



**VERITÉ®**

## **The Electronics Sector in Malaysia:**

### **A Case Study in Migrant Workers' Risk of Forced Labor**



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Conditions of forced labor exist in Malaysia's electronics industry. For the past ten years, Verité has seen and documented a distressing trend—migrant workers in Malaysia electronics factories recounting disturbingly similar stories of recruitment into the sector under conditions of deception, debt bondage, harassment and abuse, and other situations that can lead to forced labor.

Migration for work is prevalent in Southeast Asia. Malaysia's electronics sector is the destination for millions of migrant workers. These workers are at risk of forced labor due to the dangerous combination of personal debt, high placement fees, complicated recruitment processes, lack of transparency into working conditions, and inadequate legal protections. These can be exacerbated by unscrupulous behavior on the part of labor brokers and employers, but the system is complex enough to create vulnerability even in the absence of willful intent to take advantage of workers.

Current social responsibility interventions undertaken by brands, their top-tier suppliers, and other employers are inadequate to address vulnerability among migrants. As a result, most electronics companies that source goods in Malaysia run a high risk of forced labor in their supply chains.

Solutions to this serious problem will only emerge when companies commit to eliminating the specific risks that emerge from the combination of migration, recruitment, and overseas employment. Social audits must be extended to reach out to migrants specifically; current audit models do not effectively reflect migrants' voices. Audits must include labor brokers and recruiters too. Companies must commit to untangling the web of multiple recruiters and employers through whose hands an individual worker may pass. Brands must support their suppliers to understand and address the complexity of recruitment and its relation to working conditions. Ultimately, companies must commit to ensuring that workers do not pay excessive fees, such as Apple has ensured that workers are reimbursed for any fees over the equivalent of one month's salary.<sup>1</sup>

Over the longer-term, brands and employers must commit to working only with recruiters that can demonstrate their capability to deliver ethical conditions and, in particular, to eliminate the payment of fees to workers. **Verité and Manpower's Ethical Framework for Cross-Border Labor Recruitment provides the guidance by which this can be done.**

These problems are complex and difficult to crack, and first require an understanding of the multi-stage processes by which workers from abroad are recruited and deployed to any given electronics facility in Malaysia. Intervention is most effective when multiple approaches are used and when every stakeholder, from workers to suppliers to brands, build the systems needed to avoid the abuse before it starts.

### What are "Forced" and "Bonded" Labor?

International Labor Organization (ILO) Convention 29 defines **forced labor** as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." It is often considered the most common modern manifestation of slavery. The terms *compulsory* and *involuntary labor* are often used synonymously with *forced labor*.

**Bonded labor**, a form of forced labor, is defined as "the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined" in the "United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956." The term *debt bondage* is often used synonymously with *bonded labor*.

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<sup>1</sup> Unlike most electronics companies, Apple has given specific attention to the issue of bonded labor through excessive recruitment fees. Apple requires that migrant workers pay no more than the equivalent of one month's wages in fees (or lower if required by law). The company further requires that migrant workers that paid more than this amount be reimbursed for overcharges paid. This has resulted in **millions of dollars returned to migrants workers**. Verité considers these efforts commendable, and would like to see them replicated by other companies in the sector.

Migrants will go to great lengths to find promising jobs, regardless of the cost, working conditions, or location. Right now, the risks are high to each worker as well as to the brands and factories that employ them. Only concerted action can reduce these risks such that workers thrive and companies can comply with their ethical commitments.

## The Problem

For the past several decades, Malaysia has relied on the importation of low and medium skilled workers to support growth in a variety of sectors. Increasingly in recent years, this trend has affected the electronics sector. Malaysia is among the largest importers of labor in Asia in terms of overall worker numbers. The majority of these workers are from Indonesia, Nepal, India, and Vietnam, while the remainder comes from countries such as the Philippines, Cambodia, Thailand, Sri Lanka, Myanmar, and Laos.

What workers from all of these countries have in common is that they come from largely poor, disadvantaged backgrounds and are promised opportunities to help themselves and their families financially. Too often, the promises made to workers are false. Further, the procedures and varied steps inherent in the recruitment and job placement process for foreign workers in the Malaysia electronics sector limit the transparency that brands (and just as importantly, their top tier suppliers) have into this process. This complexity makes abuses more difficult to detect and eliminate.

