving for Japan, the recruitment agency told me that the salary would be VND 30 million a month. But when arriving here, the truth turned out to be ruthless. I did receive 30 million, but I had to pay for many things: the tax, house rent, utility bill and meals. 30 million sounded great at first. (male, 27, migrant to Japan)*

In other instances, workers found that the scope and conditions of the job assigned to them at destination did not correspond with the terms that had been outlined to them by their recruitment agencies and described in the contracts they signed in Vietnam.

*I signed up for a construction job, but later on, they hired me to work in agriculture. And so I went there and worked in agriculture, working with barley. (male, 34, migrant to the Republic of Korea)*

*Now, I suggest that our government issue a policy that will be implemented and stop the situation of brokering jobs illegally. The brokers crammed into our heads a lot of information until we lost control. We signed all the documents that they gave to us. In the end, you didn't know what you signed. When we took the job orders, they asked us to sign many documents and didn't let us read them. (male, 20, migrant to Japan)*

Migrant workers often had no option but to continue working at the risk of being punished or losing their jobs if they did not comply; they also had limited recourse due to the need to repay incurred debts. A majority (82%) of respondents to the RBA worker voice survey reported barriers to early termination. Many reported having to pay airfare or paying a fine if they wished to terminate their contracts early. Nearly a quarter



of respondents reported that they would lose due wages or mandatory savings and deposits if they wished to terminate their contracts.

*She [daughter] signed the contract for three years, now extended for two years...The company withheld one month's salary. For the extension, the company made her pay VND 120 million more. She said, "I extended [the contract] and had to pay VND 60 million to 70 million right away, I couldn't bring it back. For a whole year I will have to work without pay." (female, 55, mother of a female migrant worker to Japan)*

Findings from the UMass prevalence research further corroborated the existence of significant costs for workers that prevented them from leaving exploitative work environments. The majority (77.81%) of migrant workers who had experienced workplace abuse were unable to leave their employers, citing significant financial penalties (23.87%), withheld identification documents (9.68%), and the fear of being stranded in a foreign country without support (4.52%) as the primary reasons for staying.

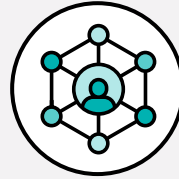
**Lack of effective grievance mechanisms for workers and lack of accountability for violators**

Across all studies, there were findings of limited avenues, either formal or informal, for Vietnamese migrant workers to seek assistance or lodge complaints. RBA's factory survey found that grievance mechanisms were neither sufficiently available nor utilized among the respondent population. Those workers who did have access to an anonymous and safe grievance channel also reported a higher rate of comfort reporting their problems, compared to workers who indicated they did not have an anonymous and safe grievance channel. IOM's interviews with migrant worker returnees revealed that most were not provided with any form of grievance mechanism (established either by employers or by the recruitment agencies) or if these did exist, study respondents were unaware of these channels. In some instances, workers mentioned approaching unions in destination countries for support with workplace grievances, however, the majority of migrant workers were reluctant to raise issues with the unions for fear of repercussions with their employer, including being sent home. Similarly, while nearly one-third of migrant workers surveyed by the UMass Lowell study who experienced abuses sought help for their workplace grievances, the majority of these received either no help or ineffective assistance. Even though hundreds of thousands of Vietnamese migrant workers work in Japan and Taiwan each year, there appeared to be a clear lack of coordinated assistance programs for migrant workers to turn to when in need.

*“When we arrived at the airport, they (brokers) picked us up and told us that if there was any difficulty or if we got beaten, we could call them. However, when we requested to be transferred to a new employer or to have the case investigated, we waited for a long time... but they did not do anything.” (Male, 43, migrant to Taiwan)*

*My salary was 2 million VND but I would only receive 1 million and a couple of thousands. We did ask why and they told us that they had to extract from our salary to pay for the electricity fee, water fee, and other expenses. We wondered why they didn't make it clear by printing these things on the invoice. However, in general, no one would complain further. No one dared voice their opinions.” (Female, age 24, migrant to Japan)*

ILO's Guidance Note for MRCs on existing complaints referral mechanisms confirmed that more formal avenues for



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reporting, such as the Vietnamese government complaints process, were not always readily accessible to migrant workers. Of the workers interviewed, none had utilized the process, despite reporting serious complaints. ILO's research further revealed that entities charged with Vietnamese migrant worker welfare lack a common understanding of the necessary elements and procedures for a complaint, as well the legal rights, violations, and remedies relevant to labor migration.

