



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

#### Conducting Migrant Worker Interviews

*Migrants have been found to be a particularly vulnerable class of workers due to their migrant, often contingent status. They are frequently insecure socially and economically, likely do not speak local languages, may lack the social and legal protection local workers hold, and may be in a situation of human trafficking due to unethical recruitment and employment practices like indebtedness or lack of access to their identity documents.*

*Because migrant workers may be present throughout food and beverage supply chains, companies should carefully plan migrant worker interviews in different sectors comprising their supply chains. In the agricultural sector, migrant workers are employed on produce farms and in large-scale animal operations, including dairies, stockyards, and poultry farms.<sup>i</sup> In food processing, such as in meat processing plants, migrant workers may work butchering and packing meat or sanitizing and cleaning the processing line equipment and floors.<sup>ii</sup> Migrant workers may also be present in warehouses, transportation, and food retail.*

*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. 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 Federal Acquisition Regulation (FAR): Combating Trafficking in Persons.*

*Companies can use this tool to help shape their own worker interview questionnaires, thus improving their auditors' ability to identify possible cases of abuse or recruiter-induced human trafficking at company, supplier, and subcontractor facilities. The conditions explored in this tool are consistent with the core indicators of forced labor identified by the International Labor Organization.<sup>iii</sup> Many of the topics related to working conditions included in the following questions apply to all workers in the food and beverage workforce, not just migrant workers, and could be asked in the process of conducting general worker interviews.*

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<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.

**Note:** When planning worker interviews, companies need to recognize that migrants are a particularly vulnerable class of workers due to their migrant status. Because of this vulnerability, 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 conduct interviews away from the work site, when feasible. Additionally, the following considerations 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 the 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. Also assure workers that 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 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 the crew supervisor, who may serve as an informal labor recruiter for the crew members.<sup>iv</sup>
7. Finally, keep in mind that some of the most vulnerable workers in food and beverage supply chains may work outside of normal working hours with the least desirable work schedules. For example, at processing plants, migrants and other vulnerable workers may be found working “graveyard” shifts to clean and sanitize the plant for the next day’s processing, often under pressured time frames. Measures should be taken to accommodate the working hours of these most vulnerable individuals.<sup>v</sup>

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

## RECRUITMENT AND HIRING

There are many stages in the recruitment and hiring process for workers, and there may be many labor recruiters involved along the way. It is important to discuss the recruitment and hiring process with workers in order to better understand the process, actors, and circumstances involved in placing them at the work site.

In the agricultural sector, labor subcontracting is common and not limited to migrant workers. Facing pressure to keep prices low, farms of all sizes may rely on labor recruiters to recruit seasonal workers. Labor recruiters organize and recruit workers and deliver them to farms to complete harvests. Depending on the regional context, recruiters may collect recruitment fees and may deduct a daily sum from the workers' pay.<sup>vi</sup>

While some countries may maintain state-run sites for recruiting agricultural workers in a formal manner, informal intermediaries such as recruiters (also known as gangmasters or labor contractors) are also common. All interviewers should be aware of local terms used for labor recruiters.

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

- Where were you recruited for your current job: in your home country or in the country in which you work?
- How many labor recruiters were involved in your recruitment in your home country?
- What is the name of each labor recruiter or agency involved in your home country? In the destination country?
- At the time of recruitment, were you given accurate details about the job location, contract duration, anticipated earnings, working and employment conditions on the job, and living conditions?
- Was this information communicated in a language you understood at the time?
- For workers recruited by formal labor recruiters:<sup>vii</sup>
  - Did you participate in a pre-departure orientation?
    - If yes, do you remember what that orientation included? Did it review:
      - contractual obligations;
      - terms and conditions of work;
      - rights and responsibilities on the job, and those of your employer;

- living conditions;
  - company policies; and/or
  - grievance mechanisms that are in place for the worker on the job?
    - Was the orientation given in your native language or a language you understand?
- Upon arrival in the destination country, did you:
  - receive accommodation;
  - receive an orientation session at the worksite;
  - undergo a medical examination; and/or
  - open a bank account?
- Did you receive orientation on the employer’s personnel policies? If yes, what was addressed during the orientation? Did it review:
  - personnel policies;
  - regular wages and hours;
  - vacations, sick and personal leave;
  - overtime hours and rates;
  - grievance procedures;
  - health and safety policies;
  - benefits and deductions;
  - discipline and termination; and/or
  - harassment and abuse?
- Were you given a copy of the employer’s personnel policies or employee handbook? If yes, was this handbook written in a language that you understand?
- Were the employer policies, procedures, and work instructions communicated to you in language you understand?

