

# Tool 1: What Should You Look For? Identifying Company Risk & Vulnerability to the Human Trafficking and Forced Labor of Migrant Workers

One way to better understand and raise awareness about the relationship between labor brokers and the trafficking of migrant workers into forced labor is to clearly identify common forms of exploitation linked to this type of abuse. The following indicators or “red flags” of risk and vulnerability identify these forms of exploitation. They set out the common practices used by brokers and employers that leave migrant workers in extreme situations of vulnerability to forced labor.

This cluster of practices – which may occur independently, though are most often found in combination – are “enablers” or contributors to human trafficking and forced labor. Identifying them as “red flags” is a key first step in detecting and remediating hiring traps and promoting fair hiring in the global economy.

## RED FLAGS OF RISK AND VULNERABILITY TO BROKER-INDUCED HIRING TRAPS

### 1. Setting the Stage

The following issues are starting points for analysis. If one or more of these preconditions for risk of trafficking and forced labor among migrant workers is present, further evaluation should be performed.

- ☒ *Presence of Migrant Workers:* Any workplace in which migrant workers are present should be considered at risk for forced labor. Even those with only a handful of migrant workers are not exempt from this risk.
- ☒ *Use of Labor Brokers:* When migrant workers are hired through brokers, the conditions of their recruitment and hiring are no longer under the control of, or even readily apparent to, employers. This risk is further magnified when labor brokers use sub-brokers or subcontractors.
- ☒ *Informality in Recruitment and Hiring:* The use of labor brokers (or sub-brokers used at any point in the process of recruiting, hiring and on-site management of workers) that either do not operate legally or do not have the required license granted by the relevant public authority in countries of operation is an important sign of risk.
- ☒ *Long Employment “Supply Chain”:* The longer the “chain” between worker and employer the higher the likelihood that abuse may occur. Factors that may increase the length of the chain include the number of intermediaries and steps between the worker and the final place of employment as well as “degrees of separation,” which can include language barriers, cultural and social differences, and geographical distances.
- ☒ *Extremely Low Costs to Employer of Broker Services:* By comparing how much workers must pay to secure a job with how much brokers paid by the employer for their services, it can become apparent if the broker’s costs are so low that coercive methods in hiring and recruiting are more likely.
- ☒ *Binding Terms of Work Visa:* If work visas strictly tie workers to one employer, workers may face strong “menace of penalty” for leaving an abusive job. Governments that allow the temporary contract-based hiring of migrant workers tend to have immigration and other laws that may restrict migrants’ mobility within the country, their reproductive rights, and even labor rights like the freedom to associate and bargain collectively. Though many of these laws have legitimate goals, they can be abused to control workers in ways that may violate not only standards on voluntary labor, but other standards, like non-discrimination and humane treatment.

## Case Study

### Fernando from Guatemala: Tied to an Abusive Employer by Legal Visa

*Fernando, originally from an indigenous area of Guatemala sought legal, short term employment in the US through the H2 guest worker program. A reputable recruiter in Guatemala offered Fernando a minimum wage job planting trees in North Carolina as an H2B worker. Fernando was trucked to New England to work long hours for less pay than he was promised. He was ordered never to leave the worksite, and signed a contract in English, a language which he could not read or speak. His passport was taken away and he was threatened with deportation if he complained or left. His living situation was deplorable and he found himself unable to meet unreasonable quotas. He was in debt for his original investment of US \$2,000 for embassy interview, plane ticket and living expenses. However, under the terms of the H2B visa, he was not allowed to seek other employment. Had he left his employer, he could have been arrested, deported, and left with no way to repay his debt.*

## 2. The Bait: Recruitment and Hiring

“The Bait” refers to factors that serve to entrap workers prior to their employment. Verité found two factors in recruitment and hiring to be almost universal factors in hiring traps: debt, and various types of deception, including contract substitution. Fraudulent visa practices were also found to be a strong indicator of vulnerability to trafficking and forced labor.

- ☒ **Amount and Location of Worker Debt:** When debt is held by the employer or broker, there is a direct relationship of subservience and obligation that puts the worker at risk of forced labor. But the existence of any debt, even if it is held by an independent party not in collusion with the broker or employer, can make the worker more vulnerable to manipulation and abuse. Red flags associated with debt include:
  - The charging of illegal or excessive recruitment fees by brokers;
  - Fraudulent practices in charging other fees, e.g. for services relating to travel and transportation, medical exams, health certificates, official documentation and/or skills testing; and/or
  - Substantial loans held by workers, with excessive interest rates and/or onerous financing schemes.
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## In Focus

