



# RESPONSIBLE SOURCING TOOL

Private  
Security  
Industry |  
Tool 10

## PROTECTIONS AGAINST TRAFFICKING IN PERSONS<sup>1</sup>

### Conducting Migrant Worker Interviews

Migrants are a particularly vulnerable class of workers due to their migrant, often contingent, status. They often lack social and economic support, may not speak the local language, and may lack the social and legal protection local workers hold. This vulnerability can be taken advantage of by recruiters and employers, enabled by corrupt officials.

Work in the private security sector presents a specific set of potential risks for migrant workers beyond the risks in other sectors. For example, private security workers may be called upon to respond to emergency situations and may work in isolated areas or other challenging physical conditions. The work is often hazardous and requires long hours that can lead to exhaustion. If deceptive recruitment occurs, the stakes for workers can be high, so it is vitally important that workers have accurate information regarding issues such as: where they are headed geographically, if they will be armed, what training they will receive, etc. The only way to fully understand whether deceptive recruitment has occurred is to speak directly to workers as they are the only ones with the full picture of the promises made and circumstances regarding their recruitment.

This tool provides a set of sample interview questions to use when conducting targeted interviews of migrant workers and other employees provided by labor recruiters and labor contractors. It is consistent with the Code of Conduct provisions and benchmarks provided in Tools 2 and 3 but is not intended to ensure compliance with specific legal requirements, such as the U.S. Federal Acquisition Regulation (FAR): Combating Trafficking in Persons.

Companies can use this tool to help shape their own worker interview questionnaires, thus improving their ability to identify possible cases of abuse or human trafficking at company, supplier, and subcontractor facilities. The conditions explored in this tool are consistent

---

<sup>1</sup> The United States recognizes two primary forms of trafficking in persons: forced labor and sex trafficking. For the purposes of this and other tools in the set, several terms are used such as “trafficking in persons,” “human trafficking,” and “forced labor.” In relation to these tools, they refer to a crime whereby traffickers exploit and profit at the expense of adults or children by compelling them to perform labor.

with the core indicators of forced labor identified by the International Labour Organization. Many of the topics related to working conditions included in the following questions apply to all workers, not just migrant workers, and could be asked in the process of conducting general worker interviews.

**Note:** When planning worker interviews, companies need to recognize that migrant workers may understandably be reluctant to talk openly about how they were recruited or their current situation. In order to increase the likelihood of gaining the trust of migrant workers, companies should consider using independent, specially trained local language interviewers and avoid the use of translators provided by the employer or labor agent. Conduct the interviews away from the work site, when feasible. Additionally, the following steps should be taken for all worker interviews:

1. Inform workers of the purpose of the interview, including how the information they provide will be used.
2. Explain to workers that it is entirely at their discretion to participate and that they can withdraw their consent to participate freely at any time.
3. Assure workers that any information they provide will be kept confidential and that they will be not suffer any retaliation for participating in the interview.
4. Assure workers they will be paid in full for interviews conducted during working hours.
5. Explain to workers that the interview is not necessarily a means to resolve all individual grievances (although “zero-tolerance” issues such as harassment or human trafficking should always be immediately addressed) or to improve general workplace conditions. The grievance process should be used for that purpose.
6. Conduct interviews in a place with adequate privacy from supervisors, who, depending on the sector, may serve as an informal labor recruiter for the supplier.
7. Finally, keep in mind that some of the most vulnerable workers may work outside of normal working hours with the least desirable work schedules. For example, migrants and other vulnerable workers may be found working “graveyard” shifts cleaning offices and manufacturing and processing areas, often under pressured time frames. Measures should be taken to accommodate the working hours of these most vulnerable individuals.

The following are potential questions that could be asked during workplace assessments. Auditors should select those questions most appropriate for the situation being evaluated.

## RECRUITMENT AND HIRING PROCESS

There are many stages in the recruitment and hiring process for workers, and many labor recruiters may be involved along the way. It is important to discuss the recruitment and hiring process with workers in order to better understand the process, the players involved, and circumstances involved in placing them at the work site. In many sectors, labor subcontracting is common and not limited to migrant workers. Facing pressure to keep prices low, suppliers in facility services, transportation and warehousing, construction and agriculture may rely on labor recruiters and labor contractors to recruit and/or provide temporary and seasonal workers. All interviewers should be aware of local terms used for labor recruiters.

The following are some of the issues an interviewer should discuss with workers:

- Where were you recruited for your current job: in your home country or here where you work?
- Did you have to work with any labor recruiters either in your home country or here? If so, how many?
- Do you know the name of each labor recruiter or agency you dealt with in your home country? What about here, in the country where you are working?
- At the time you were recruited, were you given accurate details about the job location, the nature of work and job type, hours and or/shifts required, length of your contract, wages and benefits, working and living conditions?
- Was this information communicated in a language you understood at the time?
- Before you left your home country, were you given a pre-departure orientation? If yes, do you remember what that orientation included? Did it review:
  - your contract obligations;
  - terms and conditions of work;
  - your rights and responsibilities on the job, and those of your employer;
  - housing and living conditions;
  - company workplace policies; and
  - ways that you could report concerns or complaints about work practices and working conditions (grievance mechanism)?

