

REPAYMENT OF RECRUITMENT FEES TO WORKERS

4 EMERGING BEST PRACTICES

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Front cover: Workers verifying receipt of their recruitment fees repayment. Thailand, 2021.

Back cover: Workers within the supply chain of a global retailer that is on track to operationalizing its new ethical recruitment policy in 2021. Thailand, 2020.

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REPAYMENT OF RECRUITMENT FEES TO WORKERS: 4 EMERGING BEST PRACTICES

Issara Institute

April 2021

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Senior Outreach & Empowerment Officer, Sandar Linn, conducts a recruitment fees survey with a worker in a factory canteen, with COVID-19 precautions. While COVID-19 presented a number of risks and challenges, the Issara team was able to interview hundreds of current and former workers in a rigorous and systematic manner for recruitment fee surveys. In large part, success was due to established cooperation, collaboration, and communication with factory leadership and management, and the global brand customer, and established trust and relationships with workers from a history of providing information and support with submitting grievances and the subsequent remediation processes.

INTRODUCTION

A growing number of global brands and retailers are adopting ethical recruitment policies stipulating, among other things, that all costs and fees related to labour recruitment are paid by the employer and not by the workers being recruited. Employer Pays Policies (EPP) are important in protecting workers from persistent and sometimes exorbitant debt that can take months or even years to clear - especially when illegal and “under the table” fees are so easily burdened on workers by informal brokers in less regulated environments.

Employer Pays Policies have been the center of discussion for fora such as the Leadership Group for Responsible Recruitment, Responsible Labor Initiative (RLI), Consumer Goods Forum (CGF), Fair Labor Association (FLA), and American Apparel and Footwear Association (AAFA) for several years now. These commitments are important both as signposts for the direction that business and industry is heading, and to advance ethical supply practices. The pace of moving from commitments and policy to more concrete action within supply chains needs to accelerate, and has been called for from these discussions. Too many workers in the supply chains of these brands and retailers still see limited impact on the ground, and improved supplier and recruitment agency systems yet to be transformed. There is a smaller community of more progressive businesses that are already operationalizing, or are ready to operationalize their Employer Pays policies, and this community is indeed growing. Organizations such as Verité¹ and Impactt² have been working with many of these companies on the practical aspects of recruitment fees repayment for several years now.

Issara Institute, founded in 2014, has been working on advancing more ethical recruitment practices within supply chains since its founding, including work on aspects of ethical recruitment such as more transparent, ethical terms of engagement, more ethical and professionalized conduct on the part of employers and recruitment agencies toward each other and toward workers, and monitoring and verifying true labour recruitment conditions through worker voice. Two seminal investigations in 2018 outlined a feasible financial model for ethical recruitment in Southeast Asia (and technical approach for creating such models)³, and emerging signals of behaviour and systems change on the part of recruiters, suppliers, and jobseekers from implementation of Issara’s worker voice-driven ethical recruitment programming.⁴

Issara began working on the mechanics of large-scale recruitment fees reimbursement exercises with its global brand and retailer Strategic Partners in 2019, the largest exercise of which took 8 months from beginning to end, to carry out recruitment surveys and then reimbursements to workers in a number of garment factories, totaling just under US \$1 million. There have been highs and lows through these processes, and many lessons learned. As a non-profit organization committed to advancing learning and practical, measurable progress in the business and human rights space, Issara is sharing insights and lessons learned as soon as possible, to help influence and engage companies on the brink of deciding whether and how to start operationalizing their policy commitments to ethical recruitment - which is no small task for many global businesses large and small.

The ethical recruitment community is at a critical juncture: years of talk, for the most part, have not yet been followed by operationalization within supply chains—in part because a large swath of companies may not yet see how it is possible to start operationalizing and verifying ethical recruitment across their supply chains. There has been a lot of talk about ‘what’ and not as much about ‘how’—and thus we aim to show the mechanics of how it can be done, how pitfalls can be anticipated and avoided, and advance what good practice looks from a top-down and bottom-up perspective. Within the 4 main good practice recommendations that follow, we present 10 key tips in a checklist format for easy reference, as summarized in the figure that follows and as detailed in the subsequent report sections.

Perhaps unsurprisingly, much of the good practice highlighted in this report ties to worker empowerment and equity in worker voice. The beauty of empowered, democratized worker voice is its scalability across extended supply chains, down to the fishing or farming of raw material. We have highlighted the many remediation successes that Issara and our partners have seen, all enabled by and centered around empowered worker voice, and we are very optimistic about the viability and scalability of getting ethical recruitment beyond Tier 1 and across extended supply chains with worker voice as well.

4 EMERGING BEST PRACTICES

A 10-POINT CHECKLIST TOWARD BEST PRACTICE IN ETHICAL REPAYMENT OF RECRUITMENT FEES TO WORKERS



1. EMPLOY RIGOROUS & ETHICAL RECRUITMENT SURVEY METHODS

- 1 ENSURE FAIRNESS THROUGH RIGOR.** Employ a mixed methods research design based on representative sample surveys, ideally through stratified random sampling with a sufficient sample size for statistical power and confidence.
- 2 PRIORITIZE TRUST & SAFETY.** Be mindful of power disparities. Utilize competent enumerators who understand local policies and processes well.
- 3 BE NEUTRAL.** Avoid assumptions and stereotypes of migrant workers as hapless victims or sly opportunists. Maintain a neutral, empowering mindset.
- 4 AIM FOR THE RICH PICTURE.** Avoid interviews overly focused on only capturing fees paid by workers, since fees are easy to misconstrue absent additional context on each respondent's journey.



2. MONITOR & VERIFY THROUGH WORKER VOICE

- 5 EMPLOY ONGOING MONITORING BY WORKERS.** Hearing from workers themselves on an ongoing basis, through safe and trusted channels, is the most reliable way to verify the true recruitment costs paid by workers, and whether workers were repaid in full what they were owed, with no reprisal.
- 6 AVOID TRYING TO AUDIT YOUR WAY TO ETHICAL RECRUITMENT.** Audit-compliance approaches and tech-enabled worker feedback tools fall far short in terms of reliability and validity - and, they supplant worker power and the ability of workers to speak to labour and recruitment conditions themselves.



3. ENSURE CLEAR, ONGOING COMMUNICATION & TRANSPARENCY WITH WORKERS

- 7 KEEP WORKERS INFORMED & UPDATED.** Ensure that all eligible workers are clearly and thoroughly informed about the nature of the recruitment fees reimbursement, the key findings from workplace surveys, and their rights.
- 8 BE POSITIVE.** Reimbursing recruitment fees should be seen and communicated by all parties - to workers and to each other - as a key, positive step in ensuring commitments to ethical recruitment policies, and strengthening labour recruitment processes.



4. PRACTICE FAIRNESS, TRANSPARENCY & INCLUSIVENESS AMONG INVOLVED COMPANIES: ETHICAL RECRUITMENT IS A SHARED RESPONSIBILITY WITH SHARED COSTS AS WELL AS BENEFITS

- 9 BE INCLUSIVE & TRANSPARENT.** An inclusive multi-stakeholder approach should be practiced from the start, involving the global brand/retailer, supplier, recruitment agencies, and workers in a transparent manner.
- 10 SHARE BOTH THE COSTS & THE BENEFITS FOR THE FEES REIMBURSEMENT FAIRLY.** The full amount of all owed worker recruitment fees should be shared fairly between suppliers, recruiters, and global brands and retailers. Unfair assertions of power and finger pointing should be avoided at all costs.



1 EMPLOY RIGOROUS & ETHICAL RECRUITMENT SURVEY METHODS

1

ENSURE FAIRNESS THROUGH RIGOR. Employ a mixed methods research design based on representative sample surveys, ideally through stratified random sampling with a sufficient sample size for statistical power and confidence.

