



Session Report

Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.

Session Title: Empowering Workers to Realize a Fair and Ethical Labor Migration

Date & Time: Thursday, 06.12.2022, 9:30 am – 11:00 am GMT -5

Report prepared by: Sonja Schaefer, International Relations Officer, US Department of Labor

Moderated by: Shawn MacDonald, CEO, Verite

Panellists:

- Michelle Leighton - Chief of the Labour Migration Branch for the International Labour Organization
- Neha Misra - Global Coordinator for Human Trafficking and Migrant Worker Programs at Solidarity Center
- Stephanie Sepulveda - Specialist on Immigration and Labor, AFL-CIO
- Kristin Garcia - Chief of Staff, Wage and Hour Division, U.S. Department of Labor
- Anna Pienaar, Executive Director of the Responsible Labor Initiative, Responsible Business Alliance

Share the thematic focus of the session, it's purpose and corruption risks?

The thematic focus of the session was on international labor migration and the corruption that violates migrant worker's rights, including wage theft, false documentation, contractual deception, harmful recruitment fees, and bribery.

Corruption occurs at many stages from recruitment to employment of migrant workers. In the sending country, subcontracting of recruitment processes obfuscates corruption through multiple layers of recruiting agents. Recruiting agents often buy documents on the black market or bribe government officials to provide such

documents, such as birth certificates and work permits. The lack of transparency around recruitment costs migrant workers are charged opens the door for corruption and bribery. Agents then pass on upfront costs to the workers, including the cost of bribes paid to government officials, which increases fees placed on workers and contributes to debt bondage. The Sustainable Development Goal 10.7.1 aims to eliminate recruitment costs to reduce risks of forced labor and to support more ethical labor migration.

Labor brokers and agents also collude with government officials to facilitate the flow of illegal migration to the destination country, including through holding or destroying workers' identity documents and paying bribes for speedy or illegitimate visa processing. Such agents often bribe border and immigration officials to turn a blind eye when physically transporting migrant workers out of the origin country or into the destination country. The debts owed to recruiters and the fear of deportation leave workers unable to leave their jobs once in the destination country despite often facing extremely poor working conditions.

Fake travel documents can also leave migrant workers unable to seek legal recourse to remediate these issues once they are in the destination country. Recruitment agencies and employers also engage in corruption through deceptive employment contracts. These contracts might detail safe and clean workplaces, but contract switching by employers or agents later means workers have no paper trail to prove their workplaces do not meet good standards.

In the destination country, employers often receive "kickback" commissions from recruiting agencies in the origin country for providing required migration documents to recruiting agencies or choosing a particular recruiting agency over another for a labor contract. Government officials can receive kickback commissions for overlooking recruiters' unscrupulous operations, expired licenses, or fake immigration documents. Corruption can also impact migrant worker rights, for example when employers bribe labor inspectors to look the other way or bribe courts to find against workers when they file complaints of labor violations.

This panel discussed emerging strategies to combat corruption and support more ethical labor migration, underscoring how anti-corruption efforts focused on empowering migrant workers can help alleviate risks of forced or bonded labor and create better societal welfare.

Summary of panellists' contributions & discussion points (please be as detailed as possible)

Shawn MacDonald - CEO, Verite discussed the importance of transparency and accountability in supply chains given the growing acknowledgment of company responsibility and trade enforcement actions.

Michelle Leighton - Chief of the Labour Migration Branch for the International Labour Organization (ILO), discussed the ILO Fair Recruitment Principles and roadmap and how the ILO supports countries in developing fair migration processes and systems.

Neha Misra - Global Coordinator for Human Trafficking and Migrant Worker Programs at Solidarity Center discussed how migrant workers are three times more likely to be in forced labor than regular workers. The systems, structures, and institutions that are put in place to manage migration globally that allow for corruption to flourish - government officials running recruitment agencies; an underregulated system of labor recruitment that allows for charging of recruitment fees; tying working visas in temporary labor migration schemes allows employers to engage in corruption; rampant wage theft; labor inspection corruption.

Stephanie Sepulveda - Specialist on Immigration and Labor, AFL-CIO discussed comprehensive immigration structure and the way unions can help migrant worker to have a voice. She discussed the perverse incentive that place a barrier to workers speaking out against corruption in the workplace is often due to immigration status being tied to the employer. Workers have to be empowered to be able to uproot corruption in systems.

Kristin Garcia - Chief of Staff, Wage and Hour Division, U.S. Department of Labor commented on risks of corruption in migration processes under the H2A, H2B visa programs in the US and efforts the US government has made to counter these practices. She discussed the retaliation workers face for speaking out against their employers, so the US government has worked to make sure to build awareness of labor rights. The government has also worked to quickly bring cases to court, so workers are not in legal limbo (as they are dependent on their employer for their legal immigration status to stay in the US). The US government has recently required labor contracting and subcontracting agencies to buy monetary bonds so that if Wage and Hour ever investigates a case implicating the subcontractors—they will have funds to be able to cover the legal recourse awarded to the worker.

Anna Pienaar - Executive Director of the Responsible Labor Initiative, Responsible Business Alliance explained how different large corporations are cascading their Code of Conduct down to their suppliers and auditing their supply chains to ensure accountability. She also stated there are roadmaps that businesses can follow, such as the Agriculture and Forestry Fair Recruitment plan in Mexico, and the formalized fee collection for workers from Bangladesh to go work in a Better Work factory in Jordan.

Main outcomes of session (include quotes/highlights and interesting questions from the floor)

“Why is corruption happening? It is the systems and structures that manage migration that are a key corruption concern.”

Workers are afraid to go to the government to call out corruption in the processes that brought them to another country to work because they fear retaliation from the employer or deportation by the government.

“The discrepancy between international labor standards and national law in a certain

country is hard to navigate for businesses.”

“Social dialogue and an enabling environment are key for rule of law to work. Freedom of association and collective bargaining gives workers agency to stand up to collusion between employers and government officials.”

Key recommendations for the future and concrete follow-up actions

There needs to be a recognition that migrant workers are inherently vulnerable to corruption and corruption can flourish in the existing systems and processes governing labor migration. There should be more awareness raising. We should also hear from workers and trade unions regarding what migrant workers need for better labor protection.

What can be done to create opportunities for scaling up the solutions discussed in the session? And by whom?

Governments can make sure an enabling environment exists for the rule of law to flourish. Freedom of association and collective bargaining gives workers the agency to stand up to collusion between government officials and employers.

Bilateral agreements between countries on fair recruitment can help eliminated some corruption practices when developed in a tripartite manner such as those modelled after the ILO Fair Recruitment Initiative.

Social dialogue between employers, trade unions, and governments is key to uprooting corrupt practices and unlocking societal welfare.

Collective bargaining agreements between workers and employers provides for a grievance mechanism, and this should not be dependent on immigration status.

Is there a specific call to action to key stakeholders, such as governments, businesses, funders, civil society, young people, journalists or any other stakeholder that should be noted? Please specify if relevant.

The overarching call to action is for governments, businesses, and key stakeholders active in labor migration to empower workers to form trade unions and harness a collective voice so that corruption can be identified and uprooted.

Rapporteur’s name and date submitted

Sonja Schaefer, 29.12.2022