- Was the orientation given in your native language or a language you understand?
- Upon arrival here, were you:
  - provided with housing;
  - given an orientation session at the worksite;
  - given a medical examination; and/or
  - helped to open a bank account?
- Did you receive orientation training? If yes, did it review:
  - regular wages and hours;
  - overtime hours and rates;
  - benefits and deductions from wages;
  - vacations, sick and personal leave;
  - grievance procedures;
  - potential health and safety hazards related to nature of work and/or location;
  - your responsibility to uphold human rights in your line of work;
  - discipline and termination; and
  - harassment and abuse?
- Were these policies, procedures, and work instructions communicated to you in a language you understand?
- Were you given a copy of your employer's policies or an employee handbook? If yes, is this handbook written in a language that you understand?

Migrant security personnel may pass through **countries of transit**, in route to the country in which they will ultimately work.<sup>i</sup> Recruiters may send migrants through transit countries to **circumvent legal restrictions on recruitment and migration between the country of origin and country of destination** (for example Filipinos working in Iraq)<sup>ii</sup> and/or to **pool workers in labor camps from which subcontractors will hire them.**

Once in a country of transit, workers may have to wait weeks before being offered an actual contract, during which period, they may lack access to cell phones or personal email.<sup>iii</sup> There is also evidence of migrants from Nepal transiting through India where they might wait for weeks to months in hotels before being offered a contract.<sup>iv</sup> The use of these transit countries (and fees associated) may not be

adequately described to workers at recruitment. Further, workers may not have proper visas for the transit country, limiting their freedom of movement.

**Red Flags:**

- Workers did not receive sufficient and/or accurate information about job; job conditions are less desirable and/or more hazardous than those promised.
- Worker did not receive orientation or orientation provided did not provide sufficient information.
- Worker was not able to understand information provided.
- The worker's recruitment experience involved multiple layers of recruiters and/or worker cannot identify recruiting parties and their relationship to the employer.

**RECRUITMENT FEES AND EXPENSES**

In assessing risk factors human trafficking, it is essential to obtain a thorough picture of all expenses incurred by workers to obtain their jobs, as well as the manner in which workers finance these fees.

The questions below will help you determine the full array of fees and expenses that workers may have incurred, and the terms of any financing arrangements into which the worker may have entered. While migrant workers are at increased risk of paying illegal recruitment fees or expenses, any worker engaged by a recruiter may have encountered fees in the hiring process. The interviewer should be sure that the following types of questions are included in any assessment:

- If you responded to an advertisement for your job, did it state that you would need to pay anything to get the job?
- Were you told by the recruiter or labor contractor that you would have to pay any recruitment fees or other costs to obtain your job?
- Did you pay any fees to a recruiter in your home country? If yes, how much was this fee?
- Did you pay a fee to anyone else, like an individual or a sub-agent? If yes, what was it for and how much did you pay?

- Did the labor recruiter give you a written itemized breakdown of the fees and expenses paid? If yes, what did the fees and expenses cover? How much was each fee or expense?
- Who arranged for the processing of your required travel documents, such as work permit, visa, and passport? Was a fee charged for this service? If so, how much was this fee?
- Did you pay fees for any of the following:
  - to register for a skills test or certification;
  - for language-training;
  - for a medical exam or test; and/or
  - for a pre-departure briefing?
- How much did you pay for travel to get here for your job?
  - Did you have to pay for travel to a third/transit country prior to your arrival here?
  - Was this included in the fee you were charged by the labor recruiter or did you pay it directly to a travel agency?
  - Do you know if return travel will be paid by the employer or by you?
- Did you pay anything to a labor recruiter or labor contractor when you arrived in this country?
  - If yes, how much was it?
  - Did you pay it up-front or is it deducted from your pay?
- Were you required to pay any sort of levy or tax to obtain the job? If yes, how much and to whom?
- Did you pay the fees, expenses, and levies you described up-front or are these deducted from your pay?
- Did you have to borrow any money or mortgage any property to pay for recruitment fees and expenses?
  - If yes, how much was borrowed?
  - Who did you borrow it from?
  - What is the interest rate on the loan?
  - How do you repay the loan? Is it taken from your pay? Is your family responsible for repaying it?
  - What is the repayment schedule?
- Were you given receipts for any of the fees and expenses you paid to get your job?

- Have you been repaid for any fees or expenses you paid to the recruiter or others to get your job? If yes, who reimbursed you and when did that happen?

**Red Flags:**

- Recruitment fees were paid by workers. Charging of recruitment fees is often limited or prohibited by law and has been shown to be one of the biggest contributors to human trafficking risk. Best practice is that workers should not be charged any recruitment fees.
- Costs for travel, training, medical exams and other recruitment expenses are charged to workers. Similar to the charging of recruiter fees, the charging of recruitment-related expenses is increasingly being recognized as a risk for human trafficking.
- Recruitment fees or expenses paid by workers bind workers to their jobs. For example, fees are repaid by salary deductions over the length of the employment contract, preventing workers from quitting their jobs.
- Interest rates on any loans or advances taken to pay fees bind workers to their jobs. Vulnerability is particularly high when debt is owed to the employer or labor recruiter. In all cases, debt linked to recruitment is a strong red flag for human trafficking.
- Workers report paying fees but cannot provide detail on the amounts or who fees were paid to.
- Workers report paying fees but cannot provide any written accounting (in the case of informal recruiters, this may be a handwritten receipt, etc.).