Methodological rigor makes this complicated and sometimes tense process as fair as possible. The reality of most recruitment fee repayment exercises is that they will likely yield a large number, especially when involving large factories. This number—the costs of recruitment that had been shouldered by workers and must be paid back—will likely and ideally be a cost shared by all the businesses responsible for ethical recruitment (the employer, global brands and retailers, and in some situations the recruiter as well). In our experience, there can be considerable anxiety amongst the businesses responsible for ethical recruitment about what that number will be, and how it should be shared. This makes the rigor, reliability, and validity of the statistical methods underpinning the calculation of this big number all the more important; the research methods need to be strongly defensible and all parties, including workers, should be confident that the most fair and ethical amounts are being paid back to workers.

In order to achieve this, Issara Institute recommends employing a mixed methods approach with a representative sample of workers at a sample size providing sufficient statistical power. Essentially, the survey instrument should be a set of questions that yields both qualitative and quantitative responses. With regard to sampling, the target sample size should be determined through a power analysis based on population size and tolerated error, and then workers to be interviewed should be selected according to—ideally—a randomized sampling frame. Stratified random sampling often makes sense, based on the nature of the workforce, for example stratifying by nationality of workers when the case is that workers of different nationalities in a work site have different recruitment channels, processes, and costs.

Lines of inquiry exploring the different costs paid by workers through the recruitment process should be informed by the actual details of the recruitment process being studied, but including all categories of costs and fees incurred on the origin country side as well as the destination side, including the costs of document processing and renewal over time while at work.

A representative sample is essential. Simple and stratified random sampling of workers toward a representative sample has typically been straightforward to do, especially in the factory environment, through either randomizing from a roster of employee names provided by the human resource department, or randomizing in the field (systematically counting off and interviewing every Xth person encountered, according to the target sample size and population size). This essential combination of a qualitative-quantitative survey instrument plus a

randomized sample of responses with a sufficient sample size allows for a robust, logistically manageable qualitative and quantitative analysis and results that are defensible, with workers who are reimbursed according to the average amounts of their stratum - which in the case of Myanmar workers in Thailand has been defined by their channel of recruitment (which impacts their costs of recruitment) and time in service (which impacts the documents they hold and the costs of renewing and extending those documents to remain legally employed).

Smart statistical approaches and representative sample surveys allow for significant savings in cost and time. However, as Case Study 1 illustrates, however, sometimes there are cases where every eligible worker needs to be interviewed to determine their fair repayment.

CASE STUDY 1. SITUATIONS REQUIRING INTERVIEW OF ALL ELIGIBLE WORKERS

The beauty of representative sample surveys with sufficient sample sizes is that it is unnecessary to utilize the time and resources to interview every worker - and significant resources can be saved since this means that, for example, recruitment surveys in a factory with around 1,000 workers can get reliable results with a 5% margin of error with under 300 interviews. However, calculating and applying means from sample data is only appropriate to do when the distribution of reported costs and fees is “normal” - that is, predictably shaped like a bell curve.

In one instance, upon exploring the various recruitment costs reported by a random sample of workers in one Thai garment factory, it was found that the distribution of costs was not “normal” in a statistical sense, but rather asymmetric and bimodal (having two peaks and some skew). This signalled that averages and other such typical metrics could not be used, and that there was some underlying factor contributing to why certain people were being charged unpredictably high fees of certain categories. Mixed method research including interviews with supplier human resource departments and recruitment agency staff, in addition to worker interviews, enabled us to get to the bottom of the issue: over a dozen informal brokers operating on both origin and destination sides and intervening at particular points in the recruitment process. Armed with this insight, the Issara team was able to make clear recommendations for systems strengthening on the part of the supplier and the recruitment agency; and, we ended up interviewing the entire population of eligible workers, who were paid back by the employer exactly what they reported. It is noteworthy, again, that the initial discovery of the peculiar non-normal distribution of certain costs would not have been possible to discover without random sampling.

It is important to note that other references have recommended convenience or snowball sampling to an arbitrary minimum target (i.e., aiming for 20% or some percentage of the workforce—or even all of the workforce)⁵ rather than random sampling to a specific statistically determined sample size, but Case Study 2 illustrates how a representative sample can create confidence that recommended repayment amounts to workers are not based on interviews with clusters of workers that may be high or low outliers. This confidence can lead to much more positive longer-term outcomes for both business and workers, and help diffuse tensions in the shorter term as well.

CASE STUDY 2. GAINING THE CONFIDENCE OF THE SUPPLIER LEADERSHIP WITH STATISTICAL RIGOR

A recruitment fees repayment exercise for a large multi-site producer/exporter uncovered a number of recruitment risk points where excessive fees reportedly had been charged to workers. The CEO of the company, who was not based in the same country as the factories, became very engaged in the analysis, discussing both systems strengthening needs as well as worker repayment and other remediation needs. The conversations were made all the more compelling by the fact that the CEO and his senior colleagues all had advanced degrees in the sciences and engineering, and so were keen to engage and have a series of deeper debates and discussions with the similarly trained Issara team about the rationale and justification of the recruitment fee calculations. Getting the CEO and leadership team on board at this fundamental level paved the way to greater collaboration on the recruitment systems strengthening following the worker repayment process, helping the company maintain a leading position in their industry in terms of business and human rights. It has been very clear that if we had taken a less rigorous statistical approach such as convenience sampling, we would not have been able to earn the respect or trust of the supplier's leadership, which could have had a number of negative knock-on consequences.

2

PRIORITIZE TRUST & SAFETY. Be mindful of power disparities. Utilize competent enumerators who understand local policies and processes well.

An enumerator team expert in local laws and trusted by workers is essential. Feedback and questions from workers during the course of worker interviews highlight some clear good practice needs. First, workers frequently asked Issara staff interviewers for guarantees that their data was going to be handled confidentially and would not be shared with their employer, because they feared retaliation. There was a clear need for Issara to be mindful of power disparities (including between employer management and employees) and to play its safeguarding role, ensuring anonymity and confidentiality at all times. Once we confirmed these guarantees and gained workers' confidence, workers shared a range of sensitive information, including details of costs, broker names, and relationships between brokers and interpreters and HR staff. It was important for our team to ensure that all participating companies understood and respected the fact that they would never be granted access to the data - but, from trusting us to collect and analyze the data, together we would be able to construct a nuanced, accurate picture of the state of recruitment within their company, and remediation needs.

Second, workers frequently needed prompts and explanations about the different fees, parts of the process, names of documents, and other details that only a well-trained enumerator proficient in the legal and policy frameworks of both origin and destination countries could help guide the respondent through the interview smoothly. Being able to speak to the process in

detail and on the fly helps to establish the interviewer's credibility - showing that they understand the challenges faced in both the home country and destination country, which often leads to the respondent opening up about more details. It probably also helped that Issara interviewers were the same nationality as the workers and trained hotline operators, meaning that they are very skilled in answering questions and asking follow-up probes in a sensitive manner, and breaking down laws and processes to migrant workers in a way that workers can understand well.

3 BE NEUTRAL. Avoid assumptions and stereotypes of migrant workers as hapless victims or sly opportunists. Maintain a neutral, empowering mindset.