## RECRUITMENT FEES AND EXPENSES

In assessing risk factors for human trafficking, it is essential to obtain a thorough picture of all expenses incurred by workers in obtaining 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 in obtaining their job abroad, 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 issues are included in any assessment:

- Were you told by the recruiter that you would be required to pay any recruitment fees or other costs to obtain your job?
- Did you pay a service, placement, or recruitment fee to the recruitment agency in the sending country? If yes, how much was this fee? Did you pay a fee to an individual or sub-agent of the agency? If yes, what was it for and how much did you pay?
- Did you pay a reservation or commitment fee? If yes, how much was this fee? Is the amount refundable and, if yes, when is it refunded? If no, is the amount deducted from the total cost of the recruitment fees charged to you?
- Did the labor recruiter provide you with 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 medical or physical examination; and/or
  - for a pre-departure briefing?
- How much did you pay for travel costs (airfare or another mode of travel)? Was this cost included in service or recruitment fees charged by the labor recruiter or paid directly to a travel agency? Will return travel be paid by the employer or by you?
- Were you required to pay a labor recruiter's fee in the destination country? If yes, how much was this fee? Was it paid up-front or is it deducted from your pay?
- Did you pay a deposit or bond of any kind, such as a surety bond? If yes, how much did you pay? What was this deposit or bond for? To whom was it paid?
- Were you required to pay any sort of levy or tax to obtain the job? If yes, how much and to whom?
- Did you have to pay any fees, expenses, levies, deposits, or bonds charged to you up-front or are these deducted from your pay?
- Did you have to borrow any money to pay for recruitment fees and expenses? If yes, how much was borrowed? From whom did the money come? Is there an associated interest rate and, if yes, how much is it? How do you repay the loan? What is the repayment schedule?
- Were you given receipts for all 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 have been charged to workers: The 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.
- Recruitment expenses have been charged to workers: Similar to the charging of fees, the charging of recruitment-related expenses is increasingly being recognized as a risk for human trafficking.
- Recruitment fees or expenses paid by workers are acting to bind workers to their jobs in any way.
- Interest rates on any loans or advances taken to pay fees are acting to 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.
- Bonds or deposits are acting to bind workers to their jobs in any way.
- Workers report paying fees but cannot provide detail on 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.).

**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. Auditors should be aware of this abuse and discuss it directly with workers. Here are some of the issues a company may want to consider:

- 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 during the employment relationship?
- 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 fee? 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?
- What are the conditions under which the amount will be returned to you?

**Red Flags:**

- Workers report paying a deposit 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 and/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; it is also necessary to understand how and when the contract was signed, and under what conditions.

Agricultural workers may have different types of contractual agreements depending on many factors, such as whether they are waged workers, tenant or share crop farmers, smallholder contract farmers, or day laborers. While the content and form of contractual agreements may differ regarding the specific nature of the terms, companies should ensure the following topics are considered when conducting worker interviews: type of contractual agreement (employment contract, tenancy contract, notice from a service agency for day labor<sup>viii</sup>), length of contract, nature of work, hours of work, wages, rates, mode of payment, payment time frames, protective clothing needed, transportation (if applicable), and tenancy or housing terms (if applicable).

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

- Did you sign an employment or tenancy contract for the job? If yes, with whom was the contract signed: the company/employer/landowner 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 (e.g., 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 prior to signing? Once signed, were you given a copy of the signed contract?
- Was the contract provided to you at least five days before departure from your origin country to the site of the work?
- Did you have to sign two sets of employment contracts? If yes, were both sets the same in content and, if no, how were they different? Were these differences explained to you, and what was the reason given?
- Are the details contained in your employment contract consistent with the details that were provided at the time of recruitment? If not, what was changed?
- Are the actual terms and conditions on the job consistent with those that are described in the employment contract?
- Was your original contract amended in any way following signature? If yes, do these amendments improve or worsen your employment conditions? Were these amendments made with your prior knowledge and informed, written consent?
- Were you pressured or threatened in any way into accepting the job or any of the terms included in the employment contract?
- Does the contract clearly describe the process for early contract termination, including the minimum notice period and any financial penalties involved?
- 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 work was already undertaken.
- Contracts provided by workers and employers do not correspond.
- Workers report that terms of employment are not consistent with contract.
- Workers report signing blank contracts or other contract substitutions.
- Contracts do not contain all detail required by law and company policy.
- Terms of contract violate company/supplier policy.
- Terms of contract violate relevant laws of relevant states.