Verité has interviewed thousands of foreign contract workers in the Malaysia electronics sector who have described being pushed into debt by unscrupulous recruiters who charge them excessive and illegally high fees. Then the migrants work long hours and are forced to work overtime in order to earn enough money to pay off debts; are threatened with deportation if they complain; and have their passports and travel documents confiscated and withheld restricting their freedom of movement. Workers also have told Verité that some of their colleagues run away as a desperate recourse to escape exploitative working and living conditions.

In Malaysia, these abuses are often hidden and are the result of a confluence of factors and the actions of a number of actors at each stage of a worker's employment lifecycle. Abuses can be triggered from the very moment the workers are recruited and charged fees in their districts and villages, usually by individuals acting as agents for large employment agencies in major cities that will eventually process workers' job applications and even charge additional fees before deploying them for work in Malaysia.

Upon arrival in Malaysia, the workers' descent into forced labor is often reinforced through additional burdens, such as the withholding of passports; levying deductions and withholdings that further diminish the worker's take-home pay and ability to pay off debt; taking control of bank accounts; placing the worker in physical or social isolation; and subjecting the worker to threats of deportation. While at the

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### The Foreign Worker Quota System in Malaysia

In order to recruit workers from abroad, an electronics factory in Malaysia needs to make sure it has sufficient quota to do so. The Malaysian government allows factories to recruit workers directly, but only as many as the quota limit assigned to the business allows.

If a factory needs more workers, they turn to labor brokers, which themselves are assigned quota for foreign worker recruitment. Like the factory, brokers' quota is limited, and since they serve multiple factories, at any given time they only have so much quota space. The result is that if a factory is in urgent need of workers, they have to use several brokers.

**At one electronics factory Verité visited, 15 brokers were used. Each Malaysia broker functioned as the employer for its workers. Once the use of sending country agents and sub-agents was figured in, there were nearly 50 different individual actors in the recruitment of workers for that factory.**

This presents immense challenges to understanding and gaining transparency into recruitment practices, especially in terms of how much money workers may be required to pay one or more of these recruiters.

Reform of the Malaysian quota system will support more ethical treatment of workers.

workplace, migrant workers are also vulnerable to physical or verbal abuse and discrimination, and their freedom of movement may be strictly curtailed.

In countries throughout Southeast Asia from where migrant workers destined for Malaysia originate, labor brokers and their agents are large and small, operate in both urban and rural areas, and some are more formally organized than others. In these sending countries as well as in Malaysia, supplying workers to numerous electronics factories is big business.

Potential workers are almost always required to pay a combination of fees in order to obtain employment in Malaysia. Fees range in amounts, but Verité's assessment work has found that the fees are often illegally high. Actual fee amounts range considerably depending on the country from which a worker emigrates for work, but for all workers, the cost of a job can be high. For example:

*A foreign worker at one electronics facility stated that after deductions for fees, she is left with only around MYR 20 (USD 7) at the end of each month, or enough to afford a pack of instant noodles for dinner each night.*

- At one electronics facility, workers from Vietnam paid fees in excess of the legal limit equivalent to nine months' regular wages, a considerable sum since the workers were hired on 24 month contracts.<sup>2</sup>
- At a another electronics facility, workers from Myanmar paid an entire years' worth of wages in recruitment fees.
- A foreign worker at one electronics facility stated that after deductions for fees, she is left with only around MYR 20 (USD 7) at the end of each month, or enough to afford a pack of instant noodles for dinner each night.
- At a third facility, workers from Nepal were found to have paid an amount equal to over eight months' normal wages, again a significant sum given the 24 month contracts.

In order to obtain money for the fees, workers may mortgage their family's land, sell any valuable possessions they have, or find a money lender that charges excessive interest rates which add to mounting debt.

Malaysian law also requires that for each foreign worker hired, a levy of MYR 1,200 must be paid to the government. In the Spring of 2009, Malaysia passed a regulation requiring the foreign workers' levy to be borne by the employer or broker. Nonetheless, Verité has found that in some cases this cost continues to be passed on to workers, usually through monthly wage deductions of MYR 100.

After paying the fees required by the labor agents, workers arrive at the workplace and often face new vulnerability and abuse. Sometimes this can be in the form of "amendments" to the labor contract previously signed before departure to Malaysia, changes resulting in lower wages, or hefty deductions that are much higher than what was promised. Workers quickly realize that their job is not the route out of poverty that they thought it was.