Over the course of conducting many hundreds of recruitment-related interviews with workers, recruiters, and employers (including leadership and human resources), and also from being a part of the broader labour rights and anti-trafficking communities, we have observed a number of unproductive stereotypes regarding migrant workers, outlined below. We strongly recommend transforming such attitudes to a more neutral, empowering attitude in order to obtain a truer picture of the recruitment journey of workers and risks faced, to treat respondents with respect, and to reduce power asymmetries:

- ⊗ **Stereotype 1: Migrant workers as hapless victims.** This paternalistic stereotype is regularly encountered in the anti-trafficking community. Assumptions that migrant workers are undereducated, vulnerable people being taken advantage of by everyone they encounter in their process of international labour migration that need to be “saved” by more powerful people can lead to fundamentally inaccurate conclusions about the migration journey and risk points in the recruitment process for business to address, not to mention harm done to migrant workers through these unempowering attitudes.
- ⊗ **Stereotype 2: Migrant workers as sly opportunists.** This stereotype is often underpinned by racist and xenophobic biases against foreigners, frequently encountered with suppliers and in industry bodies in some destination countries and governments. In these cases, the main assumption is that jobseekers are looking for ways to take advantage of employers, and have limited sincerity about their commitment to the job. This is one of the main rationales that some suppliers in Thailand have voiced as underpinning their concern about employer-pays recruitment: they fear that they will pay all the costs of recruitment for workers to enter their country and take a job in their workplace, and then once in the destination country that the worker will abscond with their new visas and work permits to seek other opportunities.
- ✓ **Ethical attitude: Migrant workers as actors with agency.** The recommended more neutral, ethical mindset is to see migrant workers as people who have the ability to weigh options and make informed, rational economic decisions for their own lives - and the more accurate information they have available to them, the better. This means embracing a more inherently empowering attitude towards workers, and approaching recruitment fee interviews absent prejudgments and with an approach that appreciates the complexity of a well-run recruitment interview - aiming to understand what the real recruitment and migration experience really was, and not just asking for amounts of different fees.

CASE STUDY 3. “SHE WAS RECRUITED BY HER OWN COUSIN...”

Where do the real first-mile risks lie in the international labour recruitment process? Sometimes, the risks occur at the first mile in the workers’ origin country, but they are created by the employer in the destination country. The Issara team had an interesting opportunity to compare the recruitment processes of two Thai garment factories, both using the same origin-side recruitment agency to recruit, skills-test, and contract Burmese workers.

Employer A encouraged current employees to notify their friends and family about vacancies, noting that interested candidates could contact the Myanmar recruitment agency based in Yangon directly to arrange applications and skills testing; the Myanmar recruitment agency then worked directly with Employer A to manage documentation, transportation, and other costs to get the workers to the workplace in the foreign country.

Employer B worked with the very same Myanmar recruitment agency, also encouraging current employees to notify their friends and family about vacancies. However, instead of routing interested candidates to the legally registered recruitment agency to arrange applications and skills testing, Employer B told employees to tell friends and family to instead contact an informal broker to organize applications to manage with/for the Myanmar recruitment agency - and this broker was inserted by Employer B into numerous steps in the recruitment process, on both sides of the border. Unsurprisingly, it was discovered that the informal broker was extracting fees from workers at several points, including points where Employer B had already paid the broker to cover those costs for the workers.

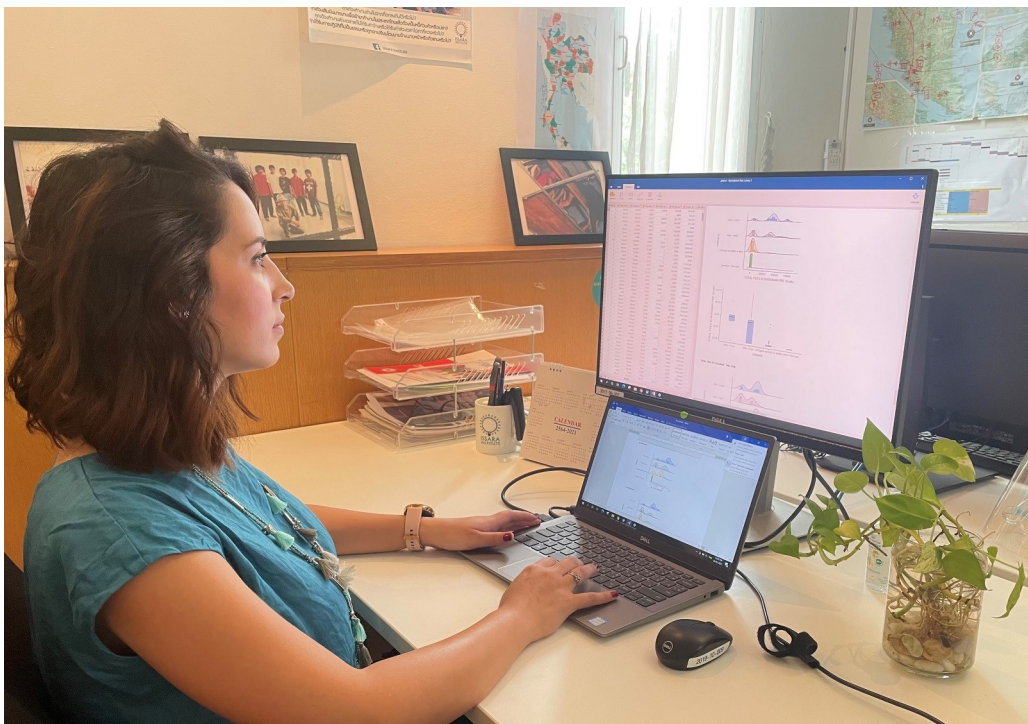
Conversations around such cases have often focused on the perceived hazards of workers being recruited informally by family members rather than registered recruitment agencies. But actually, in these cases, no instances ever surfaced of family members charging recruitment or “finder” fees, though it was assumed by many that it would be common to find “sly” workers making a profit off recruiting their “hapless” rural relatives.

It became clear that such information exchanges between current workers and jobseekers were not so much “recruitment” but rather, more simply, jobseekers and workers using their social networks to receive and share information about good opportunities. The only recruitment functions taking place, all with associated costs, were those being performed by the registered recruitment agency and the informal broker.

Such examples help to illuminate the need to work past these antiquated stereotypes and utilize more informed and in-depth systems analyses in order to see the realities of where the risks truly lie in these business processes.

4 **AIM FOR THE RICH PICTURE.** Avoid interviews overly focused on only capturing fees paid by workers, since fees are easy to misconstrue absent additional context on each respondent's journey.

This key finding and recommendation is straightforward, but worth mentioning as its own point given the amount of confusion and headache it can help to avoid in the recruitment fee validation process. In short, when interviewing workers about events occurring in the past (for some, several years ago) and for which there are no documents or receipts to reference, the recollection of the different fees paid and what they covered can, understandably, become murky and confusing. For some workers, it was easier at first to recall the total lump sum that was paid to a broker or HR manager, but it took some interview probing and walking through the process to jog memories of what those fees covered and what the breakdowns were. In addition, the labels of fee types such as “document extension” may seem clear to experts but they may be less clear to workers. There are also many workers that may have been recorded by the employer to be one category of worker but in fact might be another, which often has implications on fees that may have been charged to the worker. In all cases, allowing the respondent to recall and describe their journey in a way that is more natural and less stressful, often but not always following a chronological order, may mean a longer or more complicated interview but one that yields more accurate results - which is more fair to all parties involved.



Issara Institute’s Regional Empowerment Manager, Ana Maria Soto Bernal, explores the distribution of worker-reported costs from a randomized representative sample survey at a Thai garment factory. Researchers with training in quantitative statistical methods can help businesses, workers, and trusted NGO partners work together to arrive at fair, credible assessments of costs and fees to be reimbursed to workers, which all parties have confidence in.



2 MONITOR & VERIFY THROUGH WORKER VOICE

5

EMPLOY ONGOING MONITORING BY WORKERS. Hearing from workers themselves on an ongoing basis, through safe and trusted channels, is the most reliable way to verify the true recruitment costs paid by workers, and whether workers were repaid in full what they were owed, with no reprisal.

Why strive for worker voice? Issara Institute recognizes worker voice as workers conveying their voices, experiences, and needs, and that voice being channeled into clear mechanisms committed to remediation and a rebalancing of power asymmetries between employers and workers. This definition is consistent with that established at the start of the organized labour movement in the late 1800s. Recruitment fees validation and repayment require a unique combination of reliable means to (a) collect accurate data about fees paid by workers in the beginning of the exercise, (b) verify that all workers received what they actually deserved to be paid back, toward the end of the exercise, (c) with no retaliation. It's a bit different than broader applications and needs of worker voice that traditionally have focused on uncovering labour conditions and violations in the workplace, and driving remediation on the part of employers for the collective workforce (which in the past two centuries has been led by national and global trade unions).

