



CASE STUDIES ILLUSTRATING
HOW FAIR AND ETHICAL
RECRUITMENT CONSIDERATIONS
CAN BE INTEGRATED IN THE
PROCUREMENT OF LABOUR
RECRUITERS' SERVICES



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This report was produced by IOM Corporate Responsibility in Eliminate Slavery and Trafficking (CREST). CREST is supported by Sweden through the Strategy for Regional Development Cooperation in Asia and the Pacific Region. The views expressed herein can in no way be taken to reflect the official opinion of IOM.

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Required citation: International Organization for Migration (IOM), 2022. *Case Studies Illustrating How Fair and Ethical Recruitment Considerations Can Be Integrated in the Procurement of Labour Recruiters' Services*. IOM. Geneva.

ISBN 978-92-9268-419-8 (PDF)

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CASE STUDIES ILLUSTRATING HOW FAIR AND ETHICAL RECRUITMENT CONSIDERATIONS CAN BE INTEGRATED IN THE PROCUREMENT OF LABOUR RECRUITERS' SERVICES

JUNE 2022

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ACKNOWLEDGEMENTS

The research upon which this report is based was conducted by Lalaine Siruno, Mohammed Khalaf and Lana Eekelschot under the supervision of Elaine Lebon-McGregor, PhD and Ortrun Merkle, PhD. Helpful research assistance was provided by Alice Antoniou, Adriana Sofía Marín Peroza, Jessica Steffens and Soha Youssef. We are grateful to all the stakeholders who took the time to speak with us and share their valuable insights and experiences. We are also grateful for the support of IOM, particularly Marion Carla Biolena and Mark Jason Aludino. The views expressed in this report do not reflect the views of IOM or UNU-MERIT.

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1. INTRODUCTION

Recruitment is often the first step in labour migration, and the importance of addressing challenges in the recruitment process as it concerns migrant workers is well established in international law.¹ Further momentum for these efforts has been given in various normative tools including, among others, the International Organization for Migration’s International Recruitment Integrity System Standard (IOM IRIS Standard), the International Labour Organization’s Fair Recruitment Initiative (ILO-FRI), the United Nations Guiding Principles on Business and Human Rights (UNGPs), and the Montreal Recommendations on Recruitment. All of these serve to promote Objective 6 of the Global Compact for Safe, Orderly and Regular Migration, which is to facilitate fair and ethical recruitment and to safeguard conditions that ensure decent work.

¹ Several international legal instruments outline the obligations of States as they relate to fair and safe recruitment. In 2014, the International Labour Organization launched the Fair Recruitment Initiative as part of its Fair Migration Agenda. Part of these efforts included the development of a set of General Principles for Fair Recruitment (2016) and, complementing this, a set of Operational Guidelines and Definitions of Recruitment Fees and Related Costs (2018). The guidelines provide concrete and operational recommendations to governments, public employment services, employers and recruitment agencies on fair recruitment practices and draw on relevant international legal instruments. For example, the 2016 Protocol (P029) to the ILO’s 1930 Forced Labour Convention (C029) outlines the necessity of “protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process” (Article 2d) (ILO, 2016). In the 2030 Agenda and its Sustainable Development Goals (SDGs), States also committed to “facilitate orderly, safe, and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies” (SDG 10.7) (IOM, 2019). One of the indicators to measure progress on this target examines the recruitment costs borne by the employee (Indicator 10.7.1). The Global Compact for Safe, Orderly and Regular Migration further reinforced the commitment to tackling challenges in the recruitment process. Objective 6 of the Compact is to “facilitate fair and ethical recruitment and safeguard conditions that ensure decent work” (United Nations, 2018).

Labour recruiters often play a critical role in labour migration, connecting workers in countries of origin with employers in countries of destination. However, unscrupulous practices are still prevalent and gaps remain in the governance of labour migration. For example, the ILO reports that at any given time in 2016, over 40 million people were victims of modern slavery, which includes forced labour, forced marriage, human trafficking, debt bondage and other slavery-like practices (ILO, 2017a). Of these, 24.9 million are people in forced labour, meaning people who are being forced to work under threat or coercion, often hidden in plain sight. Moreover, the widespread use of labour subcontracting arrangements and third-party providers creates complexity in employment relationships and uncertainty about worker rights. This means that many migrant workers remain vulnerable to forced labour and exploitation. Recruitment is also an area to which different stakeholders, including civil society, have been drawing attention. Governments, particularly those of countries of origin, have been developing codes of conduct and industry standards to promote decent work across borders, primarily focused on the monitoring and regulation of recruitment agencies. However, beyond the operations of recruitment agencies, the process of recruitment is embedded in a complex, multilevel and multi-stakeholder environment.

The last decade has also seen a growing number of global brands and multinational enterprises initiating the adoption of fair and ethical recruitment practices, and embedding due diligence processes in their operations. While the focus of much research to date has been on the relationship between migrant workers, recruitment agencies and sometimes their employers, this study approaches the topic of fair and ethical recruitment from a different perspective, namely the procurement process.

Procurement and supply management is the process of buying the goods and services that enable an organization to operate in a profitable and ethical manner (CIPS, n.d.). In the context of this report, procurement is the process by which business enterprises engage the services of labour recruiters and is therefore an integral part of recruitment. The ultimate objective of procurement is the tendering or sourcing of workforce, or in other words, human resource acquisition. The primary relationship in procurement is between the business enterprises and the labour recruiters, whereas in recruitment, it is between the labour recruiters and the migrant workers. From the perspective of employers that use labour recruiters, the recruitment process typically starts with the placement of job orders, if they already have an existing relationship with recruitment agencies. This research takes a few steps backwards and focuses on how employers carry out the procurement process for the services of recruitment agencies. Focusing on procurement casts the focus onto the relationship between companies and first-tier labour suppliers and recruitment agencies, as well as the legislative frameworks and contexts within which they operate. This is important, because part of building the business case for fair and ethical recruitment means strengthening arguments for why fair and ethical recruitment principles should be mainstreamed throughout the recruitment process. Hence, this study focuses on how business enterprises can use their procurement processes as an early step in managing the different risks of forced labour and exploitation among migrant workers when engaging with labour recruiters.

Accordingly, the study seeks to provide practical guidance and additional resources for business enterprises employing migrant workers that will help them to improve procurement practices and fully integrate human rights principles and ethical standards in their supply chain management programmes. The overall objectives of this study are:

- 1 To describe the **common operational challenges** that business enterprises have faced in integrating fair and ethical recruitment considerations into procurement practices, including the common challenges in stakeholder engagements (internal and external) and challenges related to the current market information gaps;
- 2 To identify the different **systemic barriers** that have contributed to these operational challenges as described by leading companies;
- 3 To identify the different **factors that contributed to the successful integration of fair and ethical recruitment considerations into the business enterprises' procurement practices** and the successful fulfilment of the relevant contractual obligations from the labour recruiters' side;
- 4 To provide **recommendations for employers and brands** on how to engage meaningfully with labour recruiters through procurement based on the lessons that the business enterprises have learned;
- 5 To provide recommendations on how governments can integrate fair and ethical recruitment requirements into public procurement; and
- 6 To provide recommendations on how industry associations, civil society organizations and intergovernmental organizations such as IOM can support and help enable other employers to mainstream fair and ethical recruitment into their procurement policies.

In order to address these objectives, a qualitative research design using selected case studies was developed. In brief, primary data were collected through online semi-structured interviews with key informants, and secondary data were collected through desk review of relevant academic and grey literature. Case studies were identified that could provide illustrative examples of how different stakeholders engage in the topic of procurement. The first case study looks at KnowTheChain, a multi-stakeholder initiative that promotes increased transparency in global supply chains. The second looks at mega recruitment companies, a relatively new actor in the recruitment landscape, which emerged in Saudi Arabia almost a decade ago. The third case looks at the example of VINCI, a company that has focused attention on improving recruitment practices in its supply chains and whose practices are being replicated in other sectors.

The remainder of the paper is structured as follows: Section 2 introduces the topic of procurement and provides a discussion of key terminology used in the field. Section 3 provides more details of the methodological approach adopted for the study. Section 4 presents some general observations with respect to the overall challenges and systemic barriers of mainstreaming fair and ethical recruitment principles into procurement practices. Section 5 presents three case studies highlighting different ways in which fair and ethical recruitment principles can be mainstreamed into procurement practices. Section 6 concludes with a general discussion, suggestions for further research, and recommendations.



2. BACKGROUND AND KEY CONCEPTS

Many companies nowadays make use of large global supply chains, in which multiple actors are located at various levels. Developed countries tend to experience high-value capital-intensive activities, while emerging countries tend to have lower-value labour-intensive activities. In addition, global competition, for instance regarding cost and delivery times, generally continues to place significant pressure on companies' suppliers and therefore on working conditions in such supply chains (ILO, 2017b). The ILO also notes that decent work is particularly lacking in the lower tiers of global supply chains, potentially leading to risks of forced labour and modern slavery.

Procurement processes are an integral part of the supply chain, as these constitute the entire procedure of acquiring goods and services, including the recruitment of workers who are often migrants (Haron and Mahzan, 2019). Many multinational enterprises have developed supplier codes of conduct that stipulate the minimum labour and human rights standards that apply to their suppliers and selected sub-suppliers. In turn, those suppliers are expected to require their own suppliers to operate in accordance with the same standards (Alder and Gooch, 2013). This process is often referred to as the "cascading effect" (Villena, 2019), which is theorized to lead to sustainable practices flowing smoothly throughout the whole supply chain (Villena and Gioia, 2020). However, in practice, companies face challenges in ensuring that the principles of fair and ethical recruitment are cascaded throughout their supply chains.

McFalls (2016) for instance found that suppliers are more likely to comply with labour standards when they are located in countries that participate in ILO standards and have strong labour laws,² meaning that governance structures and legislation can affect the impact of fair and ethical procurement practices. For this reason, McFalls emphasizes the need for multiple regulatory regimes, both public and private, that involve both State and non-State actors. In fact, alongside customer pressure, government legislation has been identified in this study as the key driving factor in company action relating to fair and ethical procurement.

While the above indicates that ethical success seems to depend on various factors, there also seems to be a lack of unified research, action and cooperation on fair and ethical procurement processes between companies and other actors. For instance, Villena (2019) found that existing literature often focuses on buyers' perspectives. McFalls (2016) argues for the need for legislation and supplier action for ethical codes of conduct to work, while Villena and Gioia (2020) found that suppliers usually do not act unless big brands intervene. This, therefore, leaves suppliers' views largely underexplored, even though attention to such views could prove useful in assessing and determining an appropriate and ethical course of action for the whole supply chain. The existing literature does not make it clear whether a top-down or bottom-up approach would be most effective in implementing ethical practices through the supply chain. However, the literature does point to the importance of cooperation between different stakeholders (see, for example Manzur et al., 2017). While it is beyond the scope of this study to offer major contributions to this literature, there is a clear need for research on the governance of fair and ethical recruitment, particularly in the implementation of procurement policies. Accordingly, the study approaches the topic from a multi-stakeholder perspective and draws on key stakeholder interviews and selected case studies to offer insights into the challenges and opportunities of mainstreaming fair and ethical recruitment principles into procurement practices. However, before elaborating further on the methodology, a brief word on key concepts is merited.

2.1. KEY CONCEPTS

As noted, the recruitment industry is a highly complex and multilayered system populated with many actors who do not always speak the same language, both literally and figuratively, which in itself poses a challenge to pinpointing responsibility and monitoring compliance. This makes a discussion of terminology essential.

2.1.1. Fair and ethical recruitment

The IOM (2019:12) uses the term recruitment to refer to “the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable.” The term applies both to jobseekers and those already in an employment

² ILO standards refer to international labour standards covering topics such as forced labour and employment policy: see www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/lang--en/index.htm.

relationship. Labour migration and recruitment provides an opportunity for individuals to be gainfully employed and for business enterprises to fill labour market gaps. However, the presence of unscrupulous entities may result in migrant workers finding themselves in precarious situations, at risk of forced labour and even death. Accordingly, many different actors, including IOM, have sought to promote improvements in the recruitment process.