Some examples encountered by Verité include:

- Workers at one facility stated that when they asked their labor broker about undefined deductions from the wages (labeled on the pay slip as "other deduction"), they were verbally abused and the broker threatened to rip up their passports and report them as illegal migrants to local authorities.
- Workers signed one contract in Indonesia stating that they would be provided with free housing, but upon arrival in Malaysia were required to sign an amended contract agreeing to deductions for housing costs.
- Foreign workers at another facility were required to sign three total contracts – one with the sending country agent, one with the Malaysian agent, and one with the factory. All contracts specified different working conditions.

Employers also face their own challenges. They often have difficulty meeting their labor needs and thus turn to labor brokers and foreign recruitment to fill vacant positions, but struggle to understand how workers from other countries are recruited. Gaining visibility into the practices of the brokers recruiting their workers is key to addressing the problem, but many facility managers which Verité has engaged describe how difficult this is to achieve.

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<sup>2</sup> A typical monthly regular wage (over a 48 hour workweek, without overtime) for a foreign contract worker in an electronics facility in Malaysia is MYR 480-520, or USD 158-172. There is no minimum wage in Malaysia, with locally hired workers often paid much more in regular wages than foreign workers.

Further, in most cases, foreign workers hired through a labor broker in Malaysia are technically employed by the broker. The broker is legally the employer, though the migrant actually works at the electronics factory and is subjected to the factory's policies and procedures. This means that, in many cases, it is the broker's responsibility to supervise pay, enforce discipline, take attendance, and otherwise manage workers at the factory. A recent law passed by the Malaysian government further embeds this employment arrangement in the industry, indemnifying the factories of legal liability and accountability and passing it on to brokers who are often untrained and unqualified to handle Human Resources management functions.

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This lack of transparency into brokers' practices, and the indirect accountability faced by employers, opens up numerous legal and social responsibility issues and risks not only for the workers, but also for the facility where the workers are assigned.

The risk from this complexity extends to brands in the electronics sector and others. For example, a brand might wish to conduct a social audit at one of their suppliers. **It will be critical for the brand to recognize that a facility audit will not actually assess the actual employer of most foreign contract workers.**

Managers at many Tier 1 electronics supplier factories in Malaysia that Verité has assessed did not know the circumstances under which workers were recruited, and since any brokers they utilized function as workers' employers, they did not always know if workers were paid correctly or treated in accordance to laws and standards to which the supplier factories must adhere.

## The Solution

These problems can seem overwhelming given the presence of so many actors involved in worker recruitment and employment, the fragmented governmental authority across multiple countries, and a lack of knowledge or resources. This is exactly how unscrupulous brokers enter the recruitment system and operate with impunity. Electronics companies can only solve these problems with a multi-faceted approach and by building systems at all levels of the supply chain to avoid these problems.

***How can my company start to eliminate these problems?***

**The solution starts with a company's commitment to screen out and avoid forced and bonded labor** in their Malaysia and worldwide supply chains. High level corporate policies or codes of conduct addressing labor and human rights issues should be developed or revised to address the risks of forced labor and the vulnerabilities of migrant and foreign contract workers. They should explicitly commit the company to eliminating payments by workers for a job. The policies should apply to first tier suppliers, sub-contractors, and their respective business partners, including labor brokers and recruiters. They should also be integrated into business contracts as a basis

### "Cumulative" Factors in Forced Labor

In Malaysia, several factors often add-up to create situations of forced labor. In addition to the risk of debt-induced bonded labor, red flags for forced labor in Malaysia electronics factories are:

- The labor broker is the on-site manager of migrant workers.
- Identity documents, passports, or other valuable personal possessions are confiscated or withheld.
- Excessive, unexplained, or illegal deductions are made from workers' salaries that result in induced indebtedness.
- Wages are withheld, delayed, or unpaid.
- The broker maintains control over workers' bank accounts.
- Workers are forced to lodge financial deposits or "security" fees, e.g. as "runaway insurance."
- Freedom of movement is curtailed, especially in migrant workers' housing.
- Workers are unable to terminate their employment without incurring significant financial penalties.
- Workers are required to assume cost of repatriation.
- Deception or false promises made regarding terms and conditions of employment, including job type, length of contract, salary, and benefits.
- Contract substitution.

for establishing a framework for social audits and other assessments. A brand's policy cannot be well-implemented unless the issue it addresses is understood by management and staff.