### Excessive Debt from Recruitment Fees

*In India, Verité research found that migrants to Gulf Coast country states of the Middle East paid recruitment fees ranging from US\$1200 to US\$3800, amounts far above the legal limit. Workers used various means to finance their recruitment fees such as borrowing money from relatives, banks, or money lenders; selling assets such as jewelry; or taking out mortgages on family homes.*

*In the Philippines, Verité research found that the recruitment fees charged by agencies deploying for Taiwan ranged from US\$3000 to almost US\$4000. Workers reported being instructed to falsify their immigration paperwork, under-reporting their recruitment fees by as much as 80 percent. Workers financed their fees by borrowing from family members, banks or money lenders, often at very high rates.*

- ☒ **Deception in Recruitment and Hiring:** Deception in recruitment and hiring – especially when combined with worker debt – is a major red flag. Types of deception can include:
  - Deception or false promises made at the time of recruitment and hiring with regard to the terms and conditions of employment, including job type, availability of work, location, length of contract, salary and benefits;
  - The terms and conditions of employment agreed upon at the time of recruitment are not those contained in the employment contract. Changes have been made without the knowledge or consent of the worker;



- The original contract provisions agreed to at the time of recruitment are replaced by provisions less favorable to the worker, either one or more times over the course of the hiring and deployment process (this is called “contract substitution”) or once the worker arrives at the worksite (through so-called “supplemental agreements”);
- The terms and conditions of recruitment, transportation, employment and living accommodations have not been communicated to the workers.

## In Focus

### Sample Supplemental Agreement Clauses:

*“I agree that for safekeeping, the employer shall keep my passport until termination of the employment contract.”*

*“I understand and agree to pay monthly and other fees required in employment related documents during my employment. The factory will deduct the fees from my salary, or in the event that my salary is not sufficient, from my savings fund.”*

*“I acknowledge that the factory can deduct TWD 3000 from my payroll account and transfer it to a savings account until the contract expires. I cannot withdraw or close the savings account without approval.”*

- ☒ **Fraudulent Visa Practices:** Visa fraud, in which brokers take fees and deliver a fraudulent visa or no visa at all can leave workers in debt or possibly imprisoned.

## Case Study

### Abdul from India: Imprisoned for Fake Visa

*Abdul was promised a work visa through a Mumbai-based recruitment agency for a mechanic job in Dubai. He paid \$1,675 to the broker/agent for recruitment fee, work visa and plane ticket. Upon arrival at the Dubai airport, Abdul’s visa was found to be counterfeit. He was taken into custody and imprisoned for eight months. Because he did not speak the local language, he could not communicate with immigration officials. His family was finally able to pay an additional US\$491 to get him out of jail.*

- ☒ **Coercion in Recruitment and Hiring:** Migrants are threatened with denunciation to authorities to coerce acceptance of employment or specific employment terms.

## 3. The Switch: Revealed in the Workplace

“The Switch” refers to conditions that bind within the job. Once on-the-job, migrant workers who are highly leveraged due to excessive recruitment fees, or who were subject to deception in recruitment and hiring, are exceedingly vulnerable to exploitation. In Verité’s experience, employers engage in a range of practices that exacerbate vulnerability to forced labor.

- ☒ **Use of a Labor Broker as an On-Site Manager:** Where labor brokers manage the work and/or living conditions of migrants on-site the risk of abusive practices extends beyond recruitment and hiring, to the other functions that they are contracted to manage. Thus the risk of violation of wage, benefits, and hours of work standards becomes significantly higher where payroll administration, for example, is outsourced to a third-party broker.



## In Focus

### Labor Broker as On-site Manager Leads to Exploitation

*In the United States, an organic farmer contracted out the management of his migrant workers to a small labor broker who financed the smuggling of workers into the country from Mexico. While undocumented workers who were managed directly by the farmer lived and worked in relatively good conditions, workers smuggled from Mexico and managed by the broker were underpaid, threatened with violence and deeply in debt. The organic farmer was unaware of the situation and “shocked” to find out about the conditions of these workers.*

- ☒ **Confiscation of Identity Documents:** Confiscation or withholding of passports in particular – but also residency permits, work permits or other valuable personal possessions – is one of the most common abuses reported by migrant workers around the globe. In some countries, this is driven (and legitimized) by strong immigration policies that make employers responsible for ensuring that migrants do not overstay their guest-worker status. Even when workers submit their documents voluntarily for safekeeping, workers often ultimately do not feel comfortable requesting access to their documents. The process for gaining access to their documents is onerous and intimidating. Without papers, a migrant worker cannot freely and safely move about or leave a host country, and is at risk of imprisonment if stopped and questioned by police.

