

DIEH Conference Report

MIGRANT LABOUR IN GLOBAL SUPPLY CHAINS

Copenhagen, 30 January 2009



The Hague Process on Refugees and Migration
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Overview

1. Introduction

2. Expert presentations

- a. The life of migrant workers in China - by journalist Christina Boutrup
- b. International Labor Migration. A responsible role for Business - by managing director Peder Michael Pruzan-Jørgensen, Business for Social Responsibility
- c. Migrant workers in China – by Ph.D. Adviser Mads Holst Jensen, Danish Institute for Human Rights
- d. ILO Multilateral Framework on Labour Migration and good practices – by director Kamalam, ITUC Equality Department

3. Discussion

4. Conclusion

Appendix A: List of participants

1. Introduction

This report is the output from the Danish Ethical Trading Initiative (DIEH) Conference on migrant labour in global supply chains that took place in Copenhagen on 30 January 2009. The report has been prepared by The Hague Process on Refugees and Migration.

DIEH was founded in February 2008 and is the first Danish multi-stakeholder initiative that brings together trade unions, business associations, non-governmental organisations (NGOs) and companies to promote ethical trade and responsible supply chain management among Danish companies. (www.dieh.dk)

The Hague Process on Refugees and Migration (THP) is an independent and non-political forum for discussion about refugees and migration within a human rights and development perspective. THP engages the business sector around the world to think about the challenges and opportunities of human mobility. (www.thehagueprocess.org)

DIEH took the initiative to organize the conference due to the growing attention to the topic at hand by business and organizations working on ethical trade. DIEH member companies have pointed out that the presence of migrant workers in their global supply chains brings distinct ethical challenges to their daily work. According to the ILO labour migration is increasing worldwide, and there are now approximately 200 million international migrants, and millions more that migrate internally for work within the borders of their own countries. It seems valuable to give attention to this large and vulnerable segment of the workforce. In addition, an impact assessment of the Ethical Trading Institute (UK) shows that migrant workers are often worse off because of Corporate Social Responsibility initiatives. Lastly, the issue has become even more pressing now that the 'global economic meltdown' seems to affect migrant labour in particular.

The purpose of the conference was to:

- explore the problems relating to migration between and within developing countries and emerging economies;
- discuss how businesses and other stakeholders engaged in responsible supply chain management can help to protect the rights of migrant workers in global supply chains.

The conference gathered a wide variety of participants with a diverse background, including Danish and international businesses, NGO's, unions, trade organizations, and academics. The list of participants registered is enclosed in appendix A. The participants were first addressed by four experts working on migration and CSR on a daily basis. Afterwards, participants were invited to a roundtable discussion on how to deal with abuses with regards to labour migration in supply chains. This report presents a summary of the presentations and the main outcomes of the roundtable discussions.

2. Expert presentations

In the following keynotes from the four expert speakers are presented, including presentations from: Christina Boutrup, Peder Michael Pruzan-Jørgensen, Mads Holst Jensen and Kamalam.

2.1 The life of migrant workers in China

- Journalist Christina Boutrup

"I am just a migrant worker. I have no right to complain."
(Chinese migrant worker)

Christina Boutrup worked as a correspondent for the Danish newspaper Berlingske Tidende in China from 2005-2008. She opened the conference with a photographic report on the lives of migrant workers who moved from the 'rice fields to the big cities' in order to secure better education for the next generation.

These migrants often fail to achieve their goals. Most of the migrant workers from rural areas have not enjoyed formal education, and face harsh working conditions in the city, particularly in the construction sector. The urban population often uses the term 'the farmers' to refer to these internal migrants; most of them have to endure severe discrimination. This discrimination is worsened because these workers do not enjoy the same rights as 'original' citizens from the urban areas. For example, they have no right to health insurance, are frequently forcefully displaced and have to pay higher fees for schools and hospitals. Paradoxically, approximately 20 million children are left behind by their parents, causing widespread social problems.

Due to the current economic crisis, migrant workers are the first to get laid off, and are consequently sent home, which causes its own problematic dynamic, but at least means some of these children are reunited with their parents.



