

ESG Viewpoint

The role of migrant workers in international supply chains

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Supporting human rights within supply chains

- ▶ International migration provides much-needed incomes and remittances which support source countries.
- ▶ But the often-complex recruitment of international migrants creates challenges to responsible supply chains and can lead to severe violations of human rights, including modern slavery and forced labour.
- ▶ In late 2018, reports surfaced in the UK that the NHS was using rubber gloves made in Malaysian factories where migrants are allegedly subjected to forced labour. In July 2020, the US Customs and Border Protection agency stopped a shipment from Malaysian company **Top Glove** due to similar allegations.
- ▶ Companies must work hard to ensure steps are taken so that the initial stages of the recruitment process are fair and transparent.



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Overview

In July 2020, the US Customs and Border Protection (CBP) agency stopped a shipment of rubber gloves from Malaysia's **Top Glove** due to allegations of forced labour in the manufacturing process. The CBP is legally obliged to stop shipments of products suspected of being manufactured using forced labour after a legislative change in 2015 that removed an exception for goods manufactured abroad. It was a highly visible indication that forced labour and modern slavery can have sudden and material financial and operational consequences, even for companies providing a product much needed in the time of a global pandemic. For Top Glove, it meant being shut out from a market representing 24% of its sales. NGOs in Malaysia had long pointed to exploitation of migrant workers in the rubber product industry and the [CBP has stated](#) it was reacting to "reasonable evidence" of abuse and debt bondage of migrant workers.

The shipment was released after Top Glove took steps to remediate the situation, including paying back over US\$1m to reimburse migrant workers in its workforce for fees paid to recruitment agencies in their home countries.

Increasing regulatory pressure

The trend of a regulatory response to forced labour and modern slavery is evident in several countries since California introduced the Transparency in Supply Chains in 2012. In 2015, the UK enacted the Modern Slavery Act, which was followed by similar legislation in Australia and France. In what will hopefully signal a harmonisation of national legislation, the European Parliament voted for mandatory corporate environmental and human rights due diligence. The trend is also towards more detailed laws, requiring not only disclosure of risks but also strategies to address them and an effective governance structure. Additionally, there is pressure on companies to adopt and implement the [Employer Pays Principle](#) to ensure that workers do not bear the costs for securing employment.

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The plight of migrant workers

Top Glove employs more than 11,000 migrant workers, predominantly from Myanmar, Nepal and Bangladesh. As such it is highly exposed to the risk of human rights violations in the recruitment process. Companies often rely on migrant labour when the domestic workforce is either not sufficiently large or when the jobs are comparably low-paid or in some other way not considered attractive by domestic workers.

The issue is certainly not new. We wrote about migrant workers' journey to employment back in 2013 and reflected on how companies could adopt a more comprehensive recruitment approach. While international frameworks like the [Dhaka Principles for Migration with Dignity](#) were launched in 2012, setting out an approach for responsible international recruitment, migrant workers still typically face higher risks of exploitation and are less likely to voice rights violations as they lack a local social network and would typically suffer more severe consequences if losing their job. Companies should adopt a comprehensive approach to securing workers' rights throughout the recruitment process to ensure fair and equal treatment of all workers, and bolster their reputation as responsible and attractive employers.

While the Top Glove case study refers to factory work, many migrants also work in services and hospitality. We have engaged companies like Marriott and Carnival on how they set up partnerships with recruitment agents and NGOs to develop policies and guidelines for screening recruitment agencies and provide remediation in cases where worker rights have been violated. The companies also developed robust grievance mechanisms so that workers can flag rights violations.

Lack of transparency in the recruitment process might lead to irresponsible actors being involved and extract unfair payments, leading to personal debt and the risk of retribution in case of non-payment. Workers might not be presented with full and accurate job descriptions, leading them to expect another type of job than what ultimately materialises.

While economic migration poses challenges both to the migrants themselves and the companies aiming for a responsible and ethical supply chain, migration can positively contribute to

sustainable development and inclusive growth. Bangladesh in particular is a major exporter of labour, with an estimated 12.2m working abroad. [World Bank data](#) reveals that remittances by overseas workers accounted for 6% of the country's GDP in 2019. However, reports point to exploitative practices that Bangladeshi workers experience seeking employment. Labour agents in Bangladesh are often not licensed and face little risk of legal enforcement. They are themselves operating in a precarious situation, which often results in them trying to get as much as possible from the migrant workers themselves, in the form of various fees presented as necessary to secure employment.

