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Trafficking in persons and smuggling of migrants 14-15 April 2015

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Global supply chains are powerful. They are fundamental to the global economy. If we accept that there is about \$60 trillion in the global economy, then according to UNCTAD, about \$6 trillion of this (i.e. 10%) is in intermediate products – i.e. goods that require a global brand or other buyer before being sold on the open market. South-South trade is growing significantly, but South-North supply chains are still twice as dominant in financial terms. They are also an increasingly important part of the global labour market with hundreds of millions of workers directly or indirectly involved. Tens of millions of these workers are low-skilled migrants – either within their own country or across international borders – and many of these workers can be vulnerable to exploitation through debt bondage, fraud, withholding of ID documents, non-payment of wages, and a host of other abuses.

Business has a critical role to play in the fight against smuggling of migrants, forced labour and trafficking of workers into the formal economy. According to the ILO, there are nearly 21 million people in forced labour around the world at any given time, over 14 million of these in activities such as agriculture, construction, domestic work and manufacturing. Forced labour and slavery are crimes punishable under international law, as we know. The growing concern over the rise in numbers of people being trafficked not only for sexual exploitation but also for labour exploitation led the international community to adopt in 2000 the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Protocol supplements the UN Convention against Transnational Organised Crime, and came into force in December 2003.

While states clearly have the legal duty to protect citizens and prosecute those involved in exploitation and trafficking, I want to turn our attention here to the role of the private sector in this

area. What are the responsibilities of companies to respect human rights and combat forced labour and trafficking within their areas of operation and influence? To what extent can companies be deemed to be complicit in smuggling of migrants or trafficking offenses within their supply chains when they may well be unaware of these activities?

In 2011, the UN Human Rights Council took an important step forward in clarifying corporate human rights responsibilities when it unanimously endorsed the UN Guiding Principles on Business and Human Rights, the final product of Professor John Ruggie's six-year mandate as the UN Secretary-General's Special Representative on Business and Human Rights. Many of you will be familiar with its 3-pillar architecture, of the State duty to Protect, the Corporate Responsibility to Respect all human rights and the need to ensure Access to Remedy for victims of corporate related rights abuses.

With regard to migrant workers, and the risks of human trafficking, companies have a responsibility under the Guiding Principles to undertake ongoing due diligence to ensure the risks of exploitation are minimized and access to grievance mechanisms and remedy are in place. This is a huge challenge in the globalized economy. From the raw cotton in the fields of Uzbekistan supplying garment factories in Bangladesh to the mines in DRC producing coltan for mobile phones assembled in Malaysia, or the Thai fishing boats producing prawns for sandwiches consumed in London, supply chains are often complex and distant. Due diligence is required not only in the sourcing of commodities and components, but also in the sourcing of labour. Do apparel retailers know how the Bangladeshi workers in the factories they source from in Jordan or elsewhere were recruited? Do global hotel chains know how many of the South Asian construction workers building their hotels in Dubai or in other cities around the world are working as bonded labour due to the levels of debt accrued by recruitment fees charged by labour brokers?

For the last 20 years we have seen companies attempt to undertake due diligence and provide remedy at a distance through social auditing. This reliance on audits, often sub-contracted, has done little to enhance protection for workers or prevent forced labour and trafficking. A new approach by business is needed with an emphasis on responsible recruitment of migrant workers to combat the risk of bonded and forced labour and trafficking.

My colleagues and I at the Institute for Human Rights and Business has been working with a range of partners, including the ILO and the Office of the High Commissioner for Human Rights, to focus on

the role of third-party labour providers present in many global supply chains. These labour providers can pose a significant risk to worker welfare and possible exploitation due to a range of all too common practices including excessive fees charged to workers, the retention of ID documents, and the lack of transparency around contracts. We are working to promote ethical recruitment whereby companies require their suppliers to use registered labour brokers only and to pay the recruitment costs instead of the workers paying those fees and thereby accruing onerous levels of debt.

In 2011, we launched the 'Dhaka Principles for Migration with Dignity', with the support of leading global companies and the ITUC. The **Dhaka Principles for Migration with Dignity** rest on two foundational principles:

First, that all workers are treated equally and without discrimination.

Migrant workers should be treated no less favourably than other workers performing the same or similar work. Moreover, migrant workers should be protected from any discrimination that would constitute a violation of human rights.

Second, that all workers enjoy the protection of employment law.

Migrant workers should have a legally recognised employment relationship with an identifiable and legitimate employer in the country where the work is performed.

Following these broad statements, the Dhaka Principles are made up 10 implementation steps that can relate to any global supply chain and minimize the risk of trafficking and forced labour from occurring. Allow me to briefly explain these steps, as each are of critical importance and part of a growing international consensus on what is needed to wipe out human trafficking and migrant smuggling:

1. No fees are charged to workers

The employer should bear the full costs of recruitment and placement. Migrant workers should not be charged any fees for recruitment or placement.