However, it is worth pausing to address some conceptual differences. The recruitment process is often described using different adjectives, such as ethical, fair and responsible. Ethical recruitment, according to the IRIS Standard,³ IOM's flagship initiative to promote the ethical recruitment of migrant workers, means "hiring workers lawfully and in a fair and transparent manner that respects and protects their rights (IRIS, n.d.). This is similar to the ILO's formulation of fair recruitment, which is "recruitment carried out within the law, in line with international labour standards and with respect for human rights, without discrimination on the basis of gender, ethnicity, national or legal status" (ILO, 2018:9). Finally, many non-profit and civil society organizations like the Institute for Human Rights and Business (IHRB, n.d.) use the term "responsible recruitment" in reference to the Dhaka Principles for Migration with Dignity, which is "a set of human rights-based principles to enhance respect for the rights of migrant workers from the moment of recruitment, during overseas employment, and through to further employment or safe return to home countries."

From these different conceptualizations, respect for human rights seems to be integral to ethical, fair and responsible recruitment. Legal compliance is another important element. However, there are many aspects of these definitions that can be further disaggregated. For example, in the legal frameworks of some countries, it is still legal to charge migrant workers a recruitment fee. Accordingly, many of the efforts to respond to the challenges of recruiting migrant labour have focused on encouraging States to amend their legal frameworks in compliance with global standards.

Further momentum for these efforts has been given through various normative tools, including among others, IOM's IRIS Standard,⁴ the ILO-FRI,⁵ the UNGPs,⁶ and the Montreal Recommendations on Recruitment.⁷ All of these serve to promote Objective 6 of the Global Compact for Safe, Orderly and Regular Migration, which is to facilitate fair and ethical recruitment and to safeguard conditions that ensure decent work.

2.1.2. Recruitment versus procurement

While the study does relate to the recruitment process, it specifically focuses on a less well-covered aspect of the recruitment process: procurement. Recruitment, which mainly involves the labour recruiter in the country of origin and migrant workers, has been widely discussed in policy circles and in the literature (see, for example, Agunias, 2013; Wickramasekara and Baruah, 2017). On the other hand, procurement in relation to migrant work and recruitment is less discussed.

³ For more information on IRIS, see <https://iris.iom.int/>.

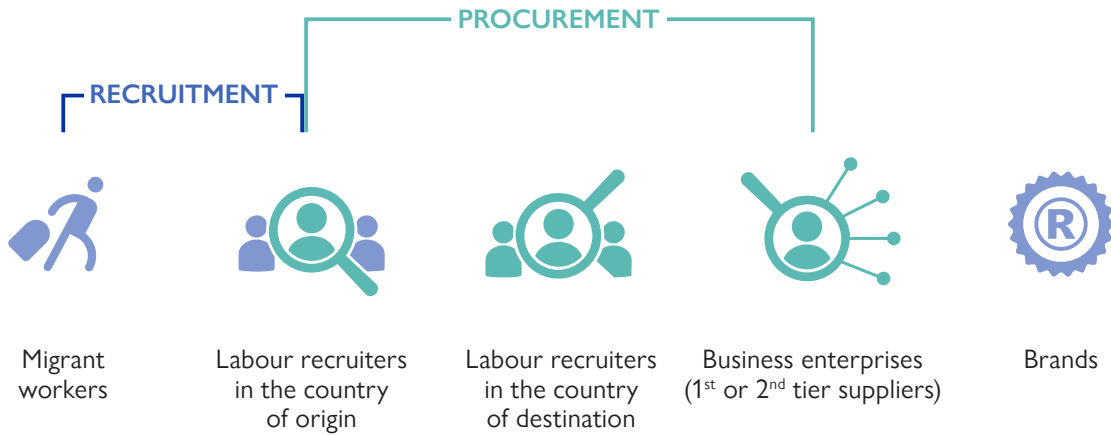
⁴ Available at <https://iris.iom.int/iris-standard>.

⁵ Available at www.ilo.org/global/topics/fair-recruitment/fri/lang--en/index.htm.

⁶ Available at www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights.

⁷ Available at <https://publications.iom.int/books/montreal-recommendations-recruitment-road-map-towards-better-regulation>.

Figure 1. Recruitment versus Procurement



ACTORS IN THE LABOUR SUPPLY CHAIN

For the purpose of this study, “procurement” refers to the process by which business enterprises engage the services of labour recruiters. The ultimate objective of procurement is the tendering or sourcing of workforce, or in other words, human resource acquisition. As illustrated in Figure 1, the primary relationship in procurement is between the business enterprises and the labour recruiters, whereas in recruitment, it is between the labour recruiters and the migrant workers.⁸ However, it is also important to acknowledge that different terminologies are used to refer to different actors in the labour supply chain. Table 1 lists some examples.

⁸ This is the typical scenario when multiple actors participate in recruitment and procurement. There are also instances when employers hire migrant workers without intermediaries or engage directly with labour recruiters in the country of origin.

Table 1: Different terminologies used in the global labour supply chain

ACTORS				
Migrant workers	Labour recruiters in the country of origin	Labour recruiters in the country of destination	Business enterprises that procure the services of labour recruiters	Brands
<ul style="list-style-type: none"> • International migrant workers • Migrants for employment • Jobseekers 	<ul style="list-style-type: none"> • Labour providers • Labour brokers • Recruitment agencies • Placement agencies • Private employment agencies • Private recruitment agencies • Manpower agencies • Employment businesses • Manpower cooperatives • Service providers • Subagents 	<ul style="list-style-type: none"> • Brokers • Mega recruiters • Mega recruitment agencies • Mega recruitment companies 	<ul style="list-style-type: none"> • Employers Enterprises • First-tier labour suppliers • Suppliers • Vendors • User enterprises • Labour users • Labour hirers • End-users • Principals clients of labour recruiters • Second-tier labour suppliers 	<ul style="list-style-type: none"> • Global brands • Businesses • Multinational enterprises (MNEs) • Multinational corporations • Buyers • Customers of leading companies
<ul style="list-style-type: none"> • Subcontracted migrant workers 		<ul style="list-style-type: none"> • Subcontractors 		

Given this multitude of terminologies, care was taken when reaching out to stakeholders and during interviews to highlight that the focus of the study was procurement, with the primary actors of interest being those business enterprises engaging the services of labour recruiters in order to employ migrant workers.

2.2. FAIR AND ETHICAL PROCUREMENT IN PRACTICE

In practice, procurement practices are a product of the environment in which they take place. Although the literature on the topic is relatively scarce, an increasing number of researchers have started to discuss the idea of **fair and ethical procurement**, referring to the mainstreaming of fair and ethical recruitment principles into the procurement process, and identifying and addressing the factors that pose challenges to companies in doing so.

Procurement can be influenced by several factors, including economic and technological as well as legislative and social factors (Alder and Gooch, 2013). Villena and Gioia (2020) also highlight the importance of media pressure in driving reform in procurement practices. Throughout the years, an increasing number of companies have been scrutinized by the media regarding suspected human rights violations in company supply chains. Perhaps one of the most recent and pressing examples is the spotlight on the environment for migrant construction workers leading up to the FIFA World Cup in Qatar in 2022. As global news reports emerged reporting the deaths of over 6,500 migrant workers,⁹ the focus of companies, international organizations, various NGOs and other actors was determinedly turned towards the World Cup and the corresponding labour environment in Qatar. At the same time, research by for instance Amnesty International and cooperation with organizations such as the ILO increased in order to focus on international labour standards.¹⁰ This attention arguably led to various labour policy reforms.

Despite the increased attention on fair and ethical recruitment issues, including in procurement processes, labour exploitation and other human rights violations in large supply chains are still common in practice. The reasons for these occurrences vary. For instance, in line with the comments of Villena and Gioia (2020) on external factors, Villena (2019) notes that companies, by nature, prioritize the bottom line – seeking to minimize cost and maximize the quality and delivery speed of products, which may result in suppliers requiring excessive overtime from workers in order to meet the demands of their buyer. This is a typical competition and market-driven strategy. While the supplier is thus responding to the buyer's needs, the practical implications of these demands can also lead the supplier to violate the very same buyer's code of conduct in area of labour rights (Villena, 2019). Responsible businesses, on the other hand, incorporate social and environmental considerations into their processes and practices as they seek to minimize cost and maximize efficiency and quality. However, this is often easier said than done.

Smaller suppliers within large supply chains, for example, are often located in countries where labour regulations are either less well reflected in legal frameworks, or not well implemented and enforced. This can be further exacerbated when the details of suppliers located further down the supply chain are either not well known or not known at all. Some large buying companies may be unaware of the details and practices of their lower-tier suppliers, such as names and addresses. Villena and Gioia (2020), for example, found that all lower-tier suppliers in their study provided little information to the public. Such unknown suppliers receive little attention and pressure from other stakeholders such as the media (Villena, 2019). Section 4 further explores the main challenges and successes experienced by companies.

⁹ For example, see www.theguardian.com/global-development/2021/feb/23/revealed-migrant-worker-deaths-qatar-fifa-world-cup-2022.

¹⁰ For example, see www.amnesty.org/en/latest/campaigns/2019/02/reality-check-migrant-workers-rights-with-two-years-to-qatar-2022-world-cup/.



3. METHODOLOGY

This study is based on a qualitative research design using selected case studies. As further elaborated in this section, primary data were collected through online semi-structured interviews with key informants (n = 13), while secondary data were collected through desk review of relevant academic and grey literature (Section 3.1). The literature review was conducted to provide inputs for each of the study objectives and to aid in the identification of potential study participants and case studies. Academic publications were consulted, as well as different kinds of grey literature including research reports and policy briefs by international and civil society organizations, press releases by government agencies, and news articles. From the interviews, three case studies were identified that could provide illustrative examples showing how different stakeholders engage in the topic of procurement (Section 3.2), which were subsequently developed using the interview data and supplementary desk-based analysis. The preliminary findings of the study were presented at a multi-stakeholder validation meeting in December 2021 (Section 3.3). The final paragraphs of this section reflect on the limitations of the research approach (Section 3.4).

3.1. DATA COLLECTION

The data discussed in this report have primarily been gathered from key stakeholders, actors engaged in the topic of fair and ethical recruitment that were able to share their insights using a purposive sampling strategy. This exercise was conducted in conjunction with another forthcoming IOM CREST study: *Identifying Employment-Specific Risks Facing Migrant Workers in the Cleaning Services, Logistics, and Private Security Sectors from Asian Nations in the Context of the COVID-19 Pandemic* (Marchand et al., forthcoming). Participants were identified in a variety of ways and with the help of multiple gatekeepers. An initial desk review highlighted a number of relevant stakeholders. Across the researchers' personal networks, contacts approached by IOM focal points, participant lists of relevant webinars that took place during the initial phase of the research,¹¹ and snowball sampling from interview participants, approximately 100 individuals were contacted with an invitation to participate in the research. Tailored concept notes outlining the objectives of both studies, as well as data protection regulations, were provided along with the invitation to participate (Annex 1). Interview guides for different stakeholders were also developed (Annex 2).

Through this sampling strategy, a total of 24 individuals were interviewed between late August and late October 2021, representing a response rate of approximately 25 per cent. Slightly more than half (n = 13) of the interview respondents provided highly relevant insights to this study on procurement and have therefore been included in the analysis for this study.

Table 2: Breakdown of key informants by category and sex

Category	Sex		Total
	Female	Male	
Recruitment agency	0	3	3
Government official	1	1	2
NGO/Migrant advocacy group	1	1	2
Civil society organization	4	2	6
Total	6	7	13

All the interviews were fully transcribed, translated as required, coded, and analysed using ATLAS.ti. A coding structure was developed based on the study objectives (Annex 3). Pertinent documents and additional resources mentioned by interview participants were also consulted.