2.2 International Labor Migration - A responsible role for Business

– Managing director Peder Michael Pruzan-Jørgensen, Business for Social Responsibility (BSR)

“As the drivers of global labour demand, companies are in a unique position to have far-reaching impact on an overall paradigm shift on how international labour migration between emerging economies is viewed, legislated and managed.”

(Peder Michael Pruzan-Jørgensen, BSR)

Peder Michael Pruzan-Jørgensen, managing director of the European office of Business for Social Responsibility (BSR), presented the main conclusions of BSR’s recent research report on ‘International Labor Migration – A Responsible Role for Business’¹. Although most BSR-company members seem to have some sort of understanding of the vulnerabilities of migrant workers, many do not know how to go about the implementation of protection of these workers. Migration is rarely explicitly called out in codes of conduct or audit protocols. The report recommends several practical steps that businesses can take to improve working conditions for migrant workers and to strengthen the suppliers that employ them. One of the key findings is that migrant workers provide a cost-effective and hardworking labour force in labour-intensive industries, but they are also vulnerable, isolated and often heavily indebted.

From the report, four key trends arise, which outline the root causes of vulnerabilities and the abuse of migrant workers:

- i. Indirect recruitment and employment increase risks of abuse and raise costs
- ii. Migrant workers are unprotected under many national laws
- iii. Few workers receive adequate pre-departure or skills training
- iv. Processes for dispute resolution are often ineffective

Some of the common concerns, vulnerabilities and violations that often occur with regards to these trends are: absurd broker fees, falsification of records, poor living conditions, language barriers, retention of passport and travel documents and irregular payment of wages. As businesses are in a unique position to initiate positive change by promoting more responsible migration, the report proposes a three-step approach for businesses to tackle these issues, under the mantra: Educate, Engage and Expand.

¹ Link BSR report: http://www.bsr.org/reports/BSR_LaborMigrationRoleforBusiness.pdf



Source: *International Labor Migration – A Responsible Role for Business*, BSR, 2008, p. 4

A. Educate yourself

The first step is to understand migrant labour within the supply chain workers' countries of origin, recruitment processes, and terms of employment, in order to identify special needs and vulnerabilities of migrant workers in supply chains. In terms of internal alignment, this 'education' should extend beyond CSR-departments, and should particularly trickle down into those departments that are dealing with suppliers. Information can be gathered by opening up the conversation with suppliers, local governments, trade unions and local NGOs and by including migrant labour issues in audit protocols.

B. Engage with your supplier

The next step is to develop policies that help to ensure the protection of migrant workers in supply chains and to engage directly with contractors, particularly concerning training and verification. In some cases, suppliers might not even be aware of violations. In addition, one ought to look into codes of conduct and audit protocols, in order to see whether specific language can be included to explicitly address migrant workers.

C. Expand your influence

After addressing immediate risks in their supply chains, the last step would be to engage key stakeholders to work towards systemic change at national, regional and international levels. Although engaging with policy makers might lie outside the core realm of business responsibility, companies, as the drivers of global labour demand, are in a unique position to have far-reaching impact on an overall paradigm shift in how international labour migration between emerging economies is viewed, legislated and managed. This would require collaboration among businesses and engagement with partners outside the realm of business, with organizations such as NGOs, multistakeholder-initiatives, etc.

For BSR, the last step - engaging in political processes - is the most difficult, but at the same time the most important part of the process, as it holds the potential to bring a collective agenda to the table. Therefore, one of the objectives for BSR will be to provide input for the Global Forum on Migration and Development (GFMD) in Athens in November 2009.

2.3 Migrant workers in China

- Ph.D. Adviser Mads Holst Jensen, Danish Institute for Human Rights (DIHR)

“Chinese internal migrants are in many respects to be seen as international migrants.”
(Mads Holst Jensen, DIHR)

Mads Holst Jensen provided a presentation on his research in China on the treatment of living conditions of internal migrants, which he conducts for the Danish Institute for Human Rights (DIHR). The institute normally engages with governments, as the principal bearers of Human Rights protections, but there is an increasing awareness that companies bear a responsibility too, which is why the protection of migrant workers has become an institutionalized topic within DIHRs: ‘Human Rights and Business Project’.