In order to clarify the importance of ongoing monitoring of recruitment fees repayment exercises by workers themselves, Figure 1 illustrates the relationship of three key components of effective validation of worker-paid fees and repayment, and where different kinds of approaches generally fall on these spectra:

1. **Ability to uncover serious labour issues:** This requires talking with workers in addition to employers and recruiters; and, having the trust of all 3 parties such that they feel safe and comfortable disclosing the truth about sensitive matters - which requires limiting conflicts of interest and power asymmetries.
2. **Frequency of monitoring / hearing from workers:** This requires a safe mechanism for hearing from workers at multiple points in the process, including (ideally) having mechanisms for workers to reach out to ask questions, request assistance, and report concerns to a party who is committed to managing these worker needs in a prompt and professional manner.
3. **Degree of safeguards for workers:** Safeguards require on-the-ground presence where workers are, and commitments by duty bearers (typically employers and global brands/retailers) to have zero tolerance for retaliation against workers.

These axes, together, create 4 quadrants that for categorization and discussion purposes are labelled worker-centered research, worker voice, audit, and worker feedback for due diligence.

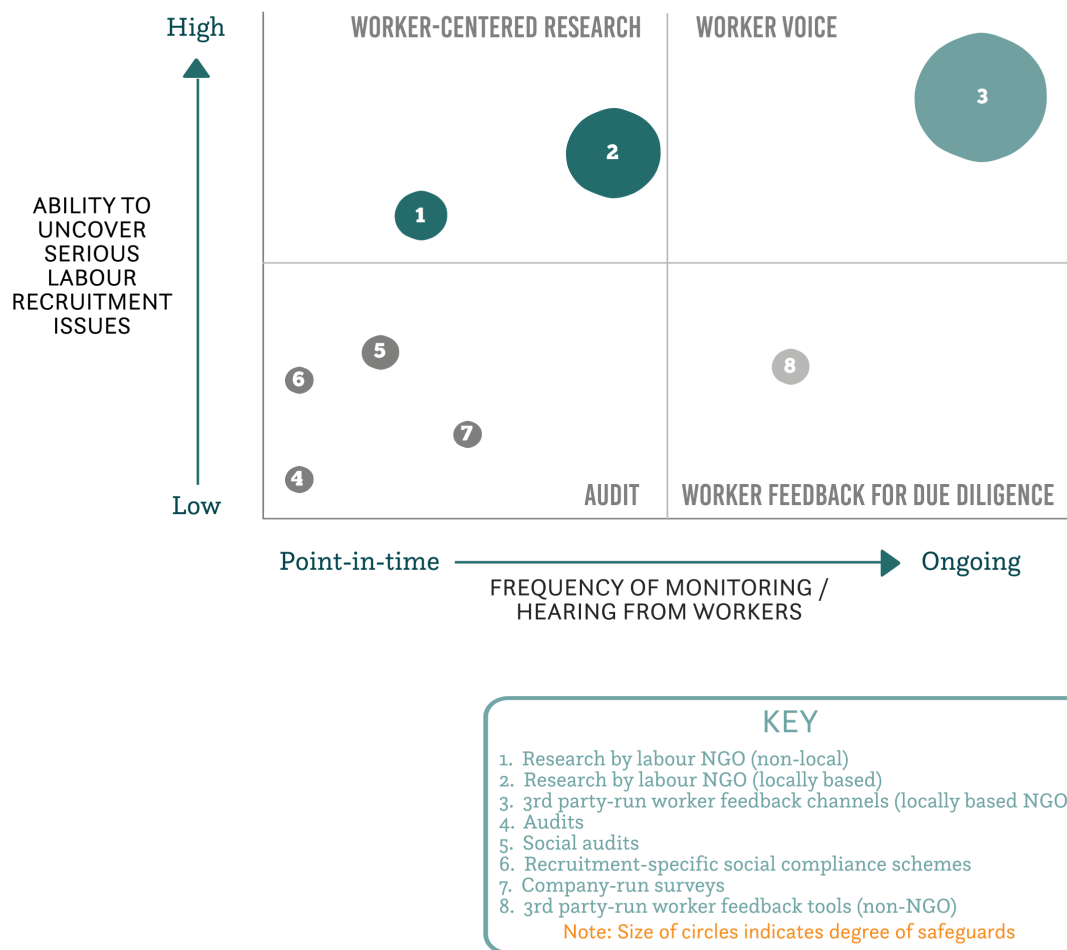


Figure 1. Matrix of ethical recruitment approaches—a broad illustration.

Figure 1 aims to provide businesses with a sense of how to work toward ideal conditions for recruitment fees documentation and repayment, and how to determine the best set-up and partnerships that can be created in situations where the ideal is not yet possible—as we recognize is likely the case in many parts of the world.

In general, for most businesses serious about remediating labour recruitment issues, increasing ability to uncover serious labour recruitment issues is likely a more urgent practical priority than hearing from workers more frequently—that is, moving as high as possible toward the top of the graph may be more important than moving to the right, particularly if trust and safeguards are not established. Generally, engaging in worker-centered research or worker voice should always be strived for rather than audit or worker feedback for due diligence. Why? Because both audit and due diligence tools are well documented to create unreliable data with regard to recruitment and labour conditions. They have a low ability to uncover serious labour recruitment issues, with poor ability to safeguard any worker who may somehow be requested to share information. Low trust from workers in audits and due diligence tools should not be unexpected, due to their lack of clear mechanisms or commitments to addressing power asymmetries or remediation of worker-reported issues.

It is important to note that worker-centered research⁶ that provides a picture of current practice and risks of exploitation to workers in recruitment is not worker voice, but - if done by partners with a strong rights-based approach and robust data collection and analysis skills - can be incredibly valuable. Such foundational research can provide the knowledge and spark for companies to begin to address recruitment fees and other system vulnerabilities in earnest. In particular, exposing the systemic issues throughout the supply chain and vulnerabilities seen in informal recruitment and in upstream supply chain tiers can provide the push that is needed for critical policy and standards reform. Recommendations that call out the need to address the root causes leading to unallowed worker fees and labour exploitation can be the basis for an on-the-ground recruitment fee remediation process and implementing practical steps to address red-flagged business practices. These important findings could recommend further on-the-ground work with locally based rights partners to obtain credible and accurate recruitment fee information and steer a full safeguarded, ethical response.

What ongoing monitoring by workers does. Ongoing monitoring through trusted channels that workers can use with no fear of retaliation has numerous benefits. Worker voice is key to not only confirm that workers received the payment but also to confirm they received the right payment. This is a process that can take a few months after the payment is made, and having good communication between all parties (workers, employers, buyers and in some level recruitment agencies) is very important. When workers receive good and clear information about the reimbursement they can understand the payment they are receiving and if it is correct or not. As an example, in an Issara supported process, after initial payment communications from the business to workers, we received calls from workers to correct the type of recruitment process they'd been identified with. After follow up, we corrected this information with the business and workers were paid the correct amount.

When there's trust and safeguards, workers are protected from retaliation. We also find that trust - built from channels or sources that workers already know - provides in-depth information down to the names of brokers, interpreters, HR staff, and others who asked them to pay different recruitment-related fees.

What ongoing monitoring by workers is not. As Figure 1 hopefully makes clear, ongoing monitoring (top right quadrant) is not just one-way or limited two-way worker data collection mechanisms that exist during survey exercises or for the duration of the exercise or a consultancy (bottom right quadrant). It is also not relying on social compliance approaches, such as social audits (bottom left) to assess risk in recruitment processes or to verify ethical practice of recruitment agencies. Audits and worker feedback tools for corporate due diligence put respondents in the position of risk of retaliation, which begs the question of whether auditors and the managers of due diligence tools should be asking sensitive questions of workers to begin with, if they are in no position to safeguard.