¹¹ (a) "Destination Destination Destination" – What Governments Can Do To Ensure Fair And Ethical Recruitment, IHRB, 7 July 2021; (b) 13th Annual Engaging Business Forum on Business and Human Rights, The Coca-Cola Company, 14–15 October 2021; (c) Fair Recruitment in Review – The Philippines to Taiwan: Falling Through the Cracks?, IHRB, 20 October 2021; (d) Promoting Fair and Ethical Recruitment in a Digital World, United Nations Network on Migration, 7 November 2021; and (e) Business and Human Rights – Responsible Recruitment, Ardea International, 17 November 2021.

3.2. IDENTIFYING CASE STUDIES

In order to highlight different aspects of relevance to the mainstreaming of fair and ethical recruitment principles into procurement practices, three case studies were selected: (a) KnowTheChain; (b) mega recruitment companies; and (c) VINCI. These cases were selected to highlight some of the main challenges and barriers, but also successes in mainstreaming fair and ethical recruitment principles in procurement practices that had emerged from the interviews and desk research (Section 4). A brief description of each case study and the rationale for its inclusion are presented below.



KnowTheChain

KnowTheChain (KtC) is a partnership of Humanity United, Business & Human Rights Resource Centre, Sustainalytics and Verité, and constitutes a resource for businesses and investors to understand and address forced labour risks within their global supply chains. This case study illustrates the multilevel nature of the recruitment and procurement process and captures the “top-down” approach, while pointing to the necessity of transparency and communication between stakeholders, which is in part hindered by language barriers. The study also touches upon the issue of reputation and leverage.



Mega Recruitment Companies

This case study emerged from the interviews and is an example of Saudi Arabia’s attempt to respond to critiques of the *kafala* system. The mega recruitment companies are formally the visa sponsors and direct employers of migrant workers. Mega recruitment companies are key actors in procurement, as they engage the services of recruitment agencies in countries of origin and can offer up to 100,000 visas. Yet the primary focus on mega recruitment companies to date has been on their role after a migrant worker arrives in the country. As such, this case study considers the opportunities and challenges posed by the introduction of mega recruitment companies in terms of the mainstreaming of fair and ethical recruitment into procurement practices.



VINCI/QDVC

VINCI/QDVC is a French company with large construction projects in Qatar. The 2022 FIFA World Cup has put a spotlight on the construction sector, and allegations of forced labour and other human rights abuses have dominated the headlines. VINCI employs a significant number of migrant workers and it has always maintained that it is committed to putting labour and human rights at the centre of its operations. This case study also emerged from the interviews, and while the company is a global brand under the nomenclature/actor typology outlined in Section 2, it also acts as a direct employer of migrant workers and engages the services of recruitment agencies to do so. The company has published and provided CSOs with extensive information on how they approach procurement and recruitment with human rights as a key guiding principle, thereby providing insights on good practices as well as operational challenges.

3.3. VALIDATION MEETING

A validation meeting was organized in late November 2021 to discuss preliminary findings and solicit additional input for this report. Ten of the 13 key informants attended the validation meeting together with 27 others. The validation meeting was also organized jointly with the IOM CREST study on “Identifying Employment-Specific Risks Facing Migrant Workers in the Cleaning Services, Logistics and Private Security Sectors from Asian Nations in the Context of the COVID-19 Pandemic.”

Table 3: Breakdown of validation meeting participants by category and sex

Category	Sex		Total
	Female	Male	
Migrant worker	0	1	1
Recruitment agency	1	5	6
Government official	1	1	2
NGO/Migrant advocacy group	2	2	4
Civil society organization	1	2	3
Academia	1	0	1
Industry representative	1	0	1
Research team	7	1	8
IOM staff	7	4	11
Total	21	16	37

3.4. LIMITATIONS

At the outset of the research, the envisaged approach involved the identification and detailed examination of the experiences of business enterprises operating in the procurement space. Business enterprises operating in the procurement space are defined as the direct employers of migrant workers and are typically the first- or second-tier suppliers of global brands. The initial concept was to look at the ways in which these enterprises integrate fair and ethical recruitment principles into their procurement practices, in order to identify the challenges and successes they have experienced, using a combination of interviews with, for example, the human resource staff, as well as desk-based research. The idea was to follow a top-down approach, meaning first identifying global brands with demonstrated supply chain management programmes that include the fair and ethical recruitment or responsible employment of migrant workers, and then identifying these brands’ first- or second-tier labour suppliers.

However, and consistent with the experiences reported by key informants later interviewed, challenges were encountered in engaging with the brands and identifying relevant business enterprises. This was compounded by the challenges of conducting research during the COVID-19 pandemic and the lack of “feet on the ground” to approach potential respondents in less formal ways in order to build the necessary trust needed to discuss what is ultimately an extremely sensitive issue. Accordingly, and in consultation with the team at IOM, the decision was made to amend the research strategy and, instead, to approach the research objectives by building on the valuable experiences, insights and observations of key informants actively engaged in the field and having a working knowledge of the topic.

Even with this refined approach, however, and despite the combined efforts of the research team and IOM CREST staff in the Philippines and Malaysia, the total number of interview participants is relatively low, indicating a response rate of only about 25 per cent for the combined procurement and sector-specific risk studies. Of these, only slightly more than half are highly relevant for this procurement study (n = 13). The researchers hoped that snowballing through the participating recruitment agencies would facilitate contacts with the business enterprises, particularly mega recruitment companies, but despite a couple of introductions, no positive responses were received.

Convenience, non-probability sampling also resulted in an overrepresentation of stakeholders from the Philippines being prominent. The IOM mission in the Philippines commissioned this project and their warm contacts with stakeholders in the country proved helpful. As the Philippines is primarily deploying migrant workers to Gulf Cooperation Council (GCC) countries like Saudi Arabia, a significant portion of the interview data revolves around the Philippines–Saudi Arabia migration corridor.

Owing to the low response rate, the information used for the case studies is also not directly sourced from the business enterprises. The studies are instead based on key informant interviews and publicly available data from company and civil society or non-governmental organizations’ webpages. While first-hand information on operational practices would have been preferable, the study is limited to presenting and analysing secondary data. Precisely because the findings of this study are based on a limited, non-representative sample and on secondary data, the research team and IOM do not attempt to put forward generalizable conclusions and advise readers to interpret carefully the results with these limitations in mind.



4.

CHALLENGES AND BARRIERS

TO THE INTEGRATION OF FAIR AND ETHICAL RECRUITMENT PRINCIPLES INTO PROCUREMENT PRACTICES

The United Nations Global Compact (UNGC), as well as organizations like the Business for Social Responsibility (BSR), Chartered Institute of Procurement and Supply (CIPS) and International Organization for Standardization (ISO) have published guidelines on supply chain sustainability and responsible procurement. However, there has not been a substantial focus on the procurement of labour recruiters' services. It is evident that the implementation of fair and ethical procurement practices could lead to various benefits for both workers as well as companies. Ensuring that the principles of fair and ethical recruitment are integrated into the procurement practices of companies across global supply chains can address various factors that lead to migrant workers ending up in situations of forced labour, such as the charging of recruitment fees, contract substitution and passport retention. Fair and ethical procurement, defined in Section 2.2 as the mainstreaming of fair and ethical recruitment principles into the procurement process, can also lead to better brand reputation while also improving general supply efficiency (Alder and Gooch, 2013). However, many companies continue to face practical challenges in implementing measures to address forced labour risks. This section reviews the main challenges and barriers to integrating fair and ethical recruitment principles into procurement practices, based on a review of the relevant literature and interview findings.

Before focusing on the recruitment industry, it is also important to acknowledge that many of the challenges faced by migrant workers that the mainstreaming of fair and ethical recruitment principles into procurement practices would address are driven by economic and political factors. Procurement practices are ultimately the product of how companies or organizations respond to external factors. Procurement practices are influenced by a range of issues, including economic and technological as well as legislative and social factors (Alder and Gooch, 2013). Increasingly, media pressure has also become a significant factor driving reform in procurement practices (Villena and Gioia, 2020). Ultimately, however, demand for cheap consumer goods and services, combined with the profit-seeking behaviour of companies, create an environment in which there is competition to provide workers at the lowest possible cost.

Since a core principle of fair and ethical recruitment implies the elimination of recruitment fees and related costs charged to workers (the “employer pays” principle), the costs of hiring workers increase. This cost-driven approach makes it difficult for an individual agency to move towards fair and ethical recruitment if their competitors do not. As one key informant stated:

“

So even when we do identify a recruitment agency that wants to do the right thing and wants to go ethical, it's very hard for them to find customers. And until it is competitive to be an ethical recruitment agency, there is no business case for it. Because the whole system collapses. If companies continue to rely on their trusted recruitment agencies that are not necessarily ethical and you have that one agency who's trying to do the right thing, there is only so many months they can last.

(Interview participant)

”

When this is combined with weak governance structures (ILO, 2017b), it can create perverse incentives; and without unity of purpose, a race to the bottom in terms of price can lead to a deterioration of the already precarious working conditions of migrant workers. Weak institutions further exacerbate the issue:

“

Many origin countries operate like a cartel in terms of their recruitment landscape. So why is it so difficult to get a recruitment licence in Indonesia, why is it so difficult to get a recruitment licence in other places? It's because of corruption, it's because of cartel behaviour. And this limits our ability to expand ethical recruitment into new jurisdictions.

(Interview participant)

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In addition, the work of recruitment agencies often gets more complicated because of regulations that are put in place to stop those that do not already work ethically:

“

When it comes to government, of course the law applies to everyone, right? So the problem is, all the requirements they impose on recruiters who are less than ethical also get imposed on us. So what does that mean? The more red tape, the more requirements there are, the slower the process gets. And who suffers when the process is very slow? The ones who comply, because I don't do shortcuts, I have to follow every rule. And then, here comes the next agency, who will say to the employer, oh, we can do that half the time because I will find a shortcut, let's contract substitution, put 500 but pay only 300. If ethical recruitment is not incentivized, you lose market share and applicants end up with less ethical recruiters, and they are forced to pay, forced to debt bondage, forced labour because they want to get deployed immediately. Full support from government, and it's in the rules already that ethical recruitment companies must be incentivized, but it's not happening.

(Interview participant)

”

Without collaboration and cooperation between relevant stakeholders, including countries of origin and destination, companies across the global supply chain, recruitment agencies, international organizations, trade unions, employer associations and migrant workers themselves, mainstreaming of fair and ethical recruitment principles into procurement will remain a challenge. However, there are also a number of features of the recruitment industry itself that present further challenges.

As alluded to in Section 2, there are a number of features of the recruitment industry that, while essential to its functioning, also increase the risk of migrant workers ending up in situations of forced labour and which point to the importance of mainstreaming the principles of fair and ethical recruitment into procurement practices. The first is **that the recruitment system is often multilayered**, involving actors working within and across international borders. The different layers of the recruitment system are both essential to its functioning, connecting employers in countries of destination with pools of workers in countries of origin, but also contribute to its challenges, since each layer implies additional costs that have implications for profit margins. Given the challenges for migrant workers in terms of understanding how the system works and who is involved, these costs often end up being charged to migrant workers, which can ultimately increase their vulnerability to forced labour.

Related to this, the multilayered nature of the recruitment industry poses governance challenges, because power is distributed. A recruitment agency will generally provide its services to multiple companies, which in turn may be supplying workers or services on behalf of several other companies. As well as increasing the challenges of monitoring the recruitment process effectively, this also alters the balance of power in terms of the ability of individual companies to lobby for and implement broader reforms in procurement processes. The complexity of global supply chains can furthermore make it harder to ensure that the costs to migrant workers are not simply relocated to less visible parts of the chain:

“

It does get harder when you go further down the supply chains. So companies might have this policy and say, 'Yeah okay, we put this to our suppliers', and the suppliers say, 'Yeah, we're also using this'. But then the more complex the supply chain is, the harder it gets to monitor.