## 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 trafficking. When labor recruiters or company or supplier/subcontractor facilities take away workers' passports, residency or work permits, personal identity documents, or even 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. It is essential that the company address the following issues in interviews with migrant workers:

- Did you submit any original copies of your government-issued identification, passports or work permits to the employer or destination country labor recruiter? If yes, what did you submit (e.g., passport, residency permit, work authorization, identity documents, ATM or bank card, or other travel documents, for example the return portion of travel tickets)? Do you know the reason for this?
- Are your personal documents being withheld due to legal requirements or did you request that the employer or labor recruiter hold them?
- 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?
- Has your employer or labor recruiter nominated a responsible person to ensure workers have free access to their documents upon demand?
- Were you given advanced notice of these requirements and procedures?
- Have you ever encountered lengthy or otherwise burdensome prerequisites when accessing your passport or other personal documentation?
- Do you have free access to a locked, secure storage space for your personal documents and valuables?
- Where is your locked storage located (accommodation, work location, both)?

### Red Flags

- Workers do not have any access to personal documents.
- Workers report that their freedom of movement has been limited by inability to access documents.

- Workers report that their ability to access grievance mechanisms or other benefits has been limited by their inability to access their documents.
- Workers report lack of locked secure storage for personal belongings.

## WAGES AND WAGE DEDUCTIONS

Wage payment systems can vary in the agricultural sector and can be tied to the sale of harvested crops, resulting in workers not receiving their wages until crops have been harvested and sold. This delayed payment may limit workers' ability to leave the worksite or job if the working conditions deteriorate. Delayed payments might also make workers more likely to solicit loans from their employer or other money lenders to cover their living expenses, leaving them vulnerable to debt bondage. Risks for child labor can occur when children accompany their families, especially when workers are compensated based on total amount harvested. The use of quotas or piece-rate systems can encourage significant overtime or can incentivize the use of child labor.

The ultimate goal is that employers have a transparent system that documents the amount of work a worker performs: the wage system, how many hours worked or quota units completed, what overtime wages are applicable, and how much money workers received after deductions at the end of the pay period. Workers should be able to receive some sort of pay slip, even if handwritten, that both the worker and the employer can confirm is accurate.

To address this complexity and establish a clear picture of wage conditions, companies may wish to consider discussing the following with workers:

- Who pays your wages? Are you paid by the employer/work site or the labor recruiter?
- How are you paid (e.g., hourly, daily or piece rate, percentage of harvest; in cash, check, direct deposit, crop, or company store voucher)? Do you know if you are paid at the same rate as local workers?
  - Do your children or any other family members work with you? If yes, why?
  - If children or family members work with you, do they receive their own wages or piece-rate wages for their individual work?
- Do you receive your pay on time? Have wage payments, or any portion of wages, ever been delayed or withheld? If yes, what were the circumstances of this?

- Do you receive a pay slip or wage statement on payday? If yes, is this pay slip in a language you understand, and does it clearly indicate wage calculations and any deductions that are made from your salary?
- Are any deductions made from your wages? If yes, how much is deducted and what for (e.g., 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?
- If you participate in a “share” system, are the terms of that system agreed upon in writing before you begin working? Were the terms and manner of calculation explained to you? Do you have a copy of that agreement? Are you allowed to observe any weighing or grading of the product that affects your earnings?
- 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 (e.g., 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 or written calculations of share profits at all.
- 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. (For example, if workers are paid on a piece-rate basis but

are excluded from the process or weighing/measuring/grading their share of harvested material.)

- Workers do not understand how wages or “shares” of profits are calculated.
- Workers feel that the wage or pay system in practice was not adequately explained to them prior to beginning work.
- Workers are not able to meet quota or earn minimum wage under piece-rate systems unless they involve family or child labor.
- Workers express other concerns around piece-rate, quota, 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 (or their families) are provided with cash advances and in-kind supplies, the value of which is deducted from their pay at high interest.
- Workers are paid in vouchers for company-owned stores instead of in cash.
- 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 trafficking risk for any worker. Migrant workers may be at greater risk of this abuse because of their heightened vulnerability; this heightened vulnerability may be exploited by brand or supplier facilities or labor recruiters who take advantage of specific pressure points. The limited time frame of harvest seasons may result in unavoidable overtime for some workers. Similarly, workers who care for livestock may be required to work hours beyond those of a basic work week, resulting in limited to no time off. Addressing these issues should be central to all worker interviews; posing the following questions is even more important with migrant workers:

- How often do you have to work overtime, and for what reasons?
- Is overtime always voluntary? If no, what are the circumstances involving involuntary overtime?
- Are you free to refuse overtime without threat or fear of punishment? What happens if you refuse to work overtime?
- Are you given advance notice by the employer or labor recruiter when overtime is required?
- Are you allowed to take meal breaks and rest breaks?
- How many rest days do you receive a week?