The focus of the research is on migrant workers in low-skilled, labour intensive export oriented sectors, with a rural background in the age category of 16-25 years. According to the definition in the Migrant workers convention, Chinese internal migrants cannot be characterized as ‘migrants’, because a migrant is ‘a person which is to be engaged or has engaged in a remunerated activity in a State of which he or she is not a national’ (art 2, par. 1). Also in terms of nationality, ethnicity and common values, norms and language, internal Chinese migrants are hard to distinguish from other nationals. However, in many respects Chinese internal migrants who move from rural to urban areas face the same issues and vulnerabilities that international migrants may face.

De facto migrant workers in cities are treated as non-nationals. Particularly owing to the household registration system (hukou) initiated in the 1950s, citizenship and related rights are fixed to particular localities. Leaving the place of registration implies abandoning rights and benefits. And although the household registration system was slightly relaxed in 1997, this only relates to ‘white collar workers’. Many migrant workers are either residing ‘illegally’ or ‘temporarily’ in urban areas and therefore have no entitlements to social services at all, pay (higher) fees for public facilities, often do not enjoy any rights protection and face forced displacement or even ‘repatriation’.

Since 2002, the new leadership (president Hu Jintao, Prime minister: Wen Jiabao) has taken up a more humane discourse, drawing upon a ‘human centred approach. In terms of legislation, the legal protection of internal migrants has indeed improved (Labour Law (1994), Labour Contract Law (2008), Trade Union Law (2001). However, in general these laws look strong on paper, but are weak in terms of implementation and enforcement. Thus many rights of many migrants are still being violated. Examples of these can be found in the table on the next page.

Violations of Chinese migrant workers' rights

Right to Freedom from Discrimination

- Temporary residency - long way from home – outcasts in host communities
- Poor social protection
- Lack of awareness of rights

Right to Work and Just and Favorable Conditions of Work

- Low wages - excessive overtime – bad health and safety

Right to Freedom from Forced Labour and Servitude

- Owing fees – ID cards and wages withheld – locked up in factories

Right to Freedom of Movement

- Household registration system – abovementioned forced labour conditions

Right to Food

- Bad food at factory canteens

Right to Family Life & Right to an Adequate Standard of Living

- Confined in primitive factory dormitories with no chance of family life

Right to Education

- Migrant workers' children kept out of schools (no permit or high fees)

Source: Danish Institute for Human Rights, 2009

Although there does not seem to be a 'real civil society' in China, there are several initiatives on the ground in response to these violations and abuses. Barefoot lawyers are offering legal aid to migrant workers, law clinics and migrant shelters have in some cases been erected and hotlines established. There are several support centres and educational initiatives. The Danish Institute for Human Rights has for example started a project on the 'Rights of Migrant Workers in China' in close partnership with local organizations entailing amongst others expert input into the drafting of new legislation and the survey of the enforcement of relevant legislation; support to the development of legal aid networks and to a centre for migrant worker awareness raising; and in-company training of management and workers in Chinese companies.

2.4 ILO Multilateral Framework on Labour Migration and Good Practices

Director Kamalam, International Trade Union Confederation (ITUC) Equality Department

“A matter that is particularly pressing is that migrants are often prevented from joining unions, either through their contracts, or through practical barriers, even facing repercussions when joining.”
(Kamalam, ITUC)

Kamalam of the International Trade Union Confederation (ITUC)² presented the ILO Multilateral Framework on Labour Migration. ITUC works to empower workers. Particularly problematic in this respect are the Gulf Countries, the Middle East and China, which often have not even ratified the fundamental conventions, and as such do not even provide for the right to associate. There is a pressing need for better global governance. However, in the absence of binding multilateral legislation and widely ratified conventions on the protection of the rights of migrant workers, the ILO multilateral framework provides non-binding practical guidance and actions to address the major issues faced by migration policy makers at national, regional and international levels.

The Framework accepts the crucial role of social partners, social dialogue and tripartism in labour migration policy. It also advocates for gender-sensitive migration policies that address specific problems faced by female migrant workers.

The Framework consists of 15 principles under 9 broad areas:

1. Decent work
2. Means for international cooperation
3. Global knowledge base
4. Effective management
5. Protection of migrant workers
6. Prevention of abusive practices
7. Migration process
8. Social integration
9. Development.