(Interview participant)

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Cascading refers to the practice of transferring principles down a supply chain (Villena, 2019). It is often theorized that global brands can exert influence over their suppliers, which in turn ask the same of their own suppliers. However, despite the best intentions of many global brands, the practice of cascading is often not enforced and success remains limited in practice (Villena, 2019; Wilhelm and Villena, 2021). This may be a result of a broader set of sustainability standards that big brands seek to guarantee within their supply chains, in line with overall commitments to sustainability, sometimes referred to as the 3Ps, referring to people, planet and profit. Villena and Gioia (2020) however note that first-tier suppliers often do not request sustainability practices (including fair and ethical procurement) from their own suppliers, possibly because they are struggling with sustainability issues themselves, thereby hindering the cascading process. Villena and Gioia (2020), for example, identify a general lack of training and incentives for procurement officers within supply chains. For their study, the authors interviewed 52 procurement employees within supply chains, and reported that all such employees stated that they needed more training to properly pursue supplier sustainability, such as fair and ethical procurement on behalf of the company. Moreover, according to the authors, cost saving remained the top priority of many companies, as were quality and delivery improvements of products, while social concerns were generally absent.

Another challenge with cascading is that “new” procurement practices also pose new demands in supplier management (Wilhelm and Villena, 2021). Ensuring that fair and ethical recruitment practices are mainstreamed into procurement practices creates a requirement for first-tier suppliers to develop technical and relational capabilities in order to monitor second-tier suppliers, while simultaneously reforming their own practices. Such changes may be hard to realize, especially when considering that it is likely that suppliers deal with a lack of resources or expertise, often making smaller suppliers the least equipped to implement such requirements (Villena, 2019). Furthermore, Villena and Gioia (2020) found little evidence of communication between companies and their suppliers. Thus, while many global brands and some first-tier suppliers have expressed their commitment to implementing fair and

ethical recruitment practices throughout their supply chains, the act of cascading these principles down supply chains is not straightforward. This is further compounded because companies further down the supply chain provide their services to multiple companies, making it more challenging for companies further up the supply chain to exert leverage when their business represents only a small proportion of the overall company's portfolio:

“

Very often even a large company is only responsible for a small amount of the output at any given supplier, and therefore your leverage over that supplier is dramatically reduced. We find that even quite large companies have had a supplier turn around and say, 'No we're not going to do that, you're [only a small part] of our business and none of the others want this, so why would we do ethical recruitment and charge more? Or are you prepared to pay for the recruitment of every member of staff at our facility? Thank you very much if you are, but you're only going to be buying five per cent. Do you think that's worth it?

(Interview participant)

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The challenge of cascading the principles of fair and ethical recruitment down global supply chains, including through fair and ethical procurement, is further explored in case study 1.

Another systemic challenge relates to the **closed nature of the recruitment market**. Long-standing relationships between recruitment agencies and companies increase the costs for new actors wishing to enter the market, especially those wishing to challenge the status quo and espouse an ethical approach to recruitment:

“

One of the biggest challenges of an ethical recruitment agency is that the recruitment industry is not an open market. It does not have fair competition and there is a variety of reasons for it. But one of the biggest reasons is that you have long-standing existing relationships that are essentially built on a model of slavery. So in other words you have a box of employers that are accustomed to working with a recruiter because that recruiter will provide workers and that employer does not need to pay for them.

(Interview participant)

”

For many recruitment agencies, a key challenge relates **to building the business case for fair and ethical recruitment that challenges the status quo**. Convincing companies to pay for a service that, until now, has been free of charge can be challenging, particularly given that implementing fair and ethical recruitment is generally accompanied by bureaucratic procedures that inevitably imply additional costs for compliant recruiters. Particularly in countries where recruitment fees may be limited by law, but are not prohibited, this can make it harder for ethical recruiters to survive alongside companies that do charge recruitment fees to migrant workers, especially since the status quo has long been a profitable endeavour for many actors. Related to this, some respondents also reported that migrant workers have expressed suspicion of recruitment agencies offering free services. As one participant explained:

“

I think what makes ethical recruitment hard is you're swimming upstream in literally every aspect of your business, because you are trying to do something that's never really been sustainably done before. So to give you a concrete example of the Fair Hiring Foundation: they were, to my knowledge, the first employment agency that was able to actually transform the labour market in Hong Kong through their ethical practices. But when they started, people were laughing them out of the room because they were posing a cost model that had never been done before.

(Interview participant)

”

Another challenge that several recruitment agencies highlighted relates to the exposure that being an ethical recruiter can entail, since they open themselves up to external scrutiny. While most acts of recruitment go without incident, a disgruntled worker can create challenges for the recruitment agency, which, particularly where unfounded, may act as a disincentive to other agencies adopting fair and ethical recruitment practices. For example, one agency explained that:

“

It's like a blackmail thing. You have to do what the workers are requesting, otherwise their family will complain at POEA, and your licence will be suspended, or you can be cancelled...even if later on it is found out that you are not at fault, you have already spent time, you have spent money, you have...too much trouble.

(Interview participant)

”

The fear of negative media attention and reputational damage poses a clear challenge to promoting the necessary transparency in global supply chains, including procurement practices, to tackle the problems that lead to forced labour. However, media attention, and the impact of focusing events, can also lead to positive policy changes, as further elaborated in case studies 2 and 3.

New technological developments, such as using apps to rate recruitment agencies, could be a positive way to enhance workers' voices and increase transparency in global supply chains, while also supporting the image of companies seeking to act ethically. Such approaches may also help to support fair and ethical recruitment agencies to be more visible and get more customers. They could also be used to inform companies seeking to procure the services of recruitment agencies. However, one must also be careful. Apps and social media also allow for more possibilities to scam vulnerable migrants or profit off their need for support:

“

There is a danger however with apps that it goes the other way and companies just post a job and then it's down to the worker to apply and in the end, they might be given a job, but they have to find their own way navigating the bureaucracy. I don't doubt that then others will jump in and offer paid-for services to help you navigate that bureaucracy, but you still end up paying for it all yourself rather than the company paying, even if the company subsequently reimburses you. So there is a real danger, I think. that that could be another development of this sort of app world. That we'll see this Uber gigging app for recruitment agencies and that sort of thing. And in Europe there are tons of examples where things are posted on job sites and apps and Facebook and other social media, and it's all very well done. They cut and paste logos from companies and the address and all the headers and everything that you need, and you get a contract, and it all looks totally legit. Here in England, several farmers have told me they have workers turning up expecting a job and they've paid money and they just turn up with their suitcases and the farmer of course has to say it has nothing to do with us whatsoever. You've just been scammed.

(Interview participant)

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In reviewing common challenges to addressing fair and ethical recruitment principles in procurement practices, the discussion often reverts to measures aimed at recruitment agencies. However, stepping back and looking at what companies can do to create incentives to fair and ethical recruitment through, for instance, mainstreaming these principles into their procurement practices, may be one way of contributing towards realizing fair and ethical recruitment in practice, with potential positive impacts on instances of forced labour around the world. Yet there is need for more research to understand how companies are starting to address fair and ethical recruitment in their procurement processes. Accordingly, Section 5 presents three exploratory case studies illuminating some experiences of mainstreaming fair and ethical recruitment into procurement processes that can serve as the basis for further research and discussion.



5. MAINSTREAMING FAIR AND ETHICAL RECRUITMENT INTO PROCUREMENT PRACTICES: CASE STUDIES

In order to explore the topic of fair and ethical procurement further, three illustrative case studies were identified. The case studies emerged from the key informant interviews and desk research as examples that could highlight some of the systemic barriers to mainstreaming fair and ethical recruitment into procurement processes, but also help to point towards potential practices that may be further explored in the future. As mentioned in Section 3, the three case studies were selected to highlight different aspects of relevance to the mainstreaming of fair and ethical recruitment principles into procurement practices. More specifically, these cases were selected to underscore some of the main challenges and barriers, but also successes in mainstreaming fair and ethical recruitment principles in procurement practices, that had emerged from the interviews and desk research.

The first case examines an initiative developed in partnership between several NGOs, KnowTheChain, which is a monitoring platform that aims to collect information on business practices including procurement and recruitment strategies in relation to the UNGPs. The second case examines a new actor in the recruitment landscape, the mega recruitment companies, which procure the services of recruitment agencies in countries of origin. They emerged in Saudi Arabia in response to critiques regarding the *kafala* system just under a decade ago and seek to promote fair and ethical recruitment. The final case examines the case of VINCI, or QDVC as it is commonly known as in Qatar, a French concessions, construction and energy company that has been actively seeking to implement fair and ethical recruitment principles into its recruitment and procurement operations.



5.1. CASE STUDY 1: KNOWTHECHAIN¹²



KnowTheChain (KtC) is a partnership of Humanity United, Business & Human Rights Resource Centre, Sustainalytics and Verité. In 2020, KtC assessed the efforts of the world's largest companies (n = 49) in the electronics sector to identify, address and remedy forced labour in their supply chains. Companies' policies and processes were assessed against seven themes: (a) Commitment and Governance, (b) Traceability and Risk Assessment, (c) Purchasing Practices, (d) Recruitment, (e) Worker Voice, (f) Monitoring and (g) Remedy. These themes are based on the United Nations Guiding Principles on Business and Human Rights. The indicators applied to assess these themes address three key areas: policy commitment, due diligence and remedy (KnowTheChain, 2020). The benchmark study provides both good practice examples as well as recommendations, while highlighting forced labour risks in the electronics sector. The study also emphasizes changes in company practices over time and focuses on how companies may or may not address forced labour risks in the lower tiers of their supply chains. This study therefore proves useful as a broadly oriented case study in order to explore forced labour and company practices in the sector, while highlighting remaining challenges (ibid.).

Why does it matter? Forced labour in the electronics sector

The ICT and electronics sector is comprised of powerful companies. The largest 49 companies in the electronics sector have combined profits of almost one trillion United States dollars (ibid.). Many companies in the sector have already taken steps to improve respect for human rights in their supply chains, including by committing to become members of the Responsible Business Alliance (RBA). Of the 49 largest electronic companies, 32 are members of RBA, and generally speaking, member companies perform better in the KtC 2020 benchmark.

The companies' complex supply chains usually involve various stakeholders and are comprised of multiple subsectors, addressing consumer, business and industrial market segments (McFalls, 2016). Accordingly, the electronics sector is characterized by high levels of outsourcing, which means that many parts of the supply chains are based in countries that are at higher risk of forced labour.¹³ Malaysia, for instance, is a major destination for migrant workers. It is a common sourcing country for many large electronics companies, but it has also been identified as one with a high risk of forced labour (KnowTheChain, 2020.). As highlighted in Section 2, emerging countries generally tend to have labour-intensive activities, and competition between companies often places constraints on already vulnerable working conditions in supply chains. This is particularly the case for lower levels of the chain, potentially leading to increased human rights violations and modern slavery. In the sector, most reported violations relate to the use of non-standard forms of employment (ILO, 2017b).¹⁴ Other violations in the sector present with similar characteristics to those of forced labour and human rights violations in other sectors, and include low wages, excessive overtime,

¹² This case study synthesizes relevant highlights of the KtC 2020 benchmark study as they relate to the topic of procurement. Interested readers are encouraged to review the full document for more information.

¹³ For instance, outsourcing to low-wage jurisdictions can have implications for working conditions.

¹⁴ "Non-standard forms of employment" is an umbrella term for different employment arrangements that deviate from standard employment. They include temporary employment; part-time and on-call work; temporary agency work; and other multiparty employment relationships, as well as disguised employment and dependent self-employment (ILO, n.d.).

safety violations and violations of rights at work. An ILO report found that a combination of these factors often occurs in practice, creating a vicious cycle for the worker (McFalls, 2016). The recent outbreak of COVID-19 has furthermore exacerbated the poor conditions of many workers in supply chains. For example, already vulnerable migrant workers are often laid off first (KnowTheChain, 2020).