The existing complaints mechanisms place large burdens on workers to submit their own legal pleadings, despite a lack of general awareness among workers of their legal rights, potential violations of those rights, as well as the remedies due to them. This process is further complicated by difficulties in gathering sufficient evidence (for example, a lack of evidence could include lost or destroyed paperwork, a lack of receipt for fees paid to intermediate brokers, a lack of specific pay amounts on contracts, or when there are discrepancies between contracts signed in Vietnam and in destination countries). In addition, many migrant workers are not prepared to submit written complaints for fear that they, among other reasons, would be penalized with fewer assigned work hours or by losing their recruitment deposit on their return to Vietnam.

ILO's findings point to clear gaps in the resourcing and enforcement of regulatory standards for recruitment agencies. Stakeholder interviews revealed that the low frequency of sanctions and low size of fines for administrative violations by recruitment agencies are often ineffective as a penalty and deterrent. The lack of accountability for recruitment agencies creates an unfair playing field and disadvantages recruitment agencies that operate within the law, generating further barriers to the implementation of ethical recruitment models.

### **Policy reform and improved protections for migrant workers**

Prior to 2020, Vietnamese legislation on migrant workers existed – covering the rights of workers, responsibilities of recruitment agencies, and detailing complaint mechanisms. Yet, significant deficits existed which allowed for worker-paid recruitment fees and favored administrative action over criminal sanctions in the regulation of recruitment agencies.

Leveraging the planned revision of Law 72 in 2020 as an opportunity to strengthen the oversight of recruitment agencies and combat unethical recruitment practices, the Vietnamese government passed a revised law in November 2020, that alleviated some of the deficits described above, with strengthened measures for worker protection and recruiter oversight. ILO provided support to Vietnamese government agencies during this revision process. Key activities conducted by ILO included (i) the provision of a series of technical recommendations related to migrant worker-paid recruitment fees and related costs, expanded protections for migrant workers, inclusion of additional rights to information and appeal for migrant workers, and inclusion of additional regulations to further prohibit deceitful recruitment practices; and (ii) supporting social dialogue on draft legislation with all relevant stakeholders, including government, workers organizations, employers, and migrant workers.

While the revised law still retains certain categories of costs chargeable to migrant workers (specifically, services charges

and deposits), it has prohibited recruitment agencies from charging brokerage fees to migrant workers and removed service charges altogether for workers who use public, non-profit entities to migrate abroad. Under the new law, the Vietnamese government has further instituted additional penalties (including license cancellation) for recruitment agencies who use deceitful advertising or other fraudulent means to recruit workers. Pre-departure trainings provided by agencies are now also required to provide knowledge and skills sessions on awareness and prevention of forced labor as well as gender-based violence. Finally, the revised legislation also strengthens worker protections and anti-discrimination provisions, by allowing workers who are subjected to (or threatened with) maltreatment, sexual harassment, or forced labor to unilaterally terminate their employment contracts without financial penalty.

**The Vietnamese government passed the REVISED LAW 72 IN NOVEMBER 2020 with strengthened measures for worker protection and recruiter oversight**