2. All worker contracts are clear and transparent

Migrant workers should be provided with written contracts in a language each worker understands, with all terms and conditions explained clearly, and the worker's assent obtained without coercion.

3. Policies and procedures are inclusive

Migrant workers' rights should be explicitly referred to in employer and migrant recruiter public human rights policy statements, relevant operational policies and procedures addressing human rights responsibilities.

4. No workers' passports or identity documents are retained

Migrant workers should have free and complete access to their own passport, identity documents, and residency papers, and enjoy freedom of movement.

5. Wages are paid regularly, directly and on time

Migrant workers should be paid what they are due on time, regularly and directly.

6. The right to worker representation is respected

Migrant workers should have the same rights to join and form trade unions and to bargain collectively as other workers. Let me say a few additional words on this point as they too often are left unspoken.

The biggest single factor in preventing forced labour and trafficking in supply chains is the active presence of trade unions. Where trade unions are able to operate effectively, incidents of modern slavery are demonstrably reduced. Increasingly, enlightened businesses are realizing that far from being something to be feared, trade unions are a key way of ensuring decent workplace standards and protection against exploitation and abuse.

And not just in relation to forced labour and trafficking. The positive role played by the Industrial union in the Bangladesh Accord, after the Rana Plaza tragedy just two years ago is an example of how working partnerships between the brands and trade unions can offer credible solutions to systemic problems. In fact it is the only credible solution. Business has nothing to fear from strong modern trade unions and a great deal to gain. The role of trade unions in helping ensure slavery-free workplaces will become increasingly significant as business realizes it is better to address systemic challenges within their operations than simply continue to face problem after problem in their supply chains. Collective agreements across entire sectors are key to transforming workplace standards, avoiding business risk and helping to deliver respect for rights including human rights.

7. Working conditions are safe and decent

Migrant workers should enjoy safe and decent conditions of work, free from harassment, any form of intimidation or inhuman treatment. They should receive adequate health and safety provision and training in relevant languages.

8. Living conditions are safe and decent

Migrant workers should enjoy safe and hygienic living conditions, and safe transport between the workplace and their accommodation. Migrant workers should not be denied freedom of movement, or confined to their living quarters.

9. Access to remedy is provided

Migrant workers should have access to judicial remedy and to credible grievance mechanisms, without fear of recrimination or dismissal. Beyond the moral reasoning of offering protection for those working within a country or migrating to work, there are also sound economic reasons for governments to do so. We hear much of how laws and regulations strangle and stifle the dynamism of business. The suggestion is often made that if only law-makers would step aside, business and markets would establish themselves to overcome problems and design effective solutions. The experience of IHRB and the many businesses we speak with tells a very different story. If there is one thing that all business wants, and we hear this constantly, it is stability. A set of clearly defined stable conditions that enable them to compete fairly within the law.

10. Freedom to change employment is respected, and safe, timely return is guaranteed

Migrant workers should be guaranteed provision for return home on contract completion and in exceptional situations. They should not, however, be prevented from seeking or changing employment in the host country on completion of first contract or after two years, whichever is less.

The good news is that a small but growing number of leading global companies have introduced a policy of 'no worker fees', such as Apple, HP and Coca-Cola. Others include policies on non-retention of worker passports. With bold corporate leadership this can become the industry norm. Coupled with strong legislation and enforcement by governments requiring companies to use registered labour brokers, these would be very significant steps to reducing the risk of forced labour and trafficking.

Governments are taking steps to require companies to report on how they are addressing the risk of forced labour and trafficking in their supply chains. In the US, the California Transparency in Supply Chains Act of 2012 and the UK's very recently passed Modern Slavery Act are two such examples, and are being welcomed by responsible companies as a means of leveling the playing field and mitigating risk across industries.

The British Retail consortium and a collection of leading UK Businesses, including a number of leading supermarkets and retailers, made a submission to the UK government regarding the Modern Slavery Bill as it passed through Parliament. In it they stated:

“ we would like to see a clause in the Bill that calls for transparency in supply chains. We believe that smart legislation that requires all companies to be transparent about the steps they are taking to address modern slavery and child labour in their supply chain can help drive stronger and broader efforts to end exploitation and abuse of workers...”

They go on to say:

“ We know we can and must continue to do more to prevent modern slavery and the media and the public demand that we do this. But we can do so more effectively where clear, well designed regulation is in place.”

The strength of effective state legislation and enforcement to protect human rights, along with the collective actions and human rights leadership of responsible companies and adequate access to remedy, are all essential elements in tackling the rising tide of trafficking that we are seeing in so many industries and countries today. We at the Institute for Human Rights and Business stand ready to work with all of you who are committed to combating human trafficking and protecting the rights of all migrant workers around the world.

Thank you.