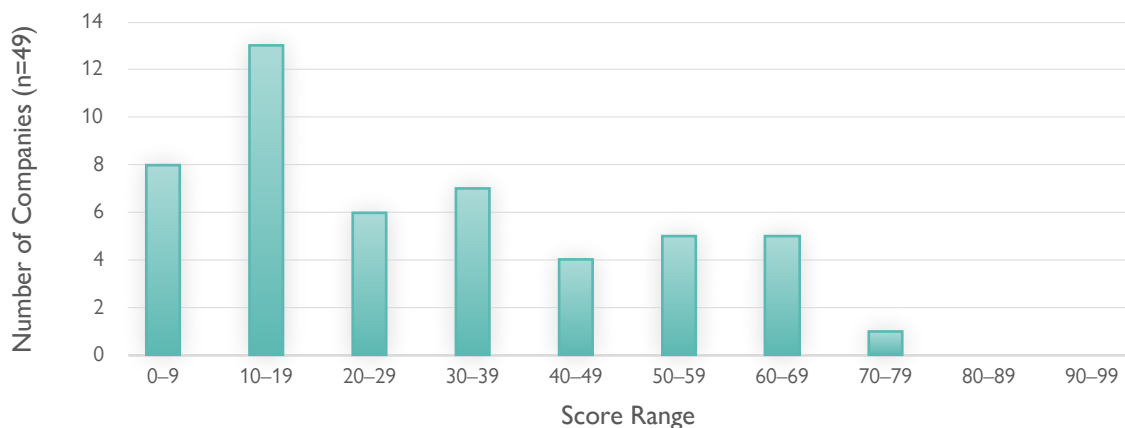
Key Findings

While the 2020 benchmarking exercise reported improvements when compared with a similar exercise conducted in 2018, there remains significant room for improvement. As illustrated in Figure 2, while the highest-scoring companies scored 70 out of a possible 100 points, performing significantly above the average of the 49 assessed companies (30/100), the majority (76%) scored less than 50 out of 100.

There are, however, several positive findings in the benchmark study. Almost all ($n = 47$) companies disclose a commitment to addressing forced labour and most of them ($n = 45$) disclose a supplier code of conduct prohibiting forced labour. Three quarters of the benchmarked companies now disclose a no-fee policy, a 15 per cent increase since 2018, highlighting that the no-fee principle is gradually being diffused throughout the sector (KnowTheChain, 2020). Among the top-performing companies, the highest-scoring thematic area was “Recruitment”, which means that these companies all ensure and disclose repayment of fees to workers, and provide details of how they support fair and ethical recruitment in their supply chains (ibid.).

In other areas, notable steps have been taken. Since 2018 for instance, 10 additional companies have disclosed extremely valuable information in the theme Commitment and Governance, such as the number of workers interviewed during supplier monitoring. In the theme Traceability and Risk Assessment, three more companies now publish first-tier supplier lists, which is of great importance for supply chain monitoring, and double the number of companies, from five to 10, now disclose data on their supply chain workforce, such as the number of migrant workers (ibid.).

Figure 2. Score distribution in KnowTheChain electronics sector benchmark study, 2020



Source: KnowTheChain, 2020.

However, at the same time, the KtC study also highlighted a number of key challenges, particularly with respect to translating policy into practice. This is particularly relevant given the interconnected nature of the industry: the top five companies have business relationships with 34 of the remaining 44 companies. While in an ideal world labour violations would be completely eliminated, one way of ensuring that companies are held to account with respect to their fair and ethical recruitment commitments is by ensuring that adequate complaints and redress mechanisms exist for workers, including migrant workers. Despite this, the lowest-scoring thematic area was Worker Voice. In terms of supporting freedom of association and bargaining, none of the 49 companies scored any points in this area.

The second-lowest scoring area is also of significance to procurement: Purchasing Practices. Only two companies disclose multiple data points regarding their purchasing practices. In terms of promoting transparency in labour supply chains, which is critical to adequate monitoring, few companies disclose whether they are adopting fair and ethical procurement in the first tier of their supply chain or provide details of their suppliers. Fewer than one third, or 14 out of 49 of companies, disclosed information on their first-tier suppliers. Out of those 14 companies, only six disclosed supplier lists with both names and addresses. Furthermore, while more than half (59%) of the companies disclose a supplier selection process, only three companies actually provide information on how such a process works in practice by disclosing the outcomes. In line with the literature review findings, therefore, procurement policies are generally still underdeveloped. More specifically, the lack of transparency in the procurement process and the multitude of actors involved in the supply chain obscures responsibility and accountability, which in turn could result in the proliferation of exploitative practices.

The way forward

Over time, there has been an increased focus on mainstreaming the principles of fair and ethical recruitment in company supply chains. Many companies, including global brands such as Hewlett Packard and Apple, have established codes of conduct relating to fair and ethical recruitment. However, despite these positive developments, ensuring that these practices are cascaded throughout the supply chain continues to pose a challenge for many companies. This is perhaps not surprising, as the literature has already reported great challenges with the practice of cascading labour standards further down supply chains. While reasons for such cascading challenges may differ and should be the subject of further research, it is remarkable that only a few companies in the study actually disclose the action they take to address forced labour risks in the lower levels of their supply chain.

The KtC 2020 benchmark study illustrates some of the key challenges that companies in the electronics sector face in mainstreaming fair and ethical recruitment principles in their supply chains, and cements the relevance of focusing on mainstreaming fair and ethical recruitment principles into procurement practices (KnowTheChain, 2020). The results of both the literature review and the KtC 2020 benchmark study make it clear that the complexity and the composition of many global supply chains present risks for workers. As risks of forced labour are prevalent, transparency regarding supplier data remains one of the key recommendations emerging from the KtC study. It therefore points to the importance of companies taking more proactive efforts to enhance their due diligence measures by mapping their

recruitment processes and identifying the different actors involved. Companies should also be particularly mindful when it comes to the selection of suppliers and carefully assess associated risks prior to contract awarding.

Multi-stakeholder cooperation is also important in furthering the goal of mainstreaming fair and ethical recruitment throughout company supply chains. Through transparency and information sharing, companies can increasingly identify unauthorized subcontracting that may lead to early notice of violations in a company's supply chain. Such transparency can furthermore build trust not only between companies and smaller suppliers, but also between companies and workers themselves (ibid.). Companies can leverage and use information from the workers and from multi-stakeholder initiatives to minimize risks and promote fair and ethical procurement practices.



5.2. CASE STUDY 2: MEGA RECRUITMENT COMPANIES

In 2013, the Government of Saudi Arabia, represented by the Ministry of Labour, issued a decree that led to the introduction of a new actor in the recruitment industry: the “Mega Recruitment Company”. The decree (Royal Decree No. 51 of 2013) established a licensing system for “Mega Recruitment Companies” through which working opportunities especially for low-skilled migrants could be facilitated by a limited number of licensed large recruitment firms under the close surveillance of the government (Wickramasekara, 2015; Thiollet, 2021). In addition, and parallel to the decree issuance, the government ran check practices on the statuses of foreign employees of small businesses, resulting in the closure of some 200,000 firms by 2014 (Battistella, 2014; Thiollet, 2021).

Licensing mega recruitment companies was part of immigration reform procedures that aimed at regulating informal recruitment practices, which resulted in a shift in the migration policies towards stronger structural authority of the State upon businesses and recruitment regulations in Saudi Arabia (Thiollet, 2021). With the authorization to issue up to 100,000 work visas, mega recruitment companies have become key actors in the recruitment of foreign workers (Ruhunage, 2014).

According to a desk review conducted by Ruhunage (2014), mega recruitment companies are responsible for protecting the rights of migrant workers and for improving their working and living conditions through:

- Completing the regulatory procedures for obtaining the residence permits or *iqama* of foreign workers arriving in Saudi Arabia.
- Bearing responsibility for the worker, from the moment the foreign worker arrives in the Kingdom.
- Orienting workers on Saudi rules and regulations and training them.
- Guaranteeing foreign workers’ entire financial benefits and rights until their return to their country of origin.
- Guaranteeing workers’ access and contact with their families and deploying agencies.
- Ensuring the workers’ monthly salaries through the opening of bank accounts.
- Deploying workers in accordance with their contracts duly attested by the Saudi Ministry of Labour to protect the rights of the worker, employer and recruitment agency.
- Providing workers with accommodation until they are fetched by their employers.
- Providing insurance coverage to the workers.
- Handling worker grievances.
- Assessing working conditions of domestic workers, who are to be produced periodically to the company by the employer.

(All from Ruhunage, 2014:19).

However, it is also vital to recognize that mega recruitment companies procure the services of recruitment agencies in countries of origin, such as the Philippines. It is also therefore of relevance to examine the ways in which such mega recruitment companies procure the services of the recruitment agencies that hire migrant workers on their behalf, to ensure that the recruitment process that takes place prior to arrival in the country of destination adheres to fair and ethical recruitment principles.

The activities and practices of mega recruitment companies have been described as promising, as the requirement to pay the salaries of migrant workers through bank accounts has resulted in a decrease in the number of complaints filed by migrant workers concerning wages (Ruhunage, 2014). The establishment of mega recruitment companies in Saudi Arabia is furthermore promising to progressively limit informal recruitment practices of individual sponsors (Tayah, 2016), and positively impact the current *kafala* system, a sponsorship system that regulates the relationship between the employer and the migrant worker, which is believed by many to be unfair for migrant workers (Ruhunage, 2014).

These sentiments were also shared by interview respondents, who generally highlighted many positive aspects of the formation of mega recruitment companies, while also recognizing some limitations. Among the advantages of mega recruitment companies identified by respondents was the facilitation of migrant workers' mobility in terms of employment. Unlike the *kafala* system, migrant workers who lose their jobs can be relocated to another workplace by the mega recruitment company without first having to return to their country of origin. Another advantage was that a few measures were put in place with the goal of protection, particularly for female migrant workers who are, for example, provided with accommodation, cell phones, shared kitchens and laundry facilities. Domestic workers are also often sent to work in pairs. Moreover, some mega recruitment companies have active complaints mechanisms in place to allow workers to raise challenges experienced in their work. In some cases, families have been blacklisted owing to repeated reports of abuse.

Another key feature of mega recruitment companies identified by interview respondents was the reduction of the number of smaller actors operating in the recruitment market. Mega recruitment companies are responsible for almost all aspects related to migrant worker recruitment. They procure the services of recruitment agencies in countries of origin, facilitate visas and transportation, provide accommodation, and pay the salaries of migrant workers. They furthermore monitor their welfare and are responsible for handling complaints by or against their workers. For example, in cases where the performance of a migrant worker is not satisfactory, the employer will complain to the mega recruitment company, which in turn should address the issue. Similarly, in cases where the employer is mistreating the migrant worker, the latter will report the incident to the mega recruitment company, which in turn should solve the problem with the employer. The role of the mega recruitment company can therefore minimize the number of actors involved in the recruitment and employment of migrant workers, with the potential to reduce exploitation and the violation of workers' rights.

Nevertheless, interview respondents also highlighted some potential challenges. The fact that mega recruitment companies are allowed to facilitate as many as 100,000 visas per year can lead to challenges in terms of the capacity of the companies to adequately monitor their workers and ensure the protection of their rights and welfare. In addition, not all mega recruitment companies share the same values and

strictness in their application of migrant workers' protection and welfare procedures. Given the paucity of research on mega recruitment companies, and their relevance to the mainstreaming of fair and ethical recruitment into procurement practices, a mapping exercise was conducted to establish the extent to which fair and ethical recruitment was being taken into consideration in the procurement policies. The results of this mapping, presented below, point to the necessity for further research on the topic.

Mapping Mega Recruitment Companies

Although the exact number of mega recruitment companies in operation is not clear, a list of 10 authorized mega recruitment companies was issued by the Philippines Overseas Employment Agency (POEA) in 2012. The list included nine companies based in Saudi Arabia and one in the United Arab Emirates that were authorized to recruit workers in the Philippines. In 2014, the ILO reported that 16 large companies have been enrolled under the mega recruitment company concept. One interview participant stated that there were currently around 40 mega recruitment companies in operation. To understand how mega recruitment companies work with the principles of fair and ethical recruitment in their procurement practices, a mapping exercise was conducted based on the list provided by the POEA, on the assumption that these were the most well-established companies. The list included 10 of the first established mega recruitment companies, which includes nine companies in Saudi Arabia and one in the United Arab Emirates, these companies being: MEHAN–Al Jazeera Support Services Company, Al Mahara Oil Field and Recruitment Services, Al Mutahidah Company, First National Company, International Recruitment Company, Manpower Services Company, Mawarid Company, National Recruitment Company, The Saudi Company for Manpower Solutions and SAWAEED Employment Company. The last-named company located in the United Arab Emirates was included as it adopts a legal framework that is similar to that of the Saudi mega recruitment companies. The mapping exercise collected information from the companies' websites, including information only available in Arabic, on their fair and ethical recruitment practices, their criteria for identifying and selecting partners, and information on whether their work had received any media attention.