- Do you receive at least one 24-hour period of consecutive rest each week?
- How do you record hours worked?
- 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 work site?

**Red Flags:**

- Work hours exceed legal or company limits, whichever is stricter.
- Not enough workers are employed to meet production targets, quotas, or actual processing volume.
- Number of workers does not expand to meet seasonal requirements.
- Workers report symptoms of fatigue (e.g., exhaustion, unable to communicate clearly, increased frustration, inability to focus on tasks, cutting corners to finish more quickly, taking unusual risks, slow response times, not noticing impending physical risks, making unusual mistakes on routine tasks).
- Employer's records of work hours are inconsistent with hours reported by workers.
- Workers are unable to meet quotas without regularly working overtime.
- Workers are unable to earn minimum wage under piece-rate schemes 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. While in others, the restrictions may result from the security environment; worker's migration status; cultural norms or considerations; active threats, intimidation, and harassment by a manager, labor recruiter, or security guard; and deceptive or hidden forms of coercion such as passport confiscation, which is addressed above.

Most forms of restrictions on freedom of movement are wholly unreasonable and highly abusive. To make sense of this complex issue, here are some of the topics 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?
- Do security personnel ever restrict your freedom of movement in the workplace for reasons other than workplace security?
- Are you ever restricted from or monitored when using the toilet facilities? Are you free to get drinking 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 (e.g., how many signatures are required to request a gate pass)?
- If you live in housing operated by the employer or labor recruiter, are you required to live there as a condition of recruitment or continued employment? Are you free to leave the dormitory and reside elsewhere? Are you free to come and go as you please 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?

**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.
- Workers report constant surveillance by employer or supervisor.
- Workers report intentional attempts by employer or supervisor to contribute to 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 health-care, 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:

- What steps are taken for disciplining a worker?
- 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?
- Have you ever been disciplined at work? If not, do you know of others that have?
- Have you even been given a fine or wage deduction as a disciplinary measure? If yes, could you describe the circumstances?
- Do deductions for tardiness or time missed ever exceed the wage equivalent of the time missed?
- Do disciplinary measures ever involve forced or compulsory work as punishment for a workplace infraction?
- 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 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.

Women workers in the agricultural sector are particularly vulnerable to gender-based violence and sexual harassment in the field, where they may be relatively isolated should they need help, and on the packing or processing floor where their (male) supervisor may threaten or intimidate them. In some contexts, workplaces reproduce social hierarchies and notions of male domination, resulting in “the exertion of power

through sexual language” becoming a tool that male supervisors use to control female workers.<sup>ix</sup>

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 to 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 (e.g., reporting, investigation, follow-up, and sanctions)?
- For formal workplaces, does the worksite conduct regular anti-harassment and abuse training for workers?

#### **Red Flags:**

- Workers report any actual or threatened verbal, sexual, or physical abuse, or harassment, of themselves or others. Any instance of abuse in the field or on packing/processing floors should be treated as a zero-tolerance issue.

## **HOUSING AND LIVING CONDITIONS**

In many cases, agricultural workers are housed by their employers or the landowners of rented land, 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 on the farms. This also creates multiple levels of dependency on their employers, an indicator of labor 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?
- Describe where you sleep. Do you get good rest? Are there shower and toilet facilities in your housing accommodation? Describe where you shower and use the toilet.



- Is there a separation between your living quarters and livestock housing, if applicable?
- Are you ever exposed to pesticide applications in your housing?
- Are there food preparation and dining facilities? Describe where you prepare food and eat.
- Do you always have access to potable drinking water?
- What common illnesses and injuries have you or other workers experienced? Do you believe the conditions of your living accommodations are connected to your illness?
- Do you feel that you have adequate privacy?
- What safety or security hazards are workers subjected to? Do you feel safe and secure in your living accommodations? If no, why not?
- Did you understand what your living conditions would be like before you accepted this job?
- What would happen if you complained about living conditions?