In relation to these principles, Kamalam drew upon some important issues with regards to the protection of migrant workers. In particular, there is an abundance of international standards. What is needed is the ratification and implementation of these standards and/or to see how one in practice can ensure the protection of the rights of migrant workers. From ITUCs point of view a matter that is particularly pressing is that migrants are often prevented from joining unions, either through their contracts, or through practical barriers, even facing repercussions when joining. Companies should pay more attention to the right to associate and organize oneself, also further down the supply chain. But counterproductively, the Doing Business of the World Bank regards freedom of association as a risk factor when assessing the risks of going into business with certain countries.

² The ITUC is a confederation of more than 300 trade unions. The Chinese ‘All China Federation of Trade Unions; (ACFTU) is not a member of ITUC, as it is not considered to be a *free* trade union.

As annexes to the framework, the most important international labour conventions are reproduced as well as a wide-ranging overview of best practices. Kamalam gave two examples of good practices in Global Supply Chains outside the Framework:

1. The US Immigration and Customs Enforcement looks at passport withholding as an indication of forced labour, because it gives an employer too much power over a worker, no matter what the circumstances.
2. In late 2008, ITUC had reports from the International Textile, Garment and Leather Workers Federation (ITGLWG) that Nike had signed an agreement with them to subject a factory in Malaysia (Johore) to additional monitoring.

3. Discussion

During the round table discussion the overall question on the table was *how can businesses and other stakeholders engaged in responsible supply chain management help to protect the rights of migrant workers in global supply chains?* The various participants, businesses as well as other stakeholders such as journalists, unions and NGOs, exchanged experiences, best practices, common dilemma's and the possible role of DIEH towards the issue of the protection of labour migrants.

Experiences and Challenges

Most of the stakeholders focused on labour migration issues in South East Asia, China and India, as most suppliers, particularly those active in the textile industry, are based there, although other countries such as Egypt were also referred to.

Some common problems that were identified are the following:

- **'Double bookkeeping'**: Suppliers maintain a parallel bookkeeping to satisfy their 'buyers'. In particular, Chinese companies are very hard to penetrate on this. In addition, when it concerns internal migrants, practically speaking it is hard to identify migrant workers, as often no records are kept on this.
- **Non-transferable social security**: The non-transferability of social security rights is also particularly relevant in the case of China, and is difficult to solve, as it lies outside of the scope of the company.
- **Cultural differences** might also stand in the way of protecting the right of migrant workers. For example, some migrant workers might actually want to work as many hours as they can, to earn as much as possible in the shortest period of time. Cutting labour hours then often results in the migrant taking up a second job and thus in the deterioration of living conditions of the migrant

worker. In addition, migrant workers, particularly those in low-skilled jobs, are often **underpaid**. Working 'normal hours' does not cover **the living wage**.³

- **Child labour** is on the rise in South China, because many young workers left the region, in addition to only one child being entitled to education, and having to pay higher fees if education is received outside the region where the child was born/registered. This causes a moral dilemma as not hiring these children in most cases means these children will be unemployed and on the street, or even worse.
- **Discrimination and the access to rights and entitlements** were identified as '*the beginning and the end of this discussion*'. That is where migrants, both internal and international encounter barriers.



Best practices and possible solutions

One of the key solutions that were identified in order to minimize the violations of migrant workers rights is to maintain stable supply chains, which in practice means to have stable contracts with a small number of suppliers in order to build up a relationship of mutual trust.

Other best practices or possible solutions that were discussed can be summarized under the following four denominators: (I) company policies and codes of conduct; (II) awareness raising; (III) worker empowerment; (IV) engagement with policy makers.

I. Company polices: develop a code of conduct, include migrant issues and put them into practice.

- Most companies have a **code of conduct** and accompanying auditing protocols, but do not as yet have specific clauses explicitly referring to issues related to migrant workers. Some companies are seriously thinking about doing so, but have doubts on how to go about it. The main issue is how to deal with identified problems.

³ DIEH has organized a separate seminar on the issue of living wage that took place on 25 February 2009 in Copenhagen. For more information see www.dieh.dk

- Other companies are developing specific models for **risk assessments** of a country or region in terms of a specific good. These risk assessments should also include the treatment of migrant workers.
- Another suggestion was made, rather to look at the 'root causes' of migration and thus to **migrate factories to where the workforce is**.