Availability of Information on Fair and Ethical Procurement Policies

Most of the reviewed companies publish limited information on their websites regarding their procurement practices. Where procurement is mentioned, it is not often clear how this is implemented in practice. For example, on their website,¹⁵ MEHAN indicates that it deals with over 100 recruiting partners in more than 22 countries, yet the company's website lacks information on the selection criteria and procedures of recruitment. Similarly, Manpower Services Company refers to their practices as driven by their code of ethics for employees and suppliers, however, no further information is available on their code or practical recruitment procedures. Another example is the National Recruitment Company; although the company declares that it embraces the "new recruitment system" under the Ministry of Labour, and states that they aim at overcoming irregular labour practices in order to make the Saudi labour market a global pioneer, no clear policy is displayed on their website in this regard.

¹⁵ Available at <https://mehan.sa/index.php>.

The concept has also been transferred to other GCC States. In the United Arab Emirates, the SAWAEED company's website advertises that the company is: "licensed for bulk-hiring, training, and own an enormous labour accommodation facility" and that they "supply (their) workforce on contractual periods, making sure they are deployed properly in accordance with UAE labour law and international standards" (SAWAEED, 2021). In addition, the company states that its management system aligns with international standards: "SAWAEED has developed and adopted an Integrated Management System (IMS) approach to the Quality, Health, Safety and Environment (QHSE) management that is fully compliant with ISO 9001:2015, ISO 45001:2018 and ISO 14001:2015 international standards requirements, including all applicable international and local regulations and legislations requirements" (ibid.).

Identifying and Selecting Recruitment Agencies

Despite some positive signalling with respect to international labour standards, the mapping revealed a lack of information on how mega recruitment companies identify and select the recruitment agencies with which they work. However, in line with the Saudi government decree, registration in the country of origin is one of the criteria applied to recruitment agencies. Both Saudi Manpower Services Company and MEHAN–Al Jazeera Support Services Company have application forms for potential recruitment companies that require the company to report their name, licence number, city, country and contact details. This kind of regulation is particularly important as it is in line with the Saudi legislation that requires obtaining registration in order to guarantee that only registered companies can perform foreign worker recruitment. However, the system is not flawless.

Awards and Media Coverage for Mega Recruitment Company Practices

The mapping revealed the following highlights related to awards and media coverage of mega recruitment companies' work:

- In April 2018, SMASCO was awarded a Guinness World Record for organizing the largest house-cleaning lesson as training for 2,030 cleaning workers (*Guinness World Records*, 2018). In 2015, the company also won an award from Forbes Middle East, and the Company's CEO, Saad bin Nahar Albadah Almutairy, was granted special recognition for establishing Saudi Manpower Solutions to pioneer human rights and mediation in recruitment services in Saudi Arabia (*Khaleej Times*, 2015).
- First National Company displays that the company has been assessed and approved by Intertek for workplace conditions. This assessment evaluated the following areas: labour, wages and hours, health and safety, management system and environment (FNRCO, 2020).
- Manpower Service Company displays their ISO certificate, Middle East Best Workplaces 2020 (Esad, 2020).
- Zayed House for Islamic Culture honoured SAWAEED Company for its active sponsorship of the Covenant For Million Tolerant initiative. The initiative aims at enhancing "the value of tolerance as a lofty moral value in the United Arab Emirates society and enrich the culture of tolerance among all citizens and residents of the country" (SAWAEED, 2019). On their website they also list some awards, including the MEA Award for Recruitment, the International Award for providing labour services and the award for the Best Payroll Services Company for the year 2019 in the United Arab Emirates.

The Saudi Company for Manpower Solutions

While it would have been ideal to speak directly to these companies to gain further insight into their operations, this proved unfeasible. Accordingly, the example of the Saudi Company for Manpower Solutions (SMASCO) was selected, based on having the most publicly available information. SMASCO started providing services to the Saudi market in 2012. The company is licensed by the Saudi Ministry of Labour and describes itself as "the first Saudi company to provide innovative manpower services in the Kingdom of Saudi Arabia" (SMASCO, 2020). SMASCO promises to provide trained and specialized manpower solutions according to the needs of business and home sector clients, and to achieve customer satisfaction through improving the quality of services, the mechanism for obtaining services, and through improving the company's work environment by applying international standards. However, SMASCO does not publish its criteria for identifying possible partners. The website indicates only that SMASCO serves more than 3,000 companies of different sizes or types of activities. It cooperates with more than 375 recruitment agencies around the world in over 35 countries to search for qualified

workers needed by their clients. Further qualitative research is recommended in order to understand better the actual practices, steps and procedures through which mega recruitment companies perform regarding the application of fair and ethical recruitment requirements and their selection criteria for recruiters and partners.

Mega Recruitment Companies: A Topic for Future Research

Given the concerns of key stakeholders with respect to the adequate monitoring of mega recruitment companies, their role in procurement, and the power imbalance they introduce in terms of the ability of individual employers to demand certain standards, this study recommends that further research is commissioned to look specifically at the question of whether mega recruitment companies offer a promising model for promoting fair and ethical procurement, with a focus on gathering experiences and perspectives from the mega recruitment companies themselves, but also their clients (recruitment agencies and employers) and also, crucially, the migrants themselves.



5.3. CASE STUDY 3: VINCI



“

...Look here is VINCI, they are being the leaders in the space, in the Bangladesh–Qatar corridor, it's feasible. It requires resources, money, investment from senior level and board level as well, in companies. But it is feasible.

(Interview participant)

”

VINCI (or QDVC as it is commonly known as in Qatar) is a French concessions, construction and energy company founded in 1899 with operations in nearly 120 countries around the world. With a turnover of 40 billion euros (2015 estimate), VINCI has been working on infrastructure projects in Qatar since 2007 through QDVC, a shareholding company between Qatari Diar Real Estate Investment Company (51%) and VINCI *Construction Grands Projets* (49%). The large scale of its projects and limited availability of local workers have led the company to hire employees from a variety of countries. While approximately 50 nationalities are represented across VINCI's worksites, most migrant workers are from India, Bangladesh, Nepal and the Philippines.

In 2015, reports surfaced that the company was using forced labour to fulfil building contracts for the 2022 FIFA World Cup (Willsher, 2015). Sherpa, a Paris-based NGO, subsequently filed a lawsuit in France. The case was dismissed for lack of evidence in January 2018. Sherpa and six former Indian and Nepalese workers previously employed by VINCI filed a second complaint in late 2018 and a court ruling is still pending (Mind the Gap, 2020). VINCI has made public pronouncements and vehemently denied Sherpa's accusations (BHRRC, 2018b). The company emphasizes that it has taken concrete action to improve the living and working conditions of migrant workers and to fight against forced labour at every stage in the migration cycle. This applies to its own employees, temporary staff and subcontractor staff. In addition to integrating labour and human rights principles in its operations, VINCI has a whistleblowing platform,¹⁶ which can be used by all individuals involved in projects to confidentially report issues concerning human rights, the environment, business ethics or health and safety (VINCI, n.d.).

¹⁶ Available at www.vinci-integrity.com/.

With over 218,000 employees globally, VINCI/QDVC now prides itself in being a responsible employer, with “taking care about people” inherent in its corporate social responsibility (QDVC, n.d.). Its commitment to labour relations and human rights is enshrined in its Manifesto,¹⁷ Guide on Human Rights,¹⁸ Code of Ethics and Conduct,¹⁹ and its participation in The Global Deal.²⁰ It is also one of the members of the Leadership Group for Responsible Recruitment,²¹ which is a collaboration between top-performing companies and expert organizations to drive positive change in the way that migrant workers are recruited. In 2019, the Business & Human Rights Resource Centre (BHRRC)²² ranked VINCI, together with another company Laing O’Rourke,²³ first in its 50-company benchmark for its transparency regarding efforts to prevent risks relating to human rights in its operations in Qatar (VINCI, 2021). The companies were assessed according to the following risk areas: recruitment, payment and wages, freedom of movement, living conditions, health and safety, worker representation, and grievance mechanisms. Overall, VINCI is given recognition for “leading the way” in migrant worker human rights policy (BHRRC, 2019).

General strategy and principles

VINCI has a comprehensive labour and human rights codes of conduct developed through public–private partnerships/collaborations with different stakeholders. As stated in its *Guide on Human Rights*,²⁴ VINCI’s approach to labour and human rights is grounded on these international standards and conventions:

- ➔ Universal Declaration of Human Rights (UDHR);
- ➔ International Covenant on Civil and Political Rights (ICCPR);
- ➔ International Covenant on Economic, Social and Cultural Rights (ICESCR);
- ➔ Eight fundamental conventions of the ILO;
- ➔ Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises; and
- ➔ United Nations Guiding Principles (UNGPs).

¹⁷ Available at www.vinci.com/publi/manifeste/vinci-manifesto-en.pdf.

¹⁸ Available at www.vinci.com/publi/manifeste/vinci-guide_on_human_rights-en.pdf.

¹⁹ Available at [www.vinci.com/vinci.nsf/en/charte/\\$file/vinci-ethics.pdf](http://www.vinci.com/vinci.nsf/en/charte/$file/vinci-ethics.pdf).

²⁰ Available at www.theglobaldeal.com/.

²¹ Available at www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment.

²² Available at www.business-humanrights.org/en/.

²³ Available at <https://media.business-humanrights.org/media/documents/files/BHRRC-Shaky-Ground-Construction-Briefing-v1.1.pdf>.

²⁴ Available at www.vinci.com/publi/manifeste/vinci-guide_on_human_rights-en.pdf.

Based on these principles, VINCI has identified five areas in which its activities could have a significant impact on human rights: human rights practices in the supply chain, labour migration and recruitment practices, working conditions, living conditions, and local communities. These five areas cover the entire lifecycle of projects from the response to the call for tenders, the preparation of sites and construction to the commissioning and operating phases. VINCI has identified and published guidelines in each of the five areas outlining specific situations and the corresponding practices to be implemented.

As presented in its Duty of Diligence Plan (VINCI, 2019),²⁵ the company has set up robust processes to monitor recruitment agencies in countries of origin including Bangladesh, India and Nepal, to fight debt bondage, a major factor contributing to the vulnerability of migrant workers in Qatar. To monitor the process, VINCI staff have travelled to these countries on several occasions to verify agency compliance with rules, spread the information among applicants that recruitment is free, examine the actual working conditions offered and participate directly in recruitment interviews. In addition, various surveys have been carried out among workers to check that measures have been appropriately implemented and in particular to find out if any workers did ultimately pay fees to third parties, despite the efforts deployed. What these surveys have shown over the years is that the measures implemented by VINCI have resulted in a clear reduction of these risks.

In May 2018, VINCI has also partnered with the ILO to implement a pilot project aimed at developing a migration corridor between Qatar and Bangladesh with no recruitment fees for workers. The main components of the project were an initial audit performed in July 2018 by the NGO Verité, followed by a capacity-building programme for both recruitment and placement agencies in the countries of origin. The programme, which was delivered in 2018 and 2019, brings together VINCI/QDVC, recruitment and placement agencies in Bangladesh and Qatar, the ILO, Qatar's Ministry of Administrative Development, Labour, and Social Affairs (ADLSA), and the Fair Hiring Initiative.