**Red Flags:**

- Workers report feeling unsafe or unsecure.
- Workers report unsanitary or dangerous conditions.
- Workers cannot effectively lodge complaints about living conditions.
- 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 correction action against abuse and exploitation in the workplace. It allows workers to confidentially raise issues about labor recruiter 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, where 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?
- How would you bring issues or complaints to the attention of the employer or labor recruiter?
- 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 you have, 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 (e.g., 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)? What means are in place to protect your identity when reporting a grievance?
- Do you have access to any type of communication mechanism (e.g., 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 (e.g., not able to use phone hotline while working 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 not?
- 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 had a bad experience using the process or may have gotten into trouble if they did? Could you explain?

**Red Flags:**

- Workers worry that grievance mechanisms may not be confidential, express fear of retaliation, or express other distrust.
- Workers do not know how to access grievance mechanisms.
- Workers do not understand how information from grievance mechanisms is used to inform issue remediation.
- Workers feel that remediation of issues has not served workers' best interests.
- No grievance process was available at the point of recruitment.
- There is no way to file an anonymous complain.

**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:

- Are you free to join or form a trade union?
- Has your employer or recruiter done anything, including interference or penalties, to prevent you or others from joining or forming a union?
- Are you aware of other venues for workers to organize such as worker committees or worker centers?
- Do you feel existing worker organizations are responsive to and advocate for your concerns?
- Is any group of workers excluded from worker organizations 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 not 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. In 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 and/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 couldn't 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.

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## End notes

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- <sup>i</sup> Martin, Philip. "Migrant Workers in Commercial Agriculture." International Labour Organization. [www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_538710.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_538710.pdf) 2016.
- <sup>ii</sup> "From Poles to Filipinos?" UK Food Industry Needs Post-Brexit Workers." Reuters. December 8, 2017. [www.voanews.com/a/uk-food-industry-post-brexit-workers/4156369.html](http://www.voanews.com/a/uk-food-industry-post-brexit-workers/4156369.html)
- <sup>iii</sup> International Labor Organization. Hard to see, harder to count - Survey guidelines to estimate forced labour of adults and children. 2012. [ilo.org/global/topics/forced-labour/publications/WCMS\\_182096/lang--en/index.htm](http://ilo.org/global/topics/forced-labour/publications/WCMS_182096/lang--en/index.htm)
- <sup>iv</sup> Martin, Philip. "Migrant Workers in Commercial Agriculture." ILO. 2016. [www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_538710.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_538710.pdf)
- <sup>v</sup> Waldman, Peter and Kartikay Mehrotra. "American's Worst Graveyard Shift Is Grinding Up Workers." Bloomberg Businessweek. 2017. [www.bloomberg.com/news/features/2017-12-29/america-s-worst-graveyard-shift-is-grinding-up-workers](http://www.bloomberg.com/news/features/2017-12-29/america-s-worst-graveyard-shift-is-grinding-up-workers)
- <sup>vi</sup> Salvia, Lucilla. "Subcontracting and forced labour in Italy: a tale of depoliticized labour relations." openDemocracy.net. 23 April, 2018. [www.opendemocracy.net/beyondslavery/lucilla-salvia/labour-subcontracting-and-forced-labour-in-italy-tale-of-depoliticised-](http://www.opendemocracy.net/beyondslavery/lucilla-salvia/labour-subcontracting-and-forced-labour-in-italy-tale-of-depoliticised-)
- <sup>vii</sup> Some of these questions may not be relevant or may need to be modified where informal recruiters are present in a hiring supply chain. For example, rather than asking about orientation, workers can be asked whether and in what format they received information about conditions of work, rights and responsibilities, etc
- <sup>viii</sup> "Rights of Migrant Farm Workers and Day Laborers." Illinois Legal Aid Online. 2018. [www.illinoislegalaid.org/legal-information/rights-migrant-farm-workers-and-day-laborers](http://www.illinoislegalaid.org/legal-information/rights-migrant-farm-workers-and-day-laborers)
- <sup>ix</sup> Zaglul, Layla. "Navigating unsafe workplaces in Costa Rica's banana industry." openDemocracy.net. November 15, 2017. [www.opendemocracy.net/beyondslavery/layla-zaglul/navigating-unsafe-workplaces-in-costa-rica-s-banana-industry](http://www.opendemocracy.net/beyondslavery/layla-zaglul/navigating-unsafe-workplaces-in-costa-rica-s-banana-industry)