II. Raising Supplier Awareness

- Engaging directly with suppliers, particularly through training on labour and human rights issues, was seen as one of the first steps a company ought to take.

III. Migrant Workers empowerment and benchmarking tools

- **Informing and training migrant workers** themselves, and the setting up of a **hotline or complaint mechanism** were suggested as useful tools in identifying abuses and empowering the migrant workers him-/herself, although the latter tool is regarded upon by most companies as a delicate issue. In addition, the people that connect through such a 'hotline' or complaint mechanism are in general already 'the empowered'.
- In empowering migrant workers, it is important that companies **raise awareness of the legal rights of migrants** and the relevant ILO conventions. Labour and trade unions have an important role to play in this regard too. Companies could engage more with local unions, although prudence is called for, as some unions might not always represent 'their workers', as is the case in China

IV. Engage with policy makers

- Several abuses and vulnerabilities of migrant workers lie outside the realm of the corporate sector itself, such as the issue of citizenship, social rights and the transferability of social security. A clear need was voiced during the meeting to engage with policy makers in order to solve these problems, although most companies were slightly hesitant to do so. Cooperation between companies is one of the key elements of these issues. Organizations such as BSR, THP, DIEH or other platform or network organizations can also be helpful.
- Another suggestion was made to set up a consortium to help governments in ratifying/implanting/enforcing conventions.

4. Conclusion

In conclusion DIEH was advised, in close cooperation with partners and members:

- To not exclusively focus on migrant workers, but instead focus more generally on discrimination and exclusion;
- To collect and create examples of how codes of conduct and auditing protocols can be restructured in order to include important issues, such as the protection of migrant workers rights;
- To create training modules. These modules could be targeted at various stakeholders, such as migrant workers, and suppliers, and should be developed in close cooperation with member companies and organizations;
- To act as a facilitator in gathering and bringing out an assorted voice of business to stand up against migrant worker abuse in supply chains and origin countries;
- In cooperation with other ethical trade and human rights organizations, to assist in creating an overview of who is doing what and which organizations are working in which countries;
- In cooperation with e.g. the Danish Institute for Human Rights, DIEH could see whether cooperation is possible with the Danish government and Danish embassies in order to influence host countries and their companies.

The conference was closed by a DIEH member forum for members only to sum-up the day and discuss DIEH's role in following-up on these issues emphasised at the conference.

Appendix 1 – List of participants

Anne-Lise Struve	Novo Nordisk A/S
Annemette Nielsen	Danish Ethical Trading Initiative
Camilla Obling, prev. Sørensen	SGS Denmark A/S
Christina Boutrup	Journalist, former China correspondent
Christina Meyer	Alectia
Diana T. Kirkegaard	Beirholms Væverier A/S
Dorte Sørensen	Mellemfolkeligt Samvirke
Felicity Davies	Bestseller A/S
Hanne Gürtler	Danish Ethical Trading Initiative
Helle Henriksen	Center for CSR, Copenhagen Business School
Helle Løvtstø Severinsen	Mellemfolkeligt Samvirke
Jens Lehrmann	Handelskartellet
Jens Munch Lund-Nielsen	PricewaterhouseCoopers
Jeppé Kromann Haarsted	Coloplast A/S
Jette Machon	Sourcing House Aps
Jonas Giersing	Max Havelaar
Katrine Milman	Coop Danmark A/S
Linna Palmqvist	PricewaterhouseCoopers
Mads Holst Jensen	Danish Institute for Human Rights
Maria Kim Lassen	Danish Ethical Trading Initiative
Mette Mikkelsen	Student CBS
P. Kamalam	International Trade Union Confederation
Pia Odgaard	Katvig Aps
Peder Michael Pruzan-Jørgensen	Business for Social Responsibility
Pernille Risgaard	PricewaterhouseCoopers
Rikke Røerup	92 Gruppen
Rikke Stensgaard Christensen	Bestseller A/S
Ruth Simesen	Novo Nordisk A/S
Stine Hedegaard	Danish Fashion Institute
Thomas Petersen	MS/Clean Clothes Campaign
Tilde Frøyr	Noir
Tina Devantier Larsen	Bestseller A/S
Wies Maas	The Hague Process on Refugees and Migration