The ILO (2021) recently published the results of an independent impact assessment that was conducted together with Tufts University and Associates for Community and Population Research to measure the socioeconomic impact of the pilot.²⁶ The pilot covered 142 workers from Bangladesh and the final report of the impact assessment indicated that the workers who were recruited after the pilot intervention reported paying no or lower recruitment fees compared with workers who were recruited before the intervention. In particular, the average cost of migration dropped by 92 per cent after the pilot engagement, in comparison with the average costs before the subcontractor adopted fair and ethical recruitment. In addition, the workers reported less concern regarding payment of debt, more control over their decision to migrate, and were more likely to learn about actual pay and hours before making the decision to migrate. More specifically, around 93 per cent of workers interviewed after the pilot reported not having any debt. Furthermore, the workers recruited after the pilot intervention had a better understanding of their pay and reported less tolerance for abuse from the employer or the clients of the employer where the workers were placed for work. Currently, the ILO Project Office for Qatar is implementing a similar pilot in the hospitality sector, based on the lessons learned during this pilot.

²⁵ Available at [www.vinci.com/vinci/presentations-dd.nsf/660553DA6C5C5DDFC12586A4002AB093/\\$file/vinci-2019_vigilance-planb.pdf](http://www.vinci.com/vinci/presentations-dd.nsf/660553DA6C5C5DDFC12586A4002AB093/$file/vinci-2019_vigilance-planb.pdf).

²⁶ Available at www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_820253.pdf.

VINCI/QDVC also participated in a study at the New York University Stern Center on the economic benefits of fair and ethical recruitment. Based on the quantitative and qualitative information provided by VINCI, the report, published in 2019,²⁷ concluded that the fair and ethical recruitment of migrant workers could be achieved at a cost of less than one per cent of the overall cost of the project, and that it contributed to other benefits such as enhanced retention, stronger loyalty to VINCI/QDVC and higher satisfaction rates among migrant workers (Ng et al., 2019). With this evidence-based approach, VINCI is able to successfully make and highlight the business case for fair and ethical recruitment. With the deliberate inclusion of fair and ethical recruitment costs into its operating expenses, VINCI effectively goes beyond legal compliance and makes fair and ethical recruitment integral to its business operations.

VINCI's labour procurement strategy in Qatar

VINCI adopts a two-pronged strategy when it comes to labour procurement. One is by hiring through recruitment agencies, and the other through labour suppliers and subcontractors. On paper, both procurement strategies employ the same principles guaranteeing the protection of labour and human rights. In particular, VINCI has an integrated mechanism to manage compliance with labour rights, safety and welfare among its agencies and subcontractors supplying workers. This mechanism applies during the shortlisting, tendering and subcontracting phases. The discussion below focuses on the role of VINCI as an “enterprise operating in procurement space”, or in other words, as a direct employer of migrant workers.

Table 4 collates information available on the VINCI²⁸ and QDVC²⁹ websites as well as the responses provided by VINCI to BHRRC's 2015³⁰ and 2018³¹ surveys on migrant worker rights in the construction sector. More specific details are unfortunately not available from these publicly accessible secondary sources, but all relevant information pertaining to procurement processes has been carefully consolidated and presented below.

²⁷ Available at https://media.business-humanrights.org/media/documents/files/documents/NYU_Qatar20SSP20Report_May29_v2.pdf.

²⁸ Available at www.vinci.com/vinci.nsf/en/index.htm.

²⁹ Available at <https://qdvc.com/>.

³⁰ Available at <https://old.business-humanrights.org/sites/default/files/documents/Vinci-Qatar-0615.pdf>.

³¹ Available at https://media.business-humanrights.org/media/documents/files/documents/QDVC-Response-Qatar-Oct-2018_1.pdf.

Table 4. Operational Procedures of VINCI related to Fair and Ethical Procurement

Procurement planning
<p>Policies and measures to be implemented throughout the procurement process are established to ensure that:</p> <ul style="list-style-type: none"> • One per cent of the company's market capitalization is earmarked for fair and ethical recruitment and procurement. • Recruitment process is free of charge for migrant workers (no-fees policy). • Contracts with agencies and adverts include a clear no-fees policy. • Workers are informed verbally and in writing of their employment terms and conditions and of their job-related safety and health risks, prior to deployment to Qatar, in a language they understand. • Workers are informed of their rights and responsibilities under the law prior to deployment. • Workers' passports and other identity documents are never retained. VINCI provides a locker or safety box for every worker to keep his or her personal documents and valuables.
Pre-selection assessment of recruitment agencies
<ul style="list-style-type: none"> • VINCI ensures that it only partners with licensed recruitment agencies and follows a three-step process as part of its due diligence: (1) telephone exchange with the recruitment agency for a preliminary assessment; (2) video conference between the agency and VINCI's head HR office to discuss formal requirements; and (3) assuming the agency passes the first two rounds, an inspection visit to validate the agency's legitimacy and operational features such as location, number of employees and track record.
Contract-awarding to recruitment agencies
<ul style="list-style-type: none"> • VINCI's Service Agreement with recruitment agencies strictly prohibits them from using anyone other than registered agents to source and preselect candidates. • If the agency meets VINCI's standards, the two parties draft and sign a service agreement that clearly states the fees and division of tasks, along with VINCI's requirements. • Where possible, VINCI representatives travel to conduct interviews personally and recruit potential workers to fill various project vacancies. • During these interviews, VINCI ensures that workers are aware that they should not be requested to pay any fees before or after their move to Qatar, as these are fully covered by VINCI.
Contract performance management
<ul style="list-style-type: none"> • Agencies and subcontractors are required to comply with all the provisions relating to human rights and working conditions in their contracts. • The management committee sets an audit schedule each year. If audits reveal significant or persistent shortfalls on the part of an agency, VINCI may terminate its contract and blacklist that agency. • To monitor the recruitment agencies' compliance with their service contract with VINCI, VINCI systematically interviews newly arrived employees to enquire whether they have paid fees, and follow-up interviews are conducted at a later stage to double-check the previous results. Records of the interviews are kept. • VINCI also asks about the recruitment process in their biannual CSR workers' survey. • Agency-specific action plans are also developed on a case-by-case basis to improve quality of service and safety for workers.

Source: Collated by authors from QDVC (n.d.), VINCI (n.d.) and BHRRC (2015, 2018a).

Operational challenges for VINCI

Providing information to BHRRC in July 2018,³² Vinci publicly disclosed that it had a total of 5,070 workers in Qatar, of whom 3,011 were employed directly by QDVC and its JV partners and 2,059 were employed by labour suppliers. The total number of workers employed by subcontractors on QDVC projects was 12,039. As outlined above, VINCI has an integrated mechanism to manage compliance with labour rights, safety and welfare when procuring the services of labour recruiters and “directly” hiring migrant workers.³³ As the numbers above suggest, however, the number of “direct” hires is relatively small compared with those employed by subcontractors.

While VINCI is making a serious effort in making human rights central to its business operations, adopting the same fair and ethical procurement and recruitment strategies for both direct and indirect hires remain a challenge. For instance, while VINCI requires subcontractors and other entities in its contracting chain in Qatar to comply with its policies and conducts regular labour rights audits, cascading labour and human rights policies beyond the first-tier subcontractors remains a challenge. VINCI/QDVC acknowledges the following challenges in ensuring subcontractor compliance beyond the first tier (BHRRC, 2018a):

- The employee turnover can be high among certain labour suppliers and subcontractors, which complicates VINCI's ability to make exhaustive checks and controls.
- Despite strong contractual clauses, it is difficult to obtain from the first-tier subcontractors close monitoring over their own supply chain on workers' welfare issues, as they are not always equipped to perform such tasks.
- For projects that are in a final delivery phase, tight time constraints make it difficult to exert leverage towards the end of a contract with a subcontractor, particularly when the client's priority is likely to be placed on the completion of the works.
- A recurring feature in the labour market has been the limited number of work visas for the main migrant worker nationalities that are available to subcontractors and labour providers to recruit sufficient number of workers. As an outcome, subcontractors may resort to lower-tier labour suppliers or employ workers under temporary business visas.

Despite best efforts, the complexity of the labour supply chain and the involvement of numerous actors in labour migration still proves to be a hefty structural barrier to mainstreaming fair and ethical recruitment and procurement.

³² Available at https://media.business-humanrights.org/media/documents/files/documents/QDVC-Response-Qatar-Oct-2018_1.pdf.

³³ Direct hiring usually means no involvement of any third party throughout the recruitment process. In the context of VINCI however, workers employed through recruitment agencies are referred to as “direct hires”.

VINCI also has a market capitalization of USD 51.5 billion and it is not difficult to see how it can allot up to one per cent of its project costs to fair and ethical recruitment and procurement. Construction is also a capital-intensive sector. The same cannot be said for other players in the labour migration space with limited financial resources and training competencies, and for other migrant labour sectors that are not dominated by big corporations. Not all sectors receive the same amount of media attention. When mainstreaming fair and ethical recruitment and procurement, context will remain an important consideration. That said, focusing events like the 2022 FIFA World Cup fittingly put the spotlight on migrant labour and human rights. It is hoped that this will lead to more and much-needed social innovation in the labour migration space.



6. CONCLUSION AND RECOMMENDATIONS

This paper has highlighted a number of common operational challenges that impact the way in which the principles of fair and ethical recruitment can be mainstreamed into procurement practices. The first of these, which also led to challenges in implementing the original research design foreseen for this study, relates to the political sensitivity of the topic and the general reluctance of many actors to engage in open discussion on the challenges that face companies in ensuring that human rights violations do not occur within their supply chains. The reputational and other damage that can be incurred by organizations engaging openly with fair and ethical recruitment issues can, in the worst case, deter them from engaging at all, and in less extreme cases, lead to them being reluctant to share information openly, such as lists of first-tier suppliers, which would improve transparency and support the cascading of fair and ethical recruitment principles throughout supply chains. Related to this, the need to develop a shared language represents one important means of furthering the necessary dialogue in this space.

However, there are also greater structural barriers that are inherent to the global economic system that incentivize the use of cheap labour, and with multiple companies, countries and potential migrant workers competing, a race to the bottom is somewhat of an inevitability. The exposure provided by events such as the FIFA World Cup in Qatar in 2022 have provided

the necessary momentum to push forward some localized policy changes. However, a lot of work remains, and there are still large information gaps in terms of the real experiences of companies in their adoption of fair and ethical recruitment principles in their supply chains. While the VINCI model has offered inspiration to others and is currently being piloted in further sectors, it should still be acknowledged that context matters and that what works for one country, company, or sector, is not necessarily transferrable to other contexts. Nevertheless, sharing good practices, as well as lessons learned through failed practices, will be key to moving forward in this space.

While the methodological limitations inherent to this study make it challenging to offer concrete recommendations, particularly from the perspective of business enterprises that seek to mainstream fair and ethical recruitment within their procurement practices, the study offers a few humble suggestions.



RECOMMENDATION 1

There are many actors working on the topic of fair and ethical recruitment. There are already several initiatives established to support multi-stakeholder engagement which, as highlighted in the report, can lead to positive policy developments. Accordingly, the study recommends that attention and resources be invested in supporting multi-stakeholder efforts like KnowTheChain.



RECOMMENDATION 2

Different stakeholders, including governments, international bodies, industry alliances and CSOs, should consider how to incentivize companies to openly share their experiences with implementing fair and ethical recruitment principles into their procurement practices, while remaining sensitive to the real reputational risks that companies face. This could encourage the sharing of lessons learned, best practices and challenges faced during implementation. The constellation of actors involved in these efforts may vary by sector and accordingly, stakeholder analysis can support a better understanding of how to achieve this goal in different sectors and in different national policy contexts.



RECOMMENDATION 3

There is a clear need to promote more evidence-based approaches to mainstreaming fair and ethical recruitment, for example, the use of clear and measurable indicators, monitoring and impact evaluations, and regular audits. As part of these efforts, it would be valuable to commission research to understand better the potential unintended effects of the “employer pays” model in terms of changing the composition of the recruitment industry in different contexts. In addition, it is proposed that further research is commissioned to look specifically at the question of whether mega recruitment companies offer a promising model for promoting fair and ethical procurement, with a focus on gathering experiences and perspectives from mega recruitment companies themselves, but also from their clients, including recruitment agencies and employers, and, crucially, the migrants themselves.