## In Focus

### Passport Confiscation in IT Factories in Malaysia

*In IT factories in Malaysia, workers reported to Verité that they are required to turn over their passports to their employer. In order for workers to be allowed to “borrow” their passports, they are often required to sign a logbook indicating their reasons for doing so. In some companies, workers were denied access to their passports until the end of their contract. At one agency, workers were required to give monetary deposits for borrowing their own passports.*

- ☒ **Deductions, Fines, Withholdings and Illegally Low Pay:** Take-home pay is rarely as high as a migrant worker was told it would be by their labor broker. Several mechanisms contribute to the disparity.
  - Forced savings programs – where a portion of the worker’s salary is withheld and deposited into a savings account to which the worker does not have access until her term of work is complete – significantly deplete a worker’s take-home pay and ability to pay off debt. In Taiwan, for example, forced savings of up to 30 percent of the worker’s salary is legally permitted;
  - The levying of unanticipated (and sometimes excessive, unexplained or illegal) deductions for items such as food, housing, or travel can further induce indebtedness;
  - Earnings can be depleted if wages are withheld, delayed or unpaid; or if workers are forced to accept non-cash payments or payments in kind; and/or
  - In some cases workers are required to use a portion of their salary to lodge financial deposits or “security” fees, e.g. as “runaway insurance”.
  - Where workers borrowed money from their brokers or other providers of financial services to pay for “placement” or “recruitment” fees, interest rates for such debts are commonly high – ranging anywhere from two to ten percent a month.



## Case Study

### Benny from the Philippines: Deceived & in Debt

*After graduating from a four-year computer school in the Philippines, Benny could not find any work so he turned to a labor broker to help him get a job in an IT factory in Taiwan. He was charged US\$2,223 for his recruitment and traveling fees, for which he borrowed money from his mother. Upon arrival in Taiwan, he was told that his fees were converted to Taiwanese dollars which increased his debt by 150 percent. He was also only paid half of what he was expecting due to cost of living expenses and a forced savings of 30 percent. Benny was required to work six to seven days a week, 12 hours a day and overtime was mandatory. By the end of his contract he was forced to pay another US\$444 to extend his contract. Soon after that, the factory announced that they could no longer afford to keep all of the employees but his extension fee would not be returned to him. He was also informed that his forced savings were slotted for his return ticket home. Benny returned to the Philippines with no money. His family's home was flooded by a typhoon, and he is applying for more work in Taiwan. This time, he hopes to go with an "honest" broker.*

- ☒ **Employer Control of Bank Account:** Employer or broker access to workers' bank accounts creates powerful leverage for the employer or broker over the worker. A worker may feel trapped in the job because of fear that earnings will be taken away for complaining or attempting to leave.
- ☒ **Lack of Freedom to Terminate Employment:** Employers and brokers may use a variety of coercive means to restrict migrant workers' freedom to terminate employment, including:
  - Breach-of-contract penalties that force workers to stay in jobs by imposing financial penalties for voluntary or involuntary termination of the contract;
  - Informal threats of loss of wages, savings or deposits; and/or
  - Threat or use of violence, harassment or intimidation.
- ☒ **Restrictions on Freedom of Movement:** Migrant workers may be subjected to any number of restrictions on their ability to move freely in the host country, including:
  - Tenancy in employer-operated residences is compulsory as a condition of recruitment and/or continued employment;
  - Presence of security personnel or other security measures in the workplace or at residences restrict freedom of movement;
  - Migrant workers are not free to return to their country of origin during paid leave or holidays; and/or
  - Imprisonment or physical confinement in the workplace or related premises, e.g. employer-operated residences.
- ☒ **Isolation:** Geographic, social, cultural, or even language isolation can trap migrant workers at a work site. By isolating workers and becoming their sole source of food, information and communication, labor brokers can render workers incapable of independent action.

## Case Study

### Rani from India: Isolated and Abused through the Sumangali Scheme

*Fifteen-year-old Rani lives in a small village in India. When she was 13, a broker promised her a good job with a lump sum payment at the end of three years, which could help pay her dowry. She worked in a spinning mill where she worked with harsh chemicals and bleach. Her monthly stipend, after deductions for food and lodging, came to under US\$20 a month. She was left with burns on her skin. She was not allowed to go anywhere unattended and rarely left her hostel. She was not allowed to speak to anyone, including her family. She was subjected to harassment and abuse in both the factory and hostel. She was told that she would not receive any of the lump sum payment if she complained.*

- ☒ **Threats and Violence:** Threats and violence are not necessary to entrap workers, but when used, threats and violence are effective ways of "beating down" workers, rendering them compliant and fearful of possible retributions to themselves or their families.