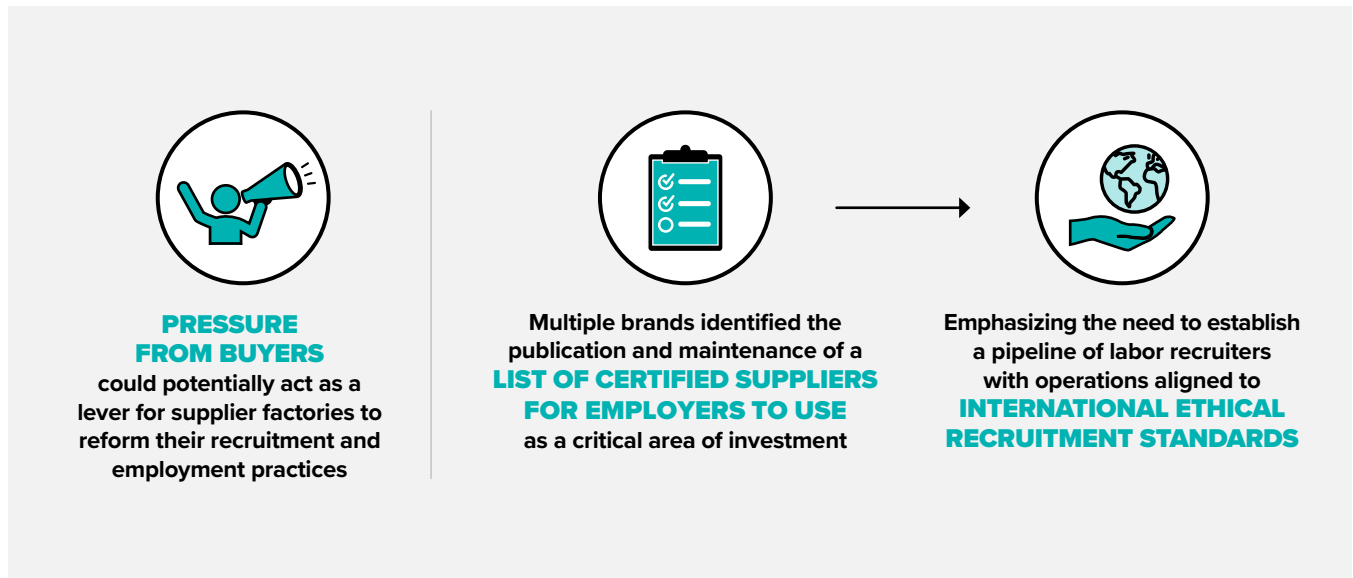


### **Supplier and brand perspectives on ethical recruitment regulations and practices**

The private sector stakeholder consultations conducted by RBA revealed that pressure from buyers could potentially act as a lever for supplier factories to reform their recruitment and employment practices. While Taiwanese suppliers interviewed perceived the elimination of worker fees as outside of “cultural norms” and inconsistent with local regulations, they also acknowledged that compliance with brand ethical recruitment requirements may lead to increased business. Their motivation to comply with ethical standards was grounded in the need to maintain existing customer orders and grow future business. ILO’s research further indicated an effect of international legislation, such as the California Transparency in Supply Chains Act (2011), and pressure from employers and brands on recruitment fees and related costs in Vietnam.

However, brand representatives who participated in RBA’s stakeholder consultations reported receiving conflicting information about formal and informal recruitment systems (particularly in Taiwan) and a lack of nuanced understanding on the barriers to ethical recruitment in the region. Multiple brands identified the publication and maintenance of a list of certified suppliers for employers to use to select ethical labor recruiters as a critical area of investment, emphasizing the need to establish a pipeline of labor recruiters with operations aligned to international ethical recruitment standards.

Such visible signals of employer demand for ethical recruitment could prove potentially effective at changing behavior of recruitment agencies in Vietnam. RBA’s feasibility study



revealed that while there is increasing awareness among labor recruiters of international ethical recruitment standards and the potential impact to their business model, none of the recruiters interviewed identified a loss of business due to their unwillingness to eliminate worker-paid fees from their

business model. A chief concern among labor recruiters was the perceived scarcity of employers willing to pay additional recruitment costs to offset worker-paid fees and sustain their business model. Some recruiters did not see enough explicit market demand to justify transitioning their practices at this time.

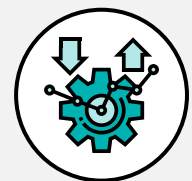
## Conclusions and Recommendations

### Transparency on recruitment fees

Collectively, the research findings indicated the pervasive lack of transparent, accurate, and timely information on the labor recruitment and migration process available to workers to enable them to make informed decisions about employment, including enable them to make informed decisions about recruitment and employment, and minimize risk of exploitative situations. The findings that older and less educated workers face heightened risks of forced labor further emphasize the need for greater awareness raising and strengthened pre-departure trainings that adequately prepare workers for their migration journey. It is critical for government agencies to provide clear and regularly updated information to prospective migrant workers on the different costs and fees involved in migrating to different destinations and sectors, using a range of dissemination channels. The development and implementation of a regionally-contextualized curriculum for prospective migrant workers would help ensure that pre-departure trainings are

comprehensive and include modules related to forced labor risks, working conditions, worker rights and responsibilities at destination, and avenues for grievance reporting and recourse. Providing platforms and mechanisms for migrant workers to share experiences, rate employers and recruitment agencies, give advice to prospective migrant workers, and provide support for workers abroad, could also serve to increase transparency and improve migration outcomes.