This gets at the heart of why it is important to not consider repaying recruitment fees as a specific project, or time-bound exercise separated from systems improvements. At least a medium term (months after the repayment) vision is important to provide ample opportunity for worker-verified remedy and iterations in payments or communications based on worker input, as well as verification of improvements (workers not being pressured to pay back their compensation to brokers, ensuring improved systems for communication and addressing retaliation by the supplier and recruitment agency, etc.).

When is safeguarded monitoring by workers needed in recruitment fee documentation and payback exercises? Safeguarded worker feedback - ideally, ongoing monitoring - is strongly recommended to go beyond feedback touch points (surveys, compliance checks, ways for workers to give information with no ties to remediation or safeguards) through the entire recruitment fee remediation process, as well as through business systems strengthening. Well-run recruitment surveys uncover large amounts of valuable information on systems risks as well as worker-paid recruitment fees. Therefore, engaging an on-the-ground worker voice partner only for assessing worker-paid fees, rather than incorporating them into longer-term reforms, unnecessarily limits the safety, effectiveness, and sustainability of the entire effort. (See more on this topic in Section 4).

6 AVOID TRYING TO AUDIT YOUR WAY TO ETHICAL RECRUITMENT. Audit-compliance approaches and tech-enabled worker feedback tools fall far short in terms of reliability and validity - and, they supplant worker power and the ability of workers to speak to labour and recruitment conditions themselves.

Point 5 above already details a number of reasons why audit and social compliance approaches are poor choices for working toward more ethical recruitment, including recruitment fees repayment exercises - all related to how, essentially, audits and social compliance approaches give only businesses the power to verify labour and recruitment conditions, and they do not do the same for workers. The means of verification of compliance with social standards is always, ultimately, business - never workers. Choosing social compliance approaches over worker-centered, safeguarded research or worker voice-based systems and processes is basically choosing to supplant worker power - a fact that all companies and industry bodies striving to be more ethical are strongly urged to come to terms with. MSI Integrity⁷ and the Business and Human Rights Research Centre⁸ have released recent reports and articles on this important topic.



Even after conducting hundreds of recruitment interviews with workers, the work of Issara Institute Outreach and Empowerment Officers Aye Nyein Thu, Nan Mya Mar Lar Oo, and Sandar Linn is not done until they receive validation from workers that they received their repayments in the correct amount—and if not, that the worker is supported in understanding how to calculate their rightful payment seek any adjustment if necessary.



3 ENSURE CLEAR, ONGOING COMMUNICATION & TRANSPARENCY WITH WORKERS

7

KEEP WORKERS INFORMED & UPDATED. Ensure that all eligible workers are clearly and thoroughly informed about the nature of the recruitment fees reimbursement, the key findings from workplace surveys, and their rights.

The importance of good communication throughout the recruitment fees repayment process is often overlooked, but it's vital to a successful and positive outcome. Reimbursing recruitment fees should be seen and communicated by all parties as a key positive step towards a real commitment to EPP and strengthening recruitment operations.

Educate workers about the nature of recruitment fees reimbursement, the key findings, and their rights. Workers, as the main participants of the surveys, rights-holders, and beneficiaries of the reimbursement should be provided with information in their native language about the nature and purpose of the surveys and what the key results and findings were, including at minimum information on:

- a. Why are they being reimbursed for recruitment fees,
- b. Why it is their right to receive it and why they should not feel pressured or coerced to give those fees to someone else,
- c. Who is involved in that reimbursement,
- d. What the employer and/or buyer policy is on recruitment fees,
- e. The amounts they should expect to receive, and timeline,
- f. How that amount was calculated,
- g. How the results of the survey will have positive impacts on themselves, other current and former workers, and also on future workers as the insights provided by workers during the interviews enable the identification of labour recruitment risks that can be addressed, and
- h. Who they can contact in case they have questions or concerns.

Education is a pathway to empowerment, and communication plays a critical role in this process. Education is a fundamental step toward worker empowerment, allowing workers to internalize knowledge, be aware of their own rights and their peers' rights, understand the bigger picture, make their own calculations and rational economic choices, advocate for themselves, help others surrounding them to also become empowered, and organize to assert collective rights. Therefore, education should be done in a way that is effective, with clear messages and information that is presented in a format that can be understood and digested easily. It is not about ticking a box by making verbal and/or written announcements, but rather about presenting the information clearly, giving workers time to analyze it and process it, and creating spaces for workers to ask questions and receive complete and clear responses.

CASE STUDY 4. EFFECTIVENESS OF DIFFERENT CHANNELS & METHODS OF COMMUNICATION

A reimbursement of recruitment fees was to be completed by a company to current and former workers. Understanding the importance of efficient and timely communication, the company worked closely with Issara to make sure workers would receive all the information they needed and were entitled to receive. Issara supported the company by giving recommendations on how to provide verbal and written information and what to include on such communications. For the written information that was provided to workers, Issara prepared handouts in a Q&A format covering all main questions workers could have about the reimbursement and their rights. The handouts covered information such as who was entitled for reimbursement and why, the number of workers and other stakeholders that participated in the interviews process, how was the data collected and analyzed, how much workers should expect to receive, how the findings of the research was contributing to improve recruitment systems, and who to contact in case they have any questions or queries, among others.

Workers first received a verbal explanation on these points, then the company provided handouts to workers along with their payslips where the reimbursement amounts were reflected, so that workers could take it home and read the information carefully. Issara received calls from workers looking for more clarification on their cases after analyzing the information and comparing their cases with other workers. Workers' questions were answered satisfactorily (according to worker feedback), and the handouts proved to be a useful support to explain these kinds of details to workers over the phone (since this recruitment fees repayment exercise occurred during COVID).

By going through this education process, workers felt empowered to advocate for themselves when, in a few instances, some workers identified that some corrections on their payment were needed. For such cases, Issara worked closely with the workers and the company for the company to make the corrections accordingly and pay workers the right amount. Overall, the communication process and attitude of the company was positive, which not only allowed workers to receive clear information but helped workers to feel empowered and satisfied with the whole process.

The remediation process requires a lot of effort and financial investment. Having good communication, education, and empowerment elements is essential to get the best outcomes from the process; thus, timeliness, transparency, and quality of communication should be prioritized. In instances where there are large differences in the reimbursement amounts repaid to workers, there is greater space for confusion and questions, and if communication is not done properly this can create misunderstandings and conflict among workers. It is a real missed opportunity if poor worker education, empowerment, and communications cast a shadow over the entire recruitment fees repayment exercise and prevent involved parties from seeing all the positive outcomes of the initiative, as the employer in Case Study 5 had to work hard to overcome.

CASE STUDY 5. LESSONS LEARNED FROM POOR COMMUNICATION WITH WORKERS

An employer taking the lead on recruitment fees reimbursement was committed to compensate eligible former and current workers - a positive step for workers and the company. However, the communication to workers was not handled well and this resulted in negative outcomes and damage control measures to swiftly clarify misunderstandings.

The communication was not done comprehensively or in a timely manner: workers received their payslips reflecting the reimbursement, with brief verbal explanations but no additional handout that workers could take home to understand better the details of the payment. Workers had very little time to process the information and understand why some workers were receiving different amounts than them. When workers started to compare their payslips with their colleagues, it generated discomfort and negative attitudes, as some workers felt it was unfair that some received more than others. This attitude lasted several days, even affecting production, as workers could not focus on their work due to their frustrations. The Issara team had to work closely with the employer to improve the communication with workers by quickly creating handouts in workers' native languages with all relevant information about the reimbursement, including information on how the fees were calculated, why there were some differences in the amounts of reimbursement, and Issara's contact information for further clarification if needed - which many workers called.