It has been found that migrant security guards and personnel pay recruitment fees for their security industry jobs and may have to bear other costs that should be the responsibility of the employer. Recruitment fees may actually be higher for the private security industry than other sectors.<sup>v</sup> Examples of documented recruitment fees paid by workers include the following:

- Recruitment fees have been reported in Qatar among security workers from south Asia, east and west Africa and the Philippines; among security workers from Nepal working in the Middle East; and among workers employed by U.S. Government contractors.<sup>vi</sup>
- A 2019 study reported that Nepali migrant workers were charged between USD 1,500 and 2,000 for security guard jobs in the Middle East.<sup>vii</sup>



- An Al Jazeera report interviewed a worker who stated workers believed they should deny inquiries into recruitment fee payments to avoid being sent home.<sup>viii</sup>
- As noted above, transit countries are often also used for delivering arms/skills testing or other training. The costs associated with these trainings or tests are not always compensated. For example, it has been documented that Ugandan security guards recruited by a subcontractor underwent **unpaid military training for two months** in Kampala and then were sent home to wait until they were actually called to begin the job they had been recruited for in Iraq.<sup>ix</sup>
- An expert interviewed by Verité shared that security personnel deployed to international agencies are sometimes required to receive training and go through a vetting/test of firing skills and arms handling skills prior to final hiring. This training is usually done outside the worker country of origin. If workers bear the costs themselves, they may have no way to recoup the costs if they are not selected for work, leaving them indebted before a job was even secured.

It should be noted that the U.S. Federal Acquisition Regulation (FAR): Combating Trafficking in Persons prohibits all recruitment fees. For a comprehensive list of types of fees that workers may encounter, see:

<http://responsiblerecruitmenttoolkit.org/wp-content/uploads/Eliminating-Recruitment-and-Employment-Fees-Charged-to-Workers-in-Supply-Chains.pdf>

## DEPOSITS

So-called “security deposits” or “runaway insurance” are sometimes used by labor recruiters or employers to limit migrant workers’ ability to terminate employment and find a new job. This “fee” is typically paid up-front at the time of recruitment and is kept until the contract has been fulfilled. If the worker terminates their employment prior to the contract’s end date, they run the risk of losing their money. Interviewers should be aware of this abuse and discuss it directly with workers. Here are some of the questions a company may want to ask workers:

- Did you pay a deposit or bond of any kind during the recruitment process?
- Did you pay a fee or bond at any other time since you’ve been employed here?

- Are there any deductions from your pay for deposits, bonds, or other payments that you do not understand?
- If the answer to any of those questions is yes:
  - How much was the deposit or bond? Did you pay it all at once or is it being deducted from your pay?
  - Who did you pay?
  - When do you expect to get the deposit back?
  - Do you know of other workers who got their money back?
  - What are the conditions under which the amount will be returned to you?

**Red Flags:**

- Workers report paying a deposit, levy or bond of any kind.
- Workers report that a deposit or bond is tying them to their job or employer.
- Workers do not understand one or more of the deductions being taken from their wages.
- Workers were not fully informed of deposits or bonds taken during the recruitment or hiring process.

## CONTRACTS OF EMPLOYMENT

Formal and signed contracts of employment between the worker and employer or labor recruiter are legally binding agreements and necessary to provide employment protection to workers. They are a cornerstone to monitoring social compliance, and essential to clarifying the employment relationship and its terms and conditions. When assessing the recruitment and hiring of workers, companies must examine copies of these contracts to determine wage levels and other entitlements under the contract; companies must also understand how and when the contract was signed, and under what conditions.

Consider discussing these issues with workers as an important part of your worker interview process:

- Did you sign an employment contract for the job? If yes, with whom was the contract signed: the company/employer or the labor recruiter?
- Were the terms of the employment contract explained to you?
  - If yes, who explained these terms to you?

- Do you fully understand the terms and conditions of the contract?
- If no, what parts are not understood?
- When and where was the contract signed (for example, prior to departure or upon arrival at the worksite)?
- In what language is the contract written and do you understand that language?
- Were you given a copy of the contract to review before you signed it? Once signed, were you given a copy of the signed contract?
- Was the contract given to you at least five days before departure from your home country to the worksite?
- Did you have to sign two sets of employment contracts? For example, did you sign one in your home country and another when you arrived here?
  - If yes, were the employment terms the same in both and, if not, how were they different?
  - Were these differences explained to you, and what was the reason given?
- Are the details about your job in your employment contract the same as those that were provided at the time of recruitment? If not, what was changed?
- Are the actual terms and conditions of your job consistent with those that are described in the employment contract?
- Was your original contract changed in any way after you signed it?
  - If yes, did the changes improve or worsen your employment conditions?
  - Were these changes made with your prior knowledge and written consent?
- Were you pressured or threatened in any way into accepting the job or any of the terms included in your employment contract?
- Does the contract clearly describe how you can voluntarily terminate the contract, including how much notice you need to give and if there are any financial penalties?
- Under what conditions can the contract be renewed?