Contracts for the jobs promised overseas are often delivered late or not at all before the worker leaves the source country. This leaves workers in a situation where they must rely on the promises by the agents, and without recourse should the conditions or remuneration end up being different than what was promised. Once the migration is completed, workers might find themselves unable to extricate themselves from the job, weighed down by debts incurred by agent fees, and compelled to accept worse conditions than were promised.

Women migrating for work face additional risks such as sexual harassment and violence. A study by [OKUP](#), a grassroots migrants' organisation in Bangladesh, state that out of 110 interviewed women 14% had experienced sexual abuse, though it cautions that the figure is probably underreported due to stigma.

Layoffs linked to COVID-19 have exacerbated the plight of migrant workers. After being laid off, most of them have found themselves unable to pay off debts to labour agents or stranded in the host countries as labour agents hold passports and other identity documents.



Companies need to work hard to make sure that steps are taken so that the initial stages of the recruitment process are fair and transparent.

What can companies do

The labour supply chain might start far away from the factory or farm that is the focus for a company's social auditing programme. However, many of the social vulnerabilities in the supply chain stem from the very start of the recruitment process and thus need to be included in the due diligence process.

Workers indebted to a labour agent and unclear of their rights, coupled with the lack of trust in a corporate grievance channel, have a clear incentive not to report violations of their rights. As a result, companies need to work hard to make sure that steps are taken so that the initial stages of the recruitment process are fair and transparent:

Adopt policies

- Set clear requirements for labour providers and recruitment agencies to ensure workers receive correct information and pay no fees for securing employment.
- Set general principles for remediation of policy violations, including repatriation and compensation for costs incurred by workers.
- Ensure that migrant workers are not excluded as part of attempts to de-risk the supply chains.