After great effort invested in different means of communication, workers received clear explanations to their questions and they reported that they were satisfied with the fees they had received.

8

BE POSITIVE. Reimbursing recruitment fees should be seen and communicated by all parties - to workers and to each other - as a key, positive step in ensuring commitments to ethical recruitment policies, and strengthening labour recruitment processes.

Communication is vital to successful and positive outcomes. The communication between all parties, especially between workers and employers, should not be overlooked. Having clear communication with workers from the beginning of the process is fundamental to clarify what the research is about, who the data will be handled by, and the positive attitude from the employer regarding the research. This facilitates the survey process, as workers feel more comfortable and confident to speak freely without fearing retaliation, negative attitudes, or violations of anonymity and confidentiality.

Throughout the research process, constant communication between workers, management, and the third party leading the research also helps identify if adjustments of the research plan are needed or if any risks have arisen that need to be taken into consideration - for example, if it is learned from workers in confidence that line supervisors were attempting to coach workers

in how to respond on the recruitment survey, as was encountered by the Issara team in one factory recently. Then, apart from the communication with workers during the time of the payment, it is also critical for the employer to work with their staff, specifically those involved in the reimbursement such as HR staff and interpreters, to ensure that they all receive detailed information about the reimbursement and the company's positive view on the process, so that staff can respond to workers' queries with confidence, accurately, and with a positive attitude.

Reimbursement for former workers can be challenging; thus, ongoing communication and transparency is key even after the recruitment fees to be reimbursed are set and the payment process is taking place. As noted before, remediation for recruitment fees requires a great effort and financial investment, but in order to guarantee positive outcomes it is fundamental to have worker validation, positive attitudes from all parties involved, and good communication. One of the biggest challenges of the process is communicating with and verifying the payment of former workers that are entitled to reimbursement. This could be especially challenging if the former workers have returned to their home country, or if the company has lost contact with them and there are no known means of communication to support a successful repayment process. It is important to note that there could be some risks involved if the communication is done through the wrong channel and/or to the wrong person, or if the information shared publicly is not handled properly and ethically, as illustrated in Case Study 6.

CASE STUDY 6. CHALLENGES WITH FINDING & REPAYING ELIGIBLE FORMER WORKERS

A company in Thailand was under pressure from their industry body to reimburse recruitment fees to eligible workers in a short timeframe, including former workers who had already returned to Myanmar. The company received no further guidance, standards, or advice regarding how to manage this task ethically, so the company turned to the Myanmar recruitment agencies that originally recruited the workers years ago, to get help with locating and contacting the thousands of former workers across the country entitled to recruitment fees reimbursement.

For reasons that were not clear, however, the Thai company instructed the recruitment agencies to find and contact the workers and tell them to call a Thai phone number and leave a voicemail with their contact information and additional personal information or send a Facebook message with the personal information, for someone to call them back. However, the recruitment agency was not permitted to say who the number was, the company name, nor to mention that the purpose of the matter was regarding recruitment fees or a reimbursement. This led to recruitment agencies broadly broadcasting names and personally identifiable information (PII) on Facebook, attempting to attract the attention of workers whom they were not able to call since it is common for Burmese migrants to change their SIM cards and phone numbers when migrating .

Public exposure of PII created high risks for workers, and the overall exercise was ineffective as well as unethical since, understandably, few people were comfortable with calling a mysterious international-dial number and leaving more personal information with no idea who they were calling or why they were being asked to leave such private information.

RECOMMENDATIONS FOR COMMUNICATION WITH AND REIMBURSEMENT OF ELIGIBLE FORMER WORKERS

- ✓ **Set communication channels.** Set safe and credible channels of communication that former workers in the countries of destination and origin can use to get more information about the recruitment fees reimbursement process. Responsible officers answering the designated communication channels should have clear information about the reimbursement process and should be able to respond to workers' questions and queries in their native language.
- ✓ **Guarantee data security.** Have secure channels to share details about the reimbursement with former workers. This helps to mitigate the risks of brokers or other parties asking former workers to provide/share any of the fees they will receive. If public channels are used, make sure no personal information or any other sensitive information is shared through those channels. If personal data is requested via private and safe channels, explain to workers how that data will be used and handled.
- ✓ **Get workers' updated banking information.** Employers and/or recruitment agencies should communicate with former workers before making any transaction to confirm through which channels workers can access the money being transferred. Former workers may or may not have access to the bank accounts they previously used when they were working in the destination country. Therefore, the responsible party for making the reimbursement should consult with workers first regarding how to make payment, to ensure that workers would be able to access the money.
- ✓ **Guarantee worker validation.** Work with all involved parties, including HR staff, recruitment agencies, and the third party supporting the process, to ensure that all are clear that the repayment process is not over until workers verify that they have received the payment they are entitled to. The business sending the money is not enough to verify payment.
- ✓ **Set realistic timeframes.** Estimate realistic timeframes for the process of locating and reimbursing former workers, especially those who have returned to their home country. The process of locating workers and working with them on the payment to make sure they can receive the money can take quite some time. The process timeframes have generally proven to be underestimated by buyers, industry bodies, employers, and recruitment agencies, so it is important for all parties to understand that the process should not be rushed because this can cause negative outcomes, such as the money being transferred to the wrong person or to bank accounts that workers can no longer access, or, recruiters or suppliers feeling the need to use unsafe channels of funds transfer to meet a deadline.



4 PRACTICE FAIRNESS, TRANSPARENCY & INCLUSIVENESS AMONG INVOLVED COMPANIES: ETHICAL RECRUITMENT IS A SHARED RESPONSIBILITY WITH SHARED COSTS AS WELL AS BENEFITS

9 BE INCLUSIVE & TRANSPARENT. An inclusive multi-stakeholder approach should be practiced from the start, involving the global brand/retailer, supplier, recruitment agencies, and workers in a transparent manner.

Best practice remediation involves not just remedy to impacted workers but also addressing the factors that enabled these negative human rights impacts in the first place. The ideal worker-validated remediation process is illustrated in Figure 2, demonstrating the positive, productive role that safeguarded worker validation can play in helping to strengthen business systems - with the establishment of ongoing worker feedback to continuously and iteratively help improve risk mitigation and remediation. This process is aided by trust being built through the provision of remedy early in the process.

Recognize and include all duty bearers of any remediation process from the outset. Labour recruitment and management systems, as business systems, involve multiple parties with clear roles and tasks, especially in the case of recruiting migrant workers from foreign countries. In Southeast Asia, for example, the two official duty bearers involved in formal labour recruitment processes (as required by the governments) include the employer in the destination country, and the recruitment agency in the origin country. There may also be an agency in the destination country contracted by the employer, and any number of licensed or unlicensed agents and brokers operating at the village level in the origin

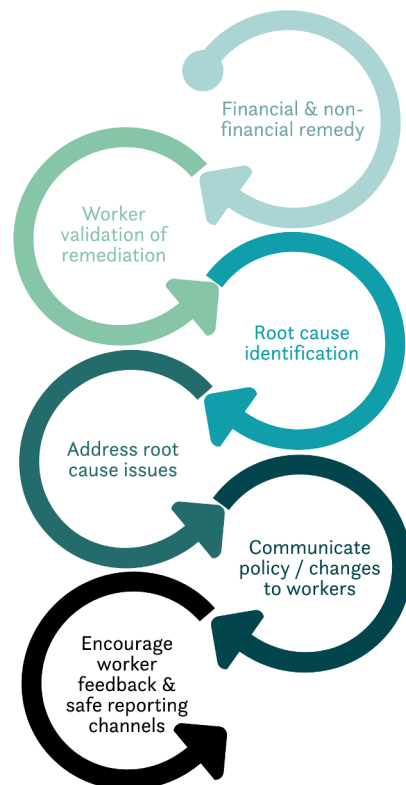


Figure 2. Worker voice and validation improving business systems.

country, as well as individuals seeking fees from workers for “services rendered” in the destination country. In addition, global customers responsible for ethical supply chains are another important duty bearer according to the Ruggie Principles, especially as their policies and supplier requirements directly influence recruitment arrangements.