**Red Flags:**

- Workers do not have written contracts.
- Contracts are not in a language the workers understand.

- Contracts were signed after departure from the worker's home country or after beginning work.
- Workers are provided with new contracts in the country of destination with materially worse terms and conditions than in the original contract or offer/appointment letter.
- The contract given to the worker is different than the one on file with the employer.
- Workers report that the actual terms of employment are not consistent with contract.
- Workers report signing blank contracts or other contract substitutions.
- Contracts do not contain all details required by law and company policy.
- Terms of contract violate company/supplier policy.
- Terms of contract violate applicable laws of countries of origin and/or countries of destination.

## DOCUMENT RETENTION

Confiscating, destroying, withholding, or otherwise denying access to personal documents can be a form of coercion that leaves migrant workers highly vulnerable to forced labor. When labor recruiters or company or supplier/subcontractor facilities take away workers' passports, residency or work permits, personal identity documents, or ATM cards, this not only limits workers' freedom of movement and personal freedom, but it effectively binds them to that employer or labor recruiter, restricting their ability to terminate employment or leave the job without the threat of losing this valuable property. In many cases, it also means that workers are not able to take up a new job, access social benefits to which they may be entitled, and are vulnerable to deportation or detention by immigration authorities. The company should ask the following questions of migrant workers during interviews:

- Did you submit any original copies of your government-issued identification, passports, or work permits to the employer or labor recruiter in the country of destination?
  - If yes, what did you submit (for example, passport, residency permit, work authorization, identity documents, ATM or bank card, or other travel documents, such as the return portion of travel tickets)?
  - Do you know the reason for handing over these documents?

- Are your personal documents being withheld because it is a job requirement, or did you request that your employer or labor recruiter hold them for you?
- Do you have free and unhindered access to your documents?
- What is the procedure for getting your documents back?
- If documents are not in your possession, were you given an exact copy of the document?
- Does your employer or labor recruiter have someone responsible for giving you access to your documents upon demand?
- When were you told about these requirements and procedures?
- Have you ever encountered a delay when requesting access your passport or other personal documentation? If yes, what was the reason for the delay?
- Were you given a locked, secure storage space for your personal documents and valuables?
- Where is your locked storage located (for example, accommodation, work location, both)?

### **Red Flags**

- Workers are not in possession of their personal documents.
- Workers cannot access their personal documents upon demand.
- Workers report that their freedom of movement has been limited by inability to access their documents.
- Workers report that they are reluctant to use the grievance mechanism for fear of being unable to access their personal documents.
- Workers report lack of locked secure storage for personal belongings.

## WAGES AND WAGE DEDUCTIONS

Evaluating wage and salary payments can be one of the most complex and challenging aspects of a social audit. This is no less the case when assessing wage conditions facing migrant and foreign contract workers who are highly vulnerable to debt bondage resulting from withheld wage payments, excessive deductions from wages, or fraudulent practices with regard to advances and loans provided by the employer or labor recruiter. To address this complexity and establish a clear picture of migrant worker wage conditions, companies should consider discussing the following with workers:

- Who pays your wages? Are you paid by the employer/worksite, a subcontractor, or labor recruiter? Other?
- How are you paid (in cash, check, or direct deposit)? Do you know if you are paid at the same rate as local workers?
- How often are you paid? Do you receive your pay on time? Have wage payments, or any portion of wages, ever been delayed or withheld? If yes, do you know why?
- Do you receive a pay slip or wage statement on payday?
  - If yes, is this pay slip in a language you understand?
  - Does it clearly indicate wage calculations and any deductions that are made from your salary?
- Are there any deductions made from your wages?
  - If yes, how much is deducted and for what (for example, meals, transportation, lodging, utilities, uniform, tools, other)?
  - Were you made aware of these deductions when you signed your contract, and did you approve of them?
  - Were you requested to sign a document to authorize the deduction(s)?
- Do you ever receive wages in the form of non-cash or “in-kind” payments? If yes, what percentage of the wage has been paid in this way?
- Have you ever received an advance on your wages or a loan from the employer or labor recruiter?
  - If yes, what were the terms of this loan, including the interest rate and financing period?
  - Have the terms of the loan ever been changed without your consent?

- Do you participate in a savings program sponsored by the labor recruiter or employer?
  - If yes, is this program voluntary?
  - Did you sign a written consent form to authorize deductions for voluntary savings?
  - Where are your savings kept? If savings are kept in a bank, do you have free access to your bank account?
  - When do you get your savings back?
  - Have you had any difficulties in accessing your savings or getting them back?
- Is there anyone else, apart from yourself, who has access to your bank account (for example, through an ATM card or power of attorney)?
  - Have you ever authorized another person to access your account to make a withdrawal? If yes, who else has such access?
- Does the employer or labor recruiter in any way limit your freedom to use your wages as you see fit?