***But I already audit my suppliers, so isn't that enough?***

Social audits are the primary tools used by brands to assess their own facilities and those of their suppliers for compliance with their corporate policies and codes, and to detect compliance violations and worker abuse. Electronics brands sourcing from Malaysia are no exception. **Most audit models and auditors, however, are fundamentally ill-equipped to detect the various forms of forced labor** and to make the improvements in the recruitment, selection, and hiring process necessary to address it effectively.

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Broker-induced forced labor in Malaysia is such a complex issue that, in order to account for it, brands need new assessment and compliance strategies. They need to **audit not only themselves and their first-tier suppliers, but also the labor brokers and other intermediaries** that provide them with and/or manage workers on their behalf. They also need new and effective tools to assess and identify these new forms of abuse. At the same time, auditors also need to be fully trained on how to conduct outreach to and interviews with vulnerable migrants. New tools, audit procedures, and policies warrant new and better training on how to identify and address forced labor. Many of these tools are available at [Verité's Help Wanted site](#).

Some electronics companies do have the means and mechanisms to respond and react to non-conformance issues that surfaced during audits in Malaysia, but they are usually not well-positioned to anticipate and avoid these problems in the first place. Taking a reactive approach to problems is almost always more costly than prevention, and facility audits have shown that social responsibility problems tend to persist when remedial or corrective actions are either poorly maintained or are not implemented at all.

***How do I keep these problems from happening at my company in the first place?***

**Electronics companies should develop and implement a systems improvement plan that includes corrective and preventive measures** to help their suppliers remedy current problems and

### **Legal Framework in Malaysia Governing the Employment of Migrant Workers**

Among the most common issues involving migrant workers in Malaysia electronics factories are onerous recruitment fees, non-payment of wages and other benefits, late or partial wage payments, excessive working hours, non-payment of overtime pay, unauthorized deductions, lack of medical benefits, unsafe working conditions, substandard accommodations, and vulnerability to abuse by the police and RELA (also known as the People's Volunteer Corps, RELA is a government-sanctioned volunteer group with powers similar to the police, and is responsible for checking migrants' travel documents). Although there are laws in place to protect the rights and interests of migrant workers, enforcement of laws is weak. Workplace monitoring by the government is limited, and as a result egregious employer and labor brokerage practices continue unabated.

Verité audits also reveal that it is common for foreign workers to be paid a considerably lower minimum wage rate compared to what is provided to local workers (as low as half that of local workers). There is no legal minimum wage in Malaysia.

Awareness of human and labor rights among migrant workers is also significantly low. Disempowerment through lack of knowledge appears systemic such that even if migrants knew of these rights, they would be unlikely to complain given that any available grievance mechanism is physically, financially, and socially inaccessible to migrant workers as to render it almost irrelevant. As witnessed by Verité during our work, even documented migrant workers are often threatened with summary firing if they file a complaint with the government or third-parties. Losing employment means a migrant loses the work permit, making the worker immediately vulnerable to deportation.

Another issue has to do with the lack of security of tenure. There is no express guarantee that workers are secure in the duration of their contracts. Since in Malaysia work permits are not co-terminus with the contract duration, workers can also lose their status when employers fail to renew their work permits. With structural barriers to filing complaints and grievances, and with migrant workers tied to the broker/employer, workers become more vulnerable to abuse and the fear of being dismissed and rendered as an illegal alien.

prevent future ones. This strategy should be formalized into a written plan that includes mechanisms and guidance to respond to immediate problems, but as importantly, more proactive measures to anticipate and avoid them. This means:

- Developing written **policies**.
- Implementing **procedures** at suppliers that enforce the policies.
- **Communicating** the policies and making sure supplier management and workers are appropriately trained.
- **Documenting** the effectiveness of the policies and procedures.
- **Monitoring** the implementation of these systems to identify gaps and areas for improvement.

*Brands must work with their suppliers to establish good practices and the proper controls to prevent the conditions that enable or result in such forms of abuse.*

Developing a broad strategy of this kind can help brands to take effective action against forced labor. Brands must work with their suppliers to establish good practices and the proper controls to prevent the conditions that enable or result in such forms of abuse. Verité has worked with many brands to create these systems.