With all these various responsible parties as well as subcontractors and vendors, transparency is needed to understand expected versus actual roles, agreements, and costs in the management of labour recruitment processes. To achieve this, Issara recommends practicing an inclusive multi-stakeholder approach to ethical recruitment-related remediation from the start, involving the main responsible parties (global brand/retailer, supplier, and legal recruitment agencies) coming together in a transparent manner, with all parties recognized as having different responsibilities and possibly even different priorities, but sharing responsibility fairly, proportionately, and transparently. The Issara team was able to conduct such meetings even in the height of the COVID-19 pandemic by convening half-day Zoom calls including origin-side recruitment agencies, destination-side employers, and global brand representatives, with the multinational Issara team facilitating and moderating discussions of recruitment survey findings as well as providing interpretation support throughout.

By including the brands/retailers, employers, and origin and destination-side recruitment agencies in the recruitment fees interview process (only after worker interviews are completed, to avoid potential interference and coaching), a rich picture can emerge about what is working well and what is not working well from a communications, fees, worker vulnerability, and risk perspective. Then, through bringing the duty bearer businesses together to discuss the findings of the recruitment fee survey analysis, a constructive dialogue can take place that is based on empirical data and can tackle identified risk points. Adopting a human rights-based framework that emphasizes these businesses as duty bearers helps to clarify each actors’ accountability; even out power asymmetries coming from buyer-supplier and supplier-vendor business dynamics; make transparent the role of each party and expectations of proportionality; and, provide a neutral and even collaborative setting to focus on the key issues to be solved emerging from the recruitment survey findings.

Share responsibility fairly, proportionately, and transparently. In the most successful and fair processes facilitated in 2020, the global brand, supplier, and origin-side recruitment agency were briefed on Issara’s overall proposed survey/remediation plan and timeline together. They were presented the key findings of our recruitment fees and risks survey in the same meeting and, they were facilitated to have a productive joint discussion on roles and responsibilities in the remediation repayment and systems strengthening processes. In contrast, in less fair processes, fees ultimately were paid back to workers, but basically all fees were paid by the supplier after pressure from a global brand who refused to contribute to the repayment. Different brands had different justifications for why their company felt that all fees should be paid by their supplier and none by their own much larger company; however, all went against a shared responsibility approach and discounted the fact that prices paid to suppliers for products sourced in previous years likely did not cover the full, true costs of recruitment of all workers, since these costs did not appear to be well-understood or properly calculated at the time.

Reducing or eliminating worker recruitment fees often involves multiple actors and may require implementing new business practices. And while an inclusive, fair, and transparent process requires additional coordination and effort, the trust and buy-in from a fair and transparent process should significantly increase the likelihood of success.

10

SHARE BOTH THE COSTS & THE BENEFITS FOR THE FEES

REIMBURSEMENT FAIRLY. The full amount of all owed worker recruitment fees should be shared fairly between suppliers, recruiters, and global brands and retailers. Unfair assertions of power and finger pointing should be avoided at all costs.

The following questions may serve as helpful guides toward a determination of what fair shared responsibility looks like:

- Which involved companies have benefited from existing non-ethical recruitment practices?
- What were the responsibilities of each of the involved companies in the recruitment process, and, following this, what are the fair roles that each should play in remediation? For which costs charged to workers can fault be clearly attributable to any of the involved companies?
- What would be a proportionate contribution from each that would ensure that all worker-paid fees are covered by the companies sharing responsibility for remediation?

What is a fair and proportionate expectation of global brands and retailers? Companies are strongly encouraged to make efforts to avoid unfair assertions of power and finger pointing, which are easy to do given the power differentials that already exist across global supply chains. Too frequently a scenario arises where the brand/retailer points to the supplier as the business responsible for ensuring compliance with their responsible recruitment policies, yet through negligence or weaknesses in their own due diligence, that brand/retailer may not actually be enforcing or upholding their own policies. Also, disconnect and misaligned internal priorities between sustainability versus commercial procurement teams can result in pricing for products that discourages suppliers from covering the full costs of recruitment for all their workers.

In short, whether suppliers are adequately compensated for providing ethical products made by workers who were not made to pay for their jobs is largely dependent on global brands and retailers, especially if the EPP requirement has not yet been mainstreamed within the industry. It is inherently unfair for global brands and retailers to state their policies and shift all responsibility down the supply chain to the less well-resourced, less powerful businesses in the supply chain without first carefully scrutinizing whether employer-pays ethical recruitment is even possible in their supply chains given their own purchasing practices and what they are willing to pay (or not) for truly ethically sourced product. Having coalitions and industry-led efforts begin to promote industry-wide ethical recruitment, such as with the electronics industry through the Responsible Business Alliance (RBA) and the apparel sector through the Fair Labor Association (FLA) and the American Apparel and Footwear Association (AAFA), can help offset supplier concerns of an uneven playing field within the industry, and help smooth additional supplier recruitment costs across their broader customer/buyer base.

What is a fair and proportionate expectation of suppliers/employers? Suppliers, on the other hand, often turn to local agents to work directly with overseas recruitment agencies based in

the origin country of workers, but without systematically cross-checking or verifying that the arrangements and fee specifications required by their own policies or that of their global customers are actually being implemented. Again, this is another commonly observed type of negligence in corporate due diligence commonly seen in Southeast Asia. In EPP arrangements, many suppliers lack capacity or understanding of risk and what good practice looks like, and in many cases have been found to lack clear service agreements with all agents, vendors, and service providers that outline clear cost and fee breakdowns; sometimes even without a basic articulation of requirements for no fees being charged to workers. As has been previously reported⁹, even if requirements are clearly communicated to the origin-side recruitment agency, many destination-side agents (who are vendors of the supplier) prohibit the origin-side recruitment agency from contacting the employer, inserting themselves as intermediary and sometimes even abusing their power position to award contracts to the origin-side recruitment agency willing to pay the highest bid - with no regard to actual EPP policy. This maximizes the local agent’s own profits but results in poor or no worker safeguards, and job seekers paying first mile recruitment fees to offset the true costs of recruitment - all enabled by negligence on the part of the supplier.

What is a fair and proportionate expectation of recruiters? Interestingly, the key actor in the recruitment process that is most often observed to be short-changed and unfairly blamed for labour recruitment risks by a number of social compliance schemes is origin-side recruitment agencies. Social compliance schemes that call for audits of recruitment agencies while not also calling for audits of suppliers essentially throw the least powerful actor in the supplier-recruiter relationship “under the bus,” assuming that the bulk of risks in recruitment are the fault of recruitment agencies. Origin-side agencies often must prove they are worth doing business with by paying for and presenting audits of themselves, and sitting through generalist classroom-based trainings by international organizations. This is counterproductive in its reductive and often inaccurate view of the realities of labour recruitment as it occurs around the world, as well as in its reinforcement of supply chain power asymmetries. As illustrated above and in Case Study 3 (page 8), the actor holding more power in determining the terms and conditions of labour recruitment and ensuring there is a reasonable and fair margin for a recruitment agency to be able to carry out the requirements is, perhaps unsurprisingly, the supplier/employer. Global brands and suppliers/employers, at minimum, have responsibility to ensure that labour providers are not being forced into scenarios where workers are offsetting their recruitment costs. A clear example is where a supplier has arrangements with a recruitment agency offering below market rates or no fees to the supplier at all.



The car of this Thai employment agent advertises “Labour import services for Burmese and Cambodian workers— Free!!!” Guess who pays, if not the employers? Imagine the surprise of the Issara team to see this car while pulling into the parking lot of a supplier partner...