RECOMMENDATION 4

While the “employers pays” principle is slowly becoming the norm in recruitment among big brands, much remains to be done in terms of cascading this down supply chains. While companies such as VINCI are able to absorb costs into their project budgets, this is more challenging for labour-intensive sectors. Better understanding the practices and experiences of pioneer companies operating at lower levels of the supply chain will help in the development of clear tools, guidelines and training for companies facing capital and capacity constraints.



RECOMMENDATION 5

Explore the potential of new technologies (e.g. blockchain, smart contracts, whistleblowing platforms and recruitment apps), with due consideration to their potential flaws, to increase transparency and access to grievance mechanisms in global supply chains and to support information dissemination on fair and ethical recruitment, particularly to address the suspicions of some migrant workers who are used to recruitment agencies that charge fees.

7. ANNEXES



ANNEX 1. EXAMPLE CONCEPT NOTE



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Research Projects with the International Organization for Migration (IOM)

Concept Note for the Philippine Overseas Employment Administration (POEA)

Background:

Recruitment is often the first step in labour migration, and the importance of addressing challenges in the recruitment process as it concerns migrant workers is well established in international law. Recruitment is also an area that different stakeholders including civil society have been drawing attention to. Governments, particularly those of migrant-sending countries have been developing codes of conduct and industry standards to promote decent work across borders. The last decade has also seen a growing number of global brands and multinational enterprises initiating the adoption of ethical recruitment practices and embedding due diligence processes in their operations.

Recruitment agencies often play a critical role in labour migration, connecting workers in countries of origin with employers in countries of destination. However, unscrupulous practices are still prevalent, and gaps remain in the governance of labour migration. Moreover, the widespread use of labor sub-contracting arrangements and third-party providers creates complexity in the employment relationships and uncertainty about worker rights. This means that many migrant workers remain vulnerable to forced labour and exploitation.

The COVID-19 pandemic has also exacerbated many of these risks and vulnerabilities. Migrant workers involved in essential ancillary services like cleaning, logistics, and private security face the greatest risk in terms of occupational safety and health because (1) what they do cannot be done remotely, (2) the pandemic has led to a sharp rise in activity and therefore, increased workload and longer working hours, and (3) many stay in worker accommodations where physical distancing is not possible. The pandemic has highlighted how migrant workers in ancillary services are essential, yet for the most part they are excluded from protective measures.

With a particular interest in the situation of migrant workers whose countries of origin are in the Asia-Pacific region, the IOM CREST (Corporate Responsibility in Eliminating Slavery and Trafficking) Team in the Philippines together with researchers from the Migration and Development Research Group of UNU-MERIT/University of Maastricht are working on two research projects aimed at mainstreaming the ethical recruitment of migrant workers and understanding the short- and long-term impacts of the COVID-19 pandemic in certain sectors to call attention to gaps and improve migrant worker protections.

When it comes to labour migration, the Philippines is typically hailed as a model migrant-sending country because of its extensive migration management policies and robust governance mechanisms. While the country's international recruitment framework involves various state and non-state actors, the POEA plays an integral role as the primary governing authority tasked to issue permits to recruitment agencies and regulate the deployment of overseas Filipino workers (OFWs).



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Project 1: Case Studies Illustrating How Ethical Recruitment Considerations Can Be Integrated in the Procurement of Labour Recruiters' Services

This project focuses on how companies (can) use their procurement processes as an early step in managing the different risks of forced labour and exploitation among migrant workers when engaging with labour recruiters. The objective is to provide practical guidance and additional resources for enterprises/first-tier suppliers employing migrant workers that will help them to improve procurement practices and fully integrate human rights principles and ethical standards in their supply chain management programmes. The interview with stakeholders and key informants may cover the following themes: policies and strategy pertaining to ethical recruitment, procurement planning, solicitation, selection, contract awarding, and contract performance management.

Project 2: Identifying Employment-Specific Risks Facing Migrant Workers in the Cleaning Services, Logistics, and Private Security Sectors from Asian Nations in the Context of the COVID-19 Pandemic

Moving onwards from recruitment, this project focuses on the employment stage. The objective is to identify key labour and human rights risks for migrant workers in the cleaning services, logistics, and private security sectors and the factors that exacerbate them in relation to the COVID-19 pandemic and in the long-term. The findings from this study are envisioned to be a contribution to IOM's CREST Programme and provide recommendations for policy and practice to further increase the protection of migrant workers. The interview with stakeholders and key informants may cover the following themes: key labour and human rights risks, typical recruitment and employment arrangements, short- and long-term impacts of COVID-19, and social protection mechanisms.

Data Protection

The research team fully understands the sensitive nature of a study like this and unless explicit consent is given, the anonymity of individual participants or key informants and the confidentiality of organisation information are guaranteed. It should also be noted that the projects are not envisioned to be an assessment of employment practices for dissemination to authorities or regulatory agencies but rather, a taking stock of best practices and remaining implementation gaps for continuous improvement. The outcome of the study shall naturally be communicated to participating key informants and organizations.

Request for additional help in identifying other key stakeholders

In addition to inviting POEA for the interviews, the research team is also seeking its support in identifying and connecting with other key stakeholders including companies and foreign placement/staffing agencies actively recruiting or hiring OFWs, ideally but not necessarily for the three focus sectors of cleaning services (non-domestic), logistics, and private security. Essentially, a list of foreign principals and employers that are retaining the services of recruitment agencies in the Philippines and accredited by POEA will be very useful in reaching out to as many stakeholders as possible. The information will likewise be treated with confidentiality and shall be used only to engage with participants for the study.



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Additional information

Please confirm interest in participating in the research project as a key stakeholder/expert informant on or before 20 October 2021. The interviews will be conducted ideally not later than 29 October 2021.

Any questions or concerns about this study may be addressed to Lalaine Siruno at l.siruno@maastrichtuniversity.nl and/or the project leads Dr. Elaine Lebon-McGregor (Project 1) at e.mcgregor@maastrichtuniversity.nl and Dr. Katrin Marchand (Project 2) at k.marchand@maastrichtuniversity.nl.

ANNEX 2. INTERVIEW GUIDES

Example Interview Guide (Experts)³⁴

IOM CREST Combined ER and SSR Studies

Interview identification	
Interview number	
Date	
Interviewer/s	
Location	
Interviewee/s	
Company/ Organization	
Position	
Language of interview	
Gender	
Age	

Interview Introduction

Thank you very much for accepting to speak with us. We are Lalaine and Mohammad, and we are researchers from Maastricht University/UNU-MERIT in the Netherlands.

As we mentioned in the concept note and invitation we shared with you, we have been commissioned by the International Organization for Migration to conduct a research study on fair and ethical recruitment and the risks associated with migrant workers in the sectors of cleaning, logistics and private security.

The goal of the project is to take stock of best practices and identify gaps in order to increase the protection of migrant workers.

The information you provide will contribute to understanding risks that exist in each sector, the factors that lead to these risks as well as the consequences of the pandemic in this context.

³⁴ This is a template, with each interview guide being tailored to the specific participant.

I would like to assure you that the information obtained will be used exclusively for scientific purposes and is treated with strict confidentiality.

This means that anything you say during the interview and any comments you make will not be linked to your name.

When we report on findings from interviews, selective quotes may be used, but they will not be linked to you personally.

Please let us know if you are not comfortable with answering any of the questions that will be asked later on.

For better data security, we are not going to use Zoom's built-in online recording function. We will use instead "old-fashioned" offline voice recorders.

Do we have the permission to record the interview? The audio file will be shared only within the research team to ensure that we represent your views accurately.

Can you please confirm that you give your consent to participate in this study and to have this interview voice recorded? And would you be okay if we mention your name and organization in the report, or would rather that we don't and keep it confidential?

Do you have any questions for us before we begin?

Section 1: Introductory questions

1. Would you please introduce yourself?
 - Name
 - Position and responsibilities at the organization
 - Duration of work at the organization
2. I would like to learn more about your organization. Would you please briefly describe your organization's main vision, aims, and activities?

Section 2: Activities related to policies and procurement of labour recruiters

3. What is your view (as an organization) regarding fair and ethical recruitment policies in (countries of interest) (e.g. recruitment fees, retention of identity documents, transparency in contract terms and conditions)?
4. How do you observe/monitor the application of these policies in companies and recruiting agencies?

5. Do you advice/recommend specific policies or requirements for labour recruiters on how recruitment should be carried out?
6. How does your organization detect violations of ethical recruitment practices in companies and recruiting agencies?
7. What actions does your organization take in cases of such violations?
8. Can you please walk me through the process of advocacy practices that your organization implements regarding ethical recruitment?
9. Can you give me an example of successful missions that your organization has conducted regarding ethical recruitment?
10. What are the key challenges in your organization's work?

Section 2b: Activities and COVID-19 risks for migrant workers

11. How do you assess the commitment of labour recruiters to ethical recruitment requirements?
Does your organization have criteria for acceptable/not acceptable practices of labour recruiters?
What practices could indicate violation in ethical recruitment requirements?
12. Do you offer any companies/recruiters training or capacity-building activities to support labour recruiters in implementing their corrective action plans?
13. Does your organization have any type of relations/interactions with labour recruiters or workers?
Would you kindly elaborate in the nature of relationship and cooperation with recruiters regarding ethical recruitment?
14. How does your organization monitor and assess companies labour recruiter procurement process of labour recruiters?
15. Based on your experience and engagements with migrant workers, can you walk us through what you think is the most common process for the recruitment of migrant workers?
 - a. How would you evaluate the common recruitment process currently?
 - b. What recommendations do you have to improve the current process?
16. In relation to the complex and multiple layers of recruitment, what do you think is the impact to the labour and human rights of migrant workers?

17. Based on your experience and engagements with migrant workers, can you enumerate the common challenges faced by migrant workers in the [cleaning, logistics and/or private security sector(s)]?
 - a. Are these challenges mentioned old issues or would you say they are relatively new?
18. What do you think is the impact of the COVID-19 pandemic to the labour and human rights of migrant workers particularly those working in the cleaning services, logistics, and private security sectors? What factors have exacerbated the risks and vulnerabilities for migrant workers?
19. In terms of social protection, before and after the pandemic, what are the mechanisms already in place, and what else is missing?
20. What do you think is important for institutions, governments, organizations dealing with migrant workers to have in place in preparation for a post-COVID environment?

Section 3: Closing

21. Do you have any additional information about this topic you think are relevant and would like to share with me?

[Thanks a lot for the insightful conversation. We are grateful for your participation...]

- May we please get in touch with you again by email perhaps should we have **follow-up questions**?
- Do you know of other experts or key stakeholders you think we should invite to participate in this project? Would you be willing to **introduce** us to them? [for snowballing, select as applicable]

ANNEX 3. CODEBOOK

Parent Node	Child Nodes
Respondent Characteristics	<i>KI: position in org</i>
	<i>KI: scope of work</i>
	<i>Org: advocacy work for ER</i>
	<i>Org: mission and scope of work</i>
	<i>Org: work on fair and ethical recruitment</i>
General Topics	<i>mainstreaming</i>
	<i>enabling factors</i>
	<i>public–private partnerships</i>
	<i>recruitment fees</i>
	<i>terminology</i>
Actors	<i>role of companies</i>
	<i>role of governments</i>
	<i>role of recruitment agencies</i>
	<i>role of NGO/CSOs</i>
Best Practices	<i>General</i>
	<i>NGOs/CSOs</i>
	<i>recruitment agencies</i>
	<i>companies</i>
Challenges	<i>for companies</i>
	<i>for NGOs/CSOs</i>
	<i>for recruitment agencies</i>
	<i>business engagement</i>
	<i>business model</i>
	<i>business secrecy</i>
	<i>government engagement/policy</i>
	<i>implementation of laws/standards</i>
	<i>legal issues</i>
	<i>metrics/indicators</i>
	<i>resources</i>
	<i>systemic barriers</i>
Recommendations	<i>no child nodes</i>

8.

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