Given the depth and breadth of the causes of these problems, brands must work closely with other peer companies and stakeholders. Many multi-stakeholder and multi-brand initiatives already promulgate Codes of Conduct and approaches to sustainability. These should be revised to incorporate a specific focus on the vulnerabilities faced by migrants and the solutions mentioned here.

Companies—including brands, suppliers, and recruiters—should collaborate to implement the **Ethical Framework for Cross-Border Labor Recruitment**, recently released by Verité and Manpower.

## How Verité Helps

Verité is an international not-for-profit consulting, training, and research NGO that has been a leader in supply chain social responsibility and sustainability since 1995. Verité is a member of the Alliance to End Slavery and Trafficking, and has presented its solutions to forced labor at the Clinton Global Initiative. For our work, Verité won the Skoll Award for Social Entrepreneurship in 2007 and the Schwab Social Entrepreneur of the Year Award for 2011.

**Verité has several initiatives and services for brands that help solve these problems:**

**Verité's Help Wanted initiative:** a research and advocacy effort that aims to clarify and publicize the ways in which current labor broker practices can lead to the human trafficking and forced labor of migrant workers, and to provide concrete approaches by which the private sector, civil society, and governmental institutions can address this key point of leverage to reduce the risk of a worker ending up a victim of modern-day slavery. As part of this initiative, our Fair Hiring Toolkit offers tools, guidance, and approaches to support the responsible recruitment and hiring of migrant workers in global supply chains. For more information, please contact Dr. Shawn MacDonald, Director of Programs and Research at [smacdonald@verite.org](mailto:smacdonald@verite.org) or call 413-253-9227.

### California Transparency In Supply Chains Act

Brands are facing growing expectations from key stakeholders such as investors, consumers, and public policy actors to report on and disclose information about their supply chain engagement. In some cases, this pressure is the result of new regulatory requirements that oblige brands to describe their efforts to eradicate slavery and human trafficking, such as the **California Transparency in Supply Chains Act** adopted in 2010.

Brands can report in many different ways. They can use their annual CSR reports, websites, published case studies, and other means to tell stakeholders what they are doing. All reporting, however, is better when it is proactive, rather than reactive.

Brands should report on policy, performance, and impact. They should give details about the preventive and corrective actions they are taking against forced labor as well as the protective measures they have in place as part of their recruitment, selection, and hiring process for migrant workers in their supply chains. They can describe new policy interventions and strategies and share lessons learned in implementation. Transparent communication of this kind will satisfy the demands of regulatory requirements, and meet the expectations of key stakeholders.

**Foreign Worker Assessments:** focused on conditions at workplaces that employ foreign contract or migrant labor. These assessments are designed to detect labor abuses specific to the employment of foreign and migrant workers through in-depth and detailed analysis of how these workers are recruited, deployed, and employed. For more information, please contact Ms. Robin Jaffin ([rjaffin@verite.org](mailto:rjaffin@verite.org)) or call 413.253-9227.

Verité and Manpower have recently released the **Ethical Framework for Cross-Border Labor Recruitment**, which is an operational mechanism by which brands and employers can evaluate the capability of labor brokers to deliver ethical conditions. For more information, please contact Dr. Shawn MacDonald, Director of Programs and Research at [smacdonald@verite.org](mailto:smacdonald@verite.org) or call 413-253-9227.

**For further information on any Verité initiative or service, you may also contact our Southeast Asia regional office:**

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**Other services Verité provides are:**

- Investigative audits to illuminate the real conditions faced by workers and harvesters at the bottom of the supply chain and bring workers' voices to corporate decision-makers.
- Action-oriented training for staff in global corporations and their suppliers to expand awareness and help reduce the negative impacts of global sourcing.
- Consulting at the points of maximum leverage on how to implement effective human rights protections within global businesses.
- Risk Assessment for pension funds and corporate supply chains.
- Facilitation of multi-stakeholder initiatives that join business, workers, labor, civil society and governments to focus at both strategic and practical levels to achieve social change.
- Research and policy advocacy to change the understanding and activities of influential pension funds, companies, and government agencies to drive compliance to social responsibility standards.