While examples certainly exist of origin-side recruitment agencies presenting urgent risks to a recruitment process, which they fairly would be expected to rectify and remediate, it must be acknowledged that the employer - and only the employer - controls whether or not it is committed to paying the full, true costs of recruitment, to paying all fees for all subcontracted services related to recruitment and worker document management (including destination-side agents), to rooting out all pre-existing exploitative practices and relationships within their HR departments, to having their HR systems professionalized and transparent, and to repaying any fees that workers are found to have been burdened with. Case Study 7 presents an interesting example of a progressive supplier that did, indeed prioritize learning from the recruitment survey to build a better business, even when their global customer was singularly focused on recruitment fees repayment.

CASE STUDY 7. HOW WORKER VOICE IS GOOD FOR SUPPLIERS & BUILDING BETTER BUSINESS, EVEN WHEN BRANDS HAVE DIFFERENT PRIORITIES

In 2020, the Issara team experienced instances of apparel factories having a host of systems strengthening issues to attend to post-repayment, including needing to end business relationships with informal brokers identified by workers during the recruitment survey, and taking more accountability for the actual origin-side recruitment practices and fees paid by their workers.

The impetus for the recruitment fees repayment processes initially came from a global brand, one singularly focused on completing the recruitment fees repayment exercise as fast as possible, in large part due to external pressure to demonstrate action being taken on their EPP policy. Apparently, little praise or encouragement was given by these external pressures for the longer-term supplier strengthening that can follow from recruitment remediation - reminiscent of a common weakness in the global ethical recruitment community to focus almost solely on employer-pays policies, to the exclusion of the many other important benefits of robust ethical recruitment systems and guidelines.

The suppliers, however, having gone through a full recruitment fees survey and payback exercise, understood the importance of maintaining worker feedback or safeguards against retaliation beyond the moment when fees were repaid. They all wanted to continue collaborating with the Issara team to see through the process of “cleaning” and improving their recruitment processes. However, a representative of the global brand stated that they wanted to conclude what they defined as the recruitment fees repayment exercise, and end the partnership with Issara - mission accomplished.

In the end, supplier leadership independently reached out to Issara for further collaboration and technical assistance, and the global brand eventually came around as well. However, this case study highlights the dynamics and drivers often at play with ethical recruitment initiatives, whereby the catalyst needed to kick off action toward more ethical recruitment is in most cases the brand/buyer, but the investment in systems reforms and sustainability of good practice is influenced by who is paying the costs of repayment, the goals of repayment efforts, and if they are tied to real systems change or more superficial risk mitigation and box-ticking.

WAYS FORWARD

Is your company pro-ethical recruitment but still not ready to commit to recruitment fees reimbursements to workers across your supply chains?

If so, your company is not alone: despite the many years of high-level discussion about commitments to EPP and ethical recruitment across a number of global fora, we have seen firsthand how implementation of EPP across global supply chains—certainly Southeast Asian supply chains—is still rare, in 2021. While this is not exactly where human rights advocates would like to see the responsible sourcing / ethical trade community, it would certainly be very welcome to start seeing more concrete advancements on all the other important components of ethical recruitment besides EPP, while preparing for EPP. These brief guidelines serve to help global brands and retailers begin cutting out the biggest labour recruitment-related risks in their supply chains, and cultivating a deeper understanding and appreciation of the nature of labour recruitment across their various supply chains.



Training suppliers and recruitment agencies, as the Issara Myanmar team is doing here, can be effective when the training team has real-world experience working on recruitment in supply chains, knows the local and regional laws well, and takes a systems approach that understands the real supply chain and market dynamics that suppliers and agencies face.

ACTIONS TOWARD MORE ETHICAL RECRUITMENT THAT WOULD COST BRANDS & RETAILERS LITTLE TO ENFORCE

- ✓ Require all suppliers to disclose a list of all formal and informal actors engaged in the labour recruitment process over the last two years, along with copies of the registration papers of each actor, the signed written service agreements that outline roles, responsibilities, costs, and terms and conditions determining who pays what, and records documenting those “batches” of workers.
- ✓ Look out for red flags among the recruitment patterns and trends of suppliers over the past two years, such as excessive numbers of recruitment actors being used, high turnover of workers, large numbers of workers being recruited relative to the size of the workforce, and agencies that are offering services below market rates.
- ✓ Require all suppliers to disclose their vetting criteria and due diligence process for each of the actors in the recruitment process, indicating the name and position of the officer responsible for vetting and selection, and conflict of interest policy as applied to vendor selection.
- ✓ Prohibit the use of non-registered individuals, brokers, and middlemen in the labour recruitment process.
- ✓ If in Southeast Asia, require all suppliers to recruit workers on the Issara Golden Dreams recruitment marketplace, a free online job board that connects jobseekers with legitimate job advertisements and drives transparency. You can also use Golden Dreams to look up all disclosed recruitment agencies, checking that their registration and permissions to send to certain destination countries are current.

ACTIONS THAT HAVE A COST BUT WHICH ARE NECESSARY FOR ETHICAL RECRUITMENT

- ✓ Ensure that the costs of recruitment and margins are covered, to ensure that workers are not offsetting the true costs. Official recruitment costs are well known in most places, and margins and other fees should be openly discussed.
- ✓ Require training of all suppliers and recruitment agencies in your supply chain on ethical recruitment, including the relevant bilateral and regional laws and policies pertaining to all origin and destination countries—ideally from qualified, locally based labour rights NGOs.
- ✓ Collaborate with local partners who are on the ground and can help navigate recruitment systems, reduce risks through worker safeguards, provide first-mile insights and technical assistance, and support independent worker validation of recruitment (ideally) or worker-centered research. Recruitment agencies, as typically small business entities outside of the ‘traditional’ supply chain, are difficult for most brands and retailers to substantively engage with absent a trusted locally-based partner.

ENDNOTES

- 1 Many useful references to Verité’s work in ethical recruitment can be found at: <https://www.verite.org/resources/our-work-in-ethical-recruitment/>.
- 2 Impactt Limited (2021). *Standards for Repayment of Worker Recruitment Fees and Related Costs*. Downloaded at: <https://impacttlimited.com/wp-content/uploads/2021/03/Impactt-Repayment-Standards-Public-March-2021.pdf>.
- 3 Taylor, Mark (2018). *Developing a Financially Viable Ethical Recruitment Model: Prospects for the Myanmar-Thailand Recruitment Channel*. Bangkok: Issara Institute. Downloaded at: <http://bit.ly/FinanciallyViableER>.
- 4 Rende Taylor, Lisa M and O Ei Ei Chaw (2018). *Driving Behaviour Change of Recruiters, Suppliers, and Job Seekers Toward Ethical Recruitment: Critical Roles of Global Buyers & Grassroots Actors*. Bangkok: Issara Institute. Downloaded at: <http://bit.ly/DrivingBehaviorChangeER>.
- 5 Ibid 2, pages 7-9.
- 6 As possible, publicly available assessment provides transparency and actionable information, such as Verité’s *Recruitment Practices and Migrant Labor Conditions in Nestle’s Thai Shrimp Supply Chain*. Issara Institute has also published reports highlighting risks endemic to entire recruitment channels, such as our paper (Ibid 3 and 4). Other company or supply chain specific assessments can flag risks and the approaches needed within a complementary remediation exercise, even if internal.
- 7 MSI Integrity (2020). *Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance*. Downloaded at https://www.msi-integrity.org/wp-content/uploads/2020/07/MSI_Not_Fit_For_Purpose_FORWEBSITE.FINAL_.pdf.
- 8 Business and Human Rights Resource Centre (2021). *Who Audits the Auditor? Shaping Legal Accountability Strategies to Redress Social Audit Failings*. Corporate Legal Accountability Quarterly Update, Issue 38, March 2021. Accessed at <https://us3.campaign-archive.com/?u=bdd1a6a40ffad39c8719632f&id=8a3a8fo8d1>.
- 9 Ibid 3.



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