**Red Flags:**

- Workers do not receive pay slips.
- Pay slips are provided but are in a language the workers (particularly migrant workers) do not understand.
- Pay slips are inaccurate or do not contain adequate detail of how wages or earnings are calculated, or workers do not feel they have adequate visibility into earnings calculations.
- Workers do not understand how wages are calculated.
- Workers feel that the wage or pay system in practice was not adequately explained to them prior to beginning work.
- Workers express other concerns around quotas or other wage systems; for example, if quotas or minimum wage can only be met through excessive overtime.
- Workers are not paid at least monthly.
- Workers are provided with cash advances which is deducted from their pay at high interest.

- Wage payments are delayed or a portion of wages is withheld until completion of the employment contract term.
- Workers' pay slips do not correspond to records provided by the employer.

## HOURS AND INVOLUNTARY OVERTIME

Unless specified in the employment contract or collective bargaining agreement, compulsory overtime can create a forced labor risk for any worker. Migrant workers may be at greater risk of this abuse because of their heightened vulnerability. Private security workers have been found to be particularly vulnerable to coercive overtime as they may differ from standard or more traditional working hours. For example, Verité research interviewed workers in a security firm who worked what is referred to as a "5-5-5" in which security guards work a 12-hour shift for five days in a row, then a 12-hour shift for five nights in a row, and then have five days off. Under this scheme, they ultimately worked 120 hours over a 10-day period with no days off before their "5 off" period. In other contexts, security personnel may be required to work up to 24-hour shifts.<sup>x</sup> In combination with the hazardous nature of the work, this can lead to increased risk of fatigue and physical danger. Addressing this issue should be central to all worker interviews; posing the following questions is even more important with migrant workers:

- Were you informed about shift work requirements?
- How often do you have to work overtime and for what reasons?
- Is overtime always voluntary? If no, what are the reasons for mandatory overtime?
- Are you free to refuse overtime work without threat or fear of punishment or penalty? What could happen if you refuse to work overtime?
- Are you given advance notice by your employer or labor recruiter when overtime is required? If yes, how much advance notice do you receive?
- Are you allowed to take meal breaks and rest breaks? If yes, how many do you get in a day and how long are they?
- Do you receive at least one 24-hour period of consecutive rest each week? Do you have at least eight hours of rest each day?
- How are your hours worked recorded? Do you record them using a time clock or other automated system or does your supervisor record them?



- Do you experience fatigue that prevents you from doing your job safely?
- Are you compensated for the time it takes you to commute or be transported to your worksite from your employer or recruiter-provided housing?

**Red Flags:**

- Overtime is mandatory.
- Workers are unable to refuse overtime without penalty or threat of penalty.
- Work hours routinely exceed legal or company limits, whichever is stricter.
- Workers report symptoms of fatigue (e.g., exhaustion, inability to focus on tasks, taking unusual risks, making unusual mistakes on routine tasks) related to excessive overtime work.
- Employer's records of work hours are inconsistent with hours reported by workers.
- Workers are unable to earn minimum wage without working overtime.

**FREEDOM OF MOVEMENT AND PERSONAL FREEDOM**

Restrictions on freedom of movement for workers can exist in the workplace or in the ability to freely come and go from the dormitories or housing where they live. Restrictions can be built into employer or labor recruiter policies and in rules and regulations governing worker residences. In some cases, there may be legal and regulatory restrictions to workers' ability to freely leave the employer or housing premises during non-work hours. For example, third-country national (TCN) security personnel on army bases may not have authorization to leave the base in any case, particularly when there is no home embassy presence. While this is not a situation in which restricted freedom of movement is perpetrated by employers, it can act in practice to limit worker options.

In other cases, workers may arrive on temporary or 30-day visas.<sup>xi</sup> TCNs might not have access to modes of communication like computers and phones while on army bases due to that access being classified/restricted and because the lowest ranking contractors may be considered security risks.<sup>xii</sup>

Most forms of restrictions on freedom of movement are unreasonable and highly abusive. To make sense of this complex issue, here are some of the questions that can be included in interviews with workers concerning their freedom of movement and personal freedom:

- Are there any restrictions on your freedom of movement in the workplace during working hours? If yes, what are these restrictions?
- Is your freedom of movement in the workplace ever restricted for reasons other than safety or workplace security?
- Are you ever restricted from or monitored when using the toilet facilities? Are you free to get a drink of water whenever you wish?
- Are you free to perform religious obligations without restriction?
- Are you free to leave the workplace immediately after your shift?
- Are you able to get permission to leave the employer during work hours under reasonable circumstances? What is the procedure for requesting this permission (for example, how many signatures are required to request a gate pass)?
- If you live in housing operated by your employer or labor recruiter, are you required to live there as a condition of employment? Are you free to leave the dormitory and reside elsewhere?
- Are you free to come and go as you please from your housing during non-working hours? If not, what are the restrictions on freedom of movement?
- Does the worker-provided housing have a curfew? Are there any housing rules and regulations that you believe unreasonably restrict your personal freedom?
- Are you able to contact an embassy or consulate if needed?
- Do you have access to a personal means of communication, such as a mobile phone?