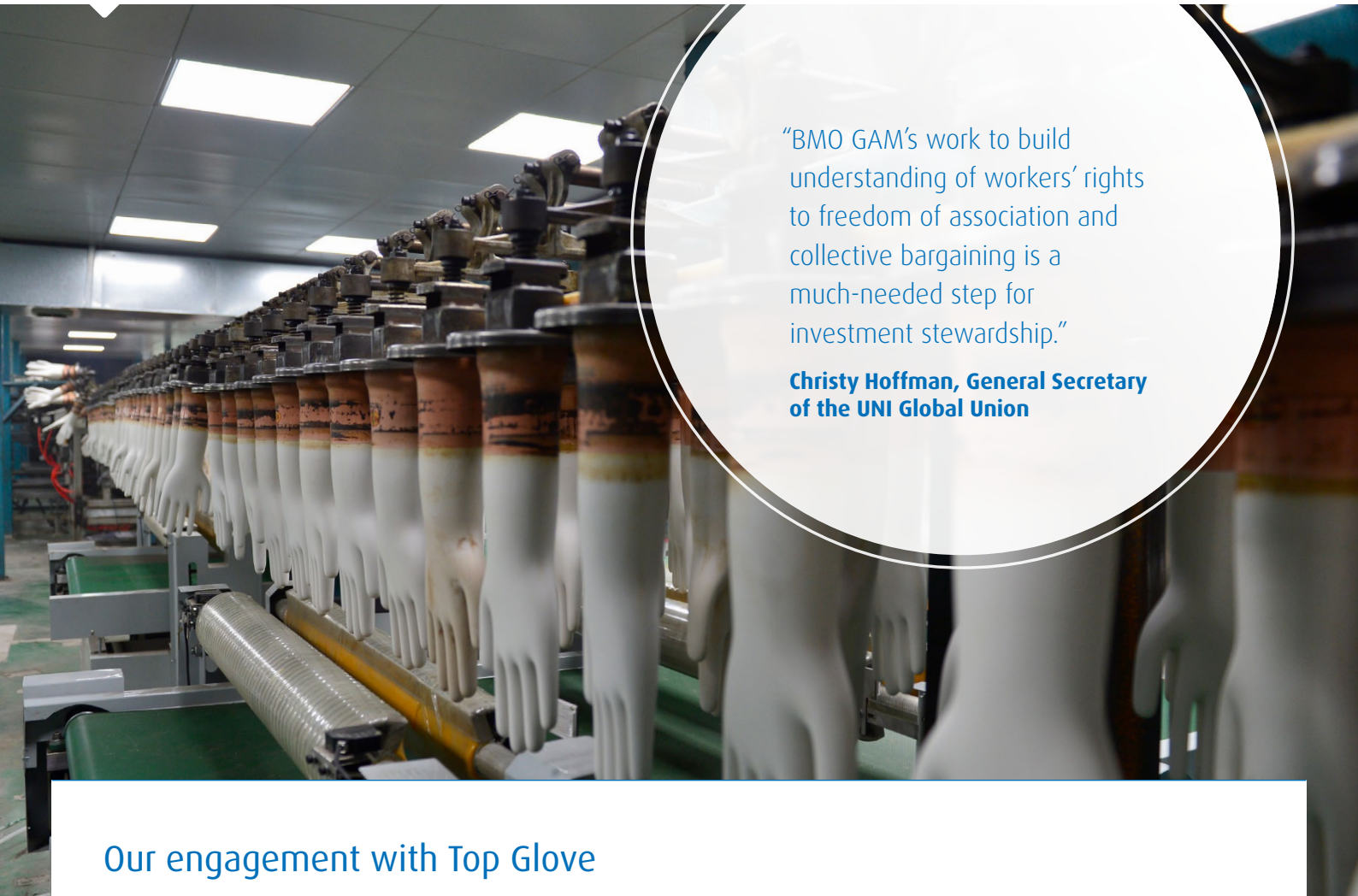
Mapping and due diligence

- Establish traceability and assessment of labour providers operating in the source country. Consider partnering with local organisations.

- Establish long-term relationships with recruitment agencies to draw on their expertise and jointly develop risk mitigation.
- Ensure that due diligence processes recognise the different circumstances facing workers due to gender, nationality and ethnicity and adopt appropriate responses.
- Ensure that terms of employment presented to prospective employees in their home countries are correct, legal and match the actual job offered.
- Ensure documentation is kept of all costs incurred by the worker, to ensure adherence to the "employer pays" principle.
- Develop a trusted grievance communication channel so that workers can raise cases of fees-for-work or other non-compliances.

Disclosure

- Companies should report in a structured way how they develop and implement governance, strategy, risk management and performance indicators for recruitment processes in their supply chains.



“BMO GAM’s work to build understanding of workers’ rights to freedom of association and collective bargaining is a much-needed step for investment stewardship.”

Christy Hoffman, General Secretary of the UNI Global Union

Our engagement with Top Glove

We have engaged with Top Glove on labour standards since 2019 when allegations surfaced about forced labour [published by The Guardian newspaper](#) in the UK. We reached out to the company to understand its response to the allegations and specifically what policies and oversight mechanisms were in place to ensure that workers were treated fairly, and their rights not being violated.

This included the company’s supply chain, since the lack of direct control could indicate a higher risk level. We recommended the company to implement staff training on forced labour and to assess its supply chain to identify any potential risk areas. We also urged the publication of a modern slavery statement to provide clear disclosure on the company’s policies and processes. The company was receptive to our suggestions and willing to engage in further dialogue.

In April of 2020 we again needed to engage the company on the topic after allegations of continuing practices of high recruitment fees. The company this time provided richer information on how it had strengthened its standards and implemented more rigorous supplier due diligence in collaboration with third party auditors. It had also screened its roster of labour providers and terminated all business

dealings with those not complying with its zero-cost recruitment policy.

The decision by the US Customs and Border Protection (CBP) to stop imports of the company’s products due to suspicions of forced labour highlighted the commercial implications and raised the question about potentially substantial back payments of worker recruitment fees as remedy. The company continued its due diligence of labour providers and made an initial back payment of 4.4m Malaysian Ringgit to workers who joined the company before the zero-cost recruitment policy. We believe the company is on a positive trajectory and is demonstrating transparency which has received plaudits from previously harshly critical labour activists. We continue our dialogue and most recently engaged the company in April 2021 on the progress of its development of worker grievance channels.

Final thoughts

The often-complex recruitment of international migrants creates challenges to responsible supply chains and can lead to severe violations of human rights, including modern slavery and forced labour. However, international migration provides much-needed incomes and remittances which support source countries. Companies need to recognise that outsourcing of the recruitment process create risks through lack of visibility and incentives for workers to not raise alarms over poor practices. Taking a holistic perspective of the recruitment process helps companies mitigate risks, remediate non-compliances and establish themselves as preferred employers.



Responsible Investment – a glossary of terms

Its wide-ranging nature means that responsible investment involves a host of associated language and jargon. Here we explain some of the most commonly used terms.

Get to know the authors



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Marcus joined the Responsible Investment team at BMO GAM in 2020 and is focusing on labour standards and biodiversity. Before joining BMO, Marcus spent a decade and a half in supply chain sustainability across the world. When not working, he enjoys sailing and Filipino martial arts.



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