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### ***Stricter oversight of recruitment agencies and enforcement of penalties for violators***

The research findings demonstrate that there is a need for the government to tighten its oversight over recruitment agencies and official labor agreements with overseas employers, and ensure the effective enforcement of existing laws by penalizing brokers and licensed recruitment agencies who charge workers excessive or hidden fees. The government should further explore avenues to reduce the debt burden incurred by prospective migrant workers, eventually moving towards a “zero-fee” model as a

standard for overseas labor employment. Continued and stricter regulation and monitoring of recruitment agencies is also necessary to track compliance with ethical standards, including ensuring that recruitment agencies do not “stockpile” migrant workers without a job order, that workers are provided with receipts for all paid fees, and that workers are provided with job descriptions and official contracts in Vietnamese to ensure they understand terms and conditions prior to departure.

### ***Accessible and effective complaints referral mechanisms for migrant workers***

Across the board, the research findings revealed the lack of agency felt by migrant workers in exploitative situations, pointing to the critical need for improved mechanisms for workers to report grievances and abuses and access appropriate remedy without the fear of retribution or penalty.

Employers need to ensure that any migrant worker or group of workers is able to submit a grievance or complaint anonymously, in their native language, and without fear of retaliation. These grievance procedures should be effectively communicated to all workers, supervisors, and managers through training and written material, and all grievances should be fully investigated.

It is further essential that recruitment agencies also establish and enforce effective grievance mechanisms and that the

process for reporting violations is clearly communicated to prospective migrant workers prior to departure. There is also a need for increased coordination between Vietnamese government departments, NGOs, MRCs, and recruitment agencies to ensure that migrant workers can swiftly access streamlined services. Feedback mechanisms for returned migrant workers will also serve to support access to justice and inform government policy responses. As the first point of contact for migrant workers and their families, MRCs are well positioned to assist workers. Training MRC staff on effective procedures to support the grievance process can strengthen the accountability of complaint handlers and serve to increase the number of workers accessing complaint mechanisms and remedies.

### ***Expanded private sector engagement to ensure employers and recruiters adhere to ethical recruitment and fair labor standards***

Industry stakeholders should move toward “zero-fee” policies that are enshrined in formal, enforceable written agreements between buyers and suppliers, as well as between suppliers and their recruitment partners. Buyers and facilities should conduct regular and rigorous human rights due diligence to determine whether workers are being required to pay recruitment fees or recruitment-related expenses, such as visa-processing or work permit fees. Companies need to exert top-down pressure on supply chains and mandate fair and ethical labor sourcing, employment practices, and working conditions. The cost of recruitment should be factored into contracts for goods and services signed between all relevant vendors and buyers. Responsibility for these costs will need to be shared by direct employers, intermediaries, and any company that benefits from the labor of Vietnamese migrant workers in their supply chain. Buyers should further encourage suppliers to invest in longer term relationships with recruitment agencies

that demonstrate transparency and alignment with international industry standards (such as the International Recruitment Integrity System – IRIS).

Adherence to ethical recruitment and fair labor standards is also critical to ensure companies do not run afoul of legislation such as the U.S. Tariff Act which prohibits import of goods made with forced labor. Where credible evidence exists that forced labor was used in the production of a particular good, U.S. Customs and Border Patrol officials can withhold the release of that product, which may lead to a lengthy and expensive process to lift that order. These types of punitive measures can be avoided through the implementation of comprehensive forced labor risk identification and mitigation procedures to include investment in ethical recruitment, assurance of decent work-ing conditions, and the provision of meaningful remedy when abuses are discovered.

1. IOM's study has not yet been finalized and thus data referred to in this report is preliminary.

2. For the purposes of the UMass report, the terms ‘forced labor’ and ‘labor trafficking’ were used synonymously in alignment with definitions and requirements put forth by the U.S. government's Trafficking Victims Protection Act (TVPA).

3. When compared to workers in manufacturing.

4. Coercive behavior against a person or their property can largely be understood as ‘violence’ in the framework that includes physical, sexual, psychological, and economic abuses.