**Red Flags:**

- Workers do not have access to potable drinking water or toilet facilities.
- Workers report that their freedom of movement is restricted by their employer.
- There are unreasonable restrictions on workers' ability to come and go from their housing during non-working hours.
- Workers report constant surveillance by employer or supervisor.
- Workers report intentional attempts by their employer or supervisor to create an environment of isolation.

- Workers report that employer or supervisor-imposed limitations on their freedom of movement have negative consequences on other areas of their lives (e.g., ability to see their family, pursue religious activities, socialize, organize freely, access healthcare, etc.).

## WORKPLACE DISCIPLINE

Disciplinary measures and, in particular, the penalty of dismissal or denunciation to immigration authorities can be abused to threaten, take advantage of, and apply pressure on migrant workers. While some measures may be justified in reacting to misconduct, disciplinary measure should not result in compulsory labor or an obligation to work. The auditor should discuss disciplinary measures and determine that they are fair, objective, transparent, and communicated to workers in language they understand. Here are some of the issues auditors may wish to discuss:

- Have your employer's disciplinary rules and procedures been communicated to you?
- What steps are taken for disciplining a worker who breaks one of the rules?
- What types of misconduct carry the penalty of dismissal and repatriation?
- Is there a clear process that includes investigation before workers are terminated and repatriated? If yes, can you describe it?
- Have you ever been disciplined at work? If not, do you know of others who have?
- Have you even been given a fine or wage deduction as a disciplinary measure? If yes, could you describe what happened?
- Do deductions for tardiness or time missed ever exceed the wage equivalent of the time missed (for example, you lose one hour of pay for being 15 minutes late)?
- Do disciplinary measures ever involve forced or compulsory work as punishment for a workplace infraction?
- Have you ever seen workers physically disciplined at work? If yes, can you describe what happened?
- Do you know if workers are ever forced to sign a letter of resignation?

### Red Flags:

- Workers report verbal, physical, or sexual abuse as punishment.

- Workers report financial penalties as punishment.
- Workers report threats of repatriation or denunciation to authorities as a disciplinary measure.
- Workers report difficult, degrading, or compulsory work as punishment.

## THREATS OF VIOLENCE AND INTIMIDATION

Harassment, intimidation, and threats or use of violence can take many forms in the workplace or in employer- or labor recruiter-operated residences. They can be perpetrated by a supervisor, employer, manager, recruiter representative, dormitory manager, security guard, or even a fellow worker at almost any stage of the employment relationship, including recruitment and hiring. The aim may be to frighten workers or pressure them into accepting certain terms and conditions of employment or living conditions; or it may be to force them to work overtime or perform hazardous or life-threatening tasks. In some contexts, workplaces reproduce social hierarchies and notions of male domination, resulting in the exertion of power through sexual language as a tool that male supervisors use to control female workers.

Whatever the case, there should be a strong policy in place to prevent such behavior, and workers are a key potential source of information when determining employer or recruiter compliance with that policy. Auditors should consider discussing the following:

- Have you ever been subject to or witnessed verbal, physical or sexual harassment, or abuse (including threats)?
  - If yes, what happened, when and where did it happen, and who was involved?
  - Is this abuse on-going?
  - Was the incident(s) reported using the grievance mechanism or directly to the employer management or the labor recruiter?
  - What actions were taken to correct the abuse?
- Are you aware of employer policies and procedures for dealing with harassment and abuse complaints (for example, reporting, investigation, follow-up, and sanctions)?
- For formal workplaces: Does the worksite conduct regular anti-harassment and abuse training for workers? If yes, have you participated in the training?

**Red Flags:**

- Workers report any actual or threatened verbal, sexual, or physical abuse, or harassment, of themselves or others. Any instance of abuse should be treated as a zero-tolerance issue.
- Workers report having reported instances of abuse to the company or recruiter, but no action was taken.
- Workers report retaliation for reporting instances of abuse through the grievance mechanism.

**HOUSING AND LIVING CONDITIONS**

In many cases, migrant workers are housed by their employers or labor recruiter, who sometimes make excessive deductions from workers' wages for these services. Employer-provided housing is in many cases sub-standard, and workers generally have no other options available if they wish to continue working for the employer. This also creates multiple levels of dependency on their employers, an indicator of human trafficking. The following questions can be asked to assess risk:

- Are you provided housing/sleeping quarters?
- How much are you charged for your housing?
- Are you charged for transportation to the worksite, if provided by your employer, labor recruiter, or labor contractor?
- Describe where you sleep. Do you get good rest? Are there shower and toilet facilities in your housing accommodation? If not, describe where you shower and use the toilet.
- Is there a separation between your living quarters and your employer's operation (manufacturing, construction, farm, etc.)?
- Are there food preparation and dining facilities in your housing? Describe where you prepare food and eat.
- Do you always have access to potable drinking water?
- Have you or other workers experienced any injuries or illnesses that you believe are related to the conditions of your living accommodations?
- Do you feel that you have adequate personal space and privacy?

- Do you share a bed with workers on other work shifts? If yes, please describe the situation.
- Do you feel safe and secure in your living accommodations? If not, why?
- Did you understand what your living conditions would be like before you accepted this job? Are they as described?
- What would happen if you complained about living conditions?

**Red Flags:**

- Workers report feeling unsafe or insecure.
- Workers report that the amount they are charged for their housing is excessive (that is, it exceeds rental rates in the local area).
- Workers report unsanitary or dangerous conditions.
- Workers cannot effectively lodge complaints about living conditions or feel they will be retaliated against if they do.
- Accommodations are visibly decrepit, poorly maintained, dangerous, or unsanitary.
- Workers cannot get enough rest to safely perform their jobs due to poor conditions.
- Workers are suffering illness or injury due to poor conditions.
- Employer does not keep maintenance or inspection records, or records do not correspond with condition of accommodations (i.e., records show inspection of fire extinguishers that are not working or not present).

**GRIEVANCE MECHANISMS**

An effective grievance procedure and complaints mechanism is an important element in taking corrective action against abuse and exploitation in the workplace. It allows workers to confidentially raise issues about labor recruitment practices, worksite practices, and the conditions they face in the workplace or dormitory and is a key first step toward remediating existing problems and doing so at the level where problems exist. However, in many cases, grievance procedures may not even exist; they may not be effective, trusted, or used by workers; or they may only be used to report grievances against an employer and not labor recruiters from whom significant forms of abuse may occur. When addressing the topic of

grievance mechanisms, auditors should fully investigate and discuss the options workers have available to them to raise questions and complaints.

- What means do you have to make a complaint or grievance about the recruitment agent you used or the recruitment process?
- What means do you have to make a complaint or grievance about the conditions of your employment?
- How would you bring issues or complaints to the attention of your employer or labor recruiter?
- Do you have a means to raise concerns if you witness human rights abuses of others in the course of your duties?
- If a grievance process is in place, when were you first told about the grievance process and how was that done?
- Have you ever used the process? If yes, could you describe how your issue was resolved?
- Is someone available at all times to receive and process grievances and other complaints?
  - If yes, do you know the position of this representative (for example, works for the company, an independent third party, etc.)?
  - Does this person speak your language and that of other migrant workers?
  - Are you and the other workers comfortable bringing your complaints to this person?
- Is there a mechanism in place for you to raise a grievance with someone other than your direct supervisor?
- Is there an anonymous way for you to report a grievance (without giving your name)? If not, what means are in place to protect your identity when reporting a grievance?
- Do you have access to any type of communication mechanism (for example, phone, text, etc.) that is private/not under the surveillance of your employer?
- If a grievance/communication method is available, are there times when that method is unavailable (for example, not able to use phone hotline while working at a construction site or in an agricultural field)?

- Are the responses to grievances and the actions taken to address them communicated to workers? If so, what is the main method of communication?
- What can you do if you disagree with the way a grievance is resolved? Have you or anyone you know ever appealed a grievance finding? If so, what happened?
- Do you and other workers feel that the grievance process is effective? If not, why?
- Do you and other workers trust the grievance process and feel comfortable using it? Why or why not?
- Are you aware of any workers that have had a bad experience using the process or may have gotten into trouble if they did? Can you explain?

**Red Flags:**

- Workers worry that grievance mechanisms may not be confidential; they express fear of retaliation or distrust.
- Workers do not know how to access the grievance mechanism.
- Workers do not understand how information from grievance reports is used to inform issue remediation.
- Workers feel that grievances are either not remediated or remediation has not served workers' best interests.
- No grievance mechanism was available at the point of recruitment.
- There is no way to file an anonymous complaint.

**FREEDOM OF ASSOCIATION**

When workers are able to participate in safe and secure forms of workplace dialogue — both as individuals and collectively — they are better positioned to protect themselves against coercion, deception, discrimination, or other forms of exploitation. Workers can be asked the following questions to determine whether they can adequately practice the rights to freedom of association and collective bargaining as defined in ILO Conventions 87 and 98:

- Have you been informed or trained about your right to join or form a trade union? If yes, how were you told and when?



- Has your employer or recruiter done anything, including interference, threats, or penalties, to prevent you or others from joining or forming a union?
- Are you aware of other ways for workers to organize such as worker committees or worker centers?
- Do you feel existing worker organizations are responsive to and represent your concerns?
- Is any group of workers excluded from the trade union or worker organization for any reason?

**Red Flags:**

- Workers have experienced or fear retaliation for efforts to organize.
- Workers perceive that employers have influence over worker organizations.
- Employers do not have a policy of neutrality towards worker advocacy organizations.
- Except where prohibited by law, migrants are specifically excluded from workers organizations including unions.

**TERMINATION OF EMPLOYMENT AND REPATRIATION**

Once they have begun work, the ability of workers to terminate their employment at any time with reasonable notice and without penalty is central to ensuring that they work in a free employment relationship. An expert consulted by Verité noted that in some cases, subcontractors may renew workers' contracts without offering them a break to return home, and workers must accept this as a term of continued employment. When speaking with migrants, companies may wish to probe this issue and seek to identify whether any limitations exist that prevent workers from terminating their contracts before they are finished. Questions they may ask:

- Are you and other workers free to resign from your position without penalty prior to the end of your contract?
- Are you free to remove yourself from working situations that pose an imminent threat to your safety or health?
- What is the required notice period for terminating a contract early?

- Can you describe the procedure you would need to follow to terminate your contract early? How did you learn about the process?
- Do you know what would happen if there is an emergency back home and you aren't able to give the required notice?
- If you participate in a voluntary savings program arranged by your employer or labor recruiter, do you have free access to all savings and monies owed at the time of contract termination?

**Red Flags:**

- Workers do not feel free or able to leave their employer.
- Workers would suffer financial penalty caused by terminating their employment.

**ENDNOTES**

<sup>i</sup> Al Jazeera America. *America's War Workers- Fault Lines*. 26 Sep. 2015, [www.youtube.com/watch?v=tEovFBU7V9Q](http://www.youtube.com/watch?v=tEovFBU7V9Q).

<sup>ii</sup> Consultation with Verité network experts.

<sup>iii</sup> *America's War Workers- Fault Lines*. Al Jazeera America, 26 Sep. 2015, [www.youtube.com/watch?v=tEovFBU7V9Q](http://www.youtube.com/watch?v=tEovFBU7V9Q).

<sup>iv</sup> Coburn, Noah. *Under Contract: The Invisible Workers of America's Global War*. Stanford University Press, 2018. [www.sup.org/books/title/?id=29268](http://www.sup.org/books/title/?id=29268).

<sup>v</sup> "Shramik Sanjal – Findings from a Survey of Nepalese Migrant Workers." *Institute for Human Rights and Business*, July 2019, [www.ihrb.org/focus-areas/migrant-workers/shramik-sanjal-findings-from-a-survey-of-nepalese-migrant-workers](http://www.ihrb.org/focus-areas/migrant-workers/shramik-sanjal-findings-from-a-survey-of-nepalese-migrant-workers).

<sup>vi</sup> Pattison, Pete. "Migrants Claim Recruiters Lured Them into Forced Labour at Top Qatar Hotel." *The Guardian*, 29 Oct. 2018, [www.theguardian.com/global-development/2018/oct/29/agents-duped-us-into-forced-labour-at-top-qatar-hotel-say-migrant-workers-marsa-malaz-kempinski](http://www.theguardian.com/global-development/2018/oct/29/agents-duped-us-into-forced-labour-at-top-qatar-hotel-say-migrant-workers-marsa-malaz-kempinski).

Li, Darryl. "Offshoring the Army: Migrant Workers and the U.S. Military." *UCLA Law Review*, 124, (2015), [www.uclalawreview.org/pdf/62-1-3.pdf](http://www.uclalawreview.org/pdf/62-1-3.pdf).

Li, Darryl. "Offshoring the Army: Migrant Workers and the U.S. Military." *UCLA Law Review*, 124, (2015). [www.uclalawreview.org/pdf/62-1-3.pdf](http://www.uclalawreview.org/pdf/62-1-3.pdf).

<sup>vii</sup> "Shramik Sanjal – Findings from a Survey of Nepalese Migrant Workers." *Institute for Human Rights and Business*, July 2019, [www.ihrb.org/focus-areas/migrant-workers/shramik-sanjal-findings-from-a-survey-of-nepalese-migrant-workers](http://www.ihrb.org/focus-areas/migrant-workers/shramik-sanjal-findings-from-a-survey-of-nepalese-migrant-workers).

<sup>viii</sup> *America's War Workers- Fault Lines*. Al Jazeera America, 26 Sep. 2015. [www.youtube.com/watch?v=tEovFBU7V9Q](http://www.youtube.com/watch?v=tEovFBU7V9Q).

<sup>ix</sup> Vicky, Alain. "Cheap Help from Uganda." *Global Policy Forum*, May 2012. [www.globalpolicy.org/pmscs/51569-cheap-help-from-uganda.html](http://www.globalpolicy.org/pmscs/51569-cheap-help-from-uganda.html).

<sup>x</sup> Khadka, Kalam. "Hotel Security." LinkedIn SlideShare, 4 Sep. 2014, [www.slideshare.net/KalamKhadka/hotel-security-38680372](http://www.slideshare.net/KalamKhadka/hotel-security-38680372).

<sup>xi</sup> Coburn, Noah. "The Guards, Cooks, and Cleaners of the Afghan War: Migrant Contractors and the Cost of War." Watson Institute, Brown University, 23 Aug. 2017, [watson.brown.edu/costsofwar/files/cow/imce/papers/2017/CoW\\_Coburn\\_Migrant%20Contractors\\_Aug%2023%202017.pdf](http://watson.brown.edu/costsofwar/files/cow/imce/papers/2017/CoW_Coburn_Migrant%20Contractors_Aug%2023%202017.pdf).

<sup>xii</sup> Coburn, Noah. "The Guards, Cooks, and Cleaners of the Afghan War: Migrant Contractors and the Cost of War." Watson Institute, Brown University, 23 Aug. 2017. [watson.brown.edu/costsofwar/files/cow/imce/papers/2017/CoW\\_Coburn\\_Migrant%20Contractors\\_Aug%2023%202017.pdf](http://watson.brown.edu/costsofwar/files/cow/imce/papers/2017/CoW_Coburn_Migrant%20Contractors_Aug%2023%202017.pdf).