

Human Rights Due Diligence on Migrant Workers

Report on the second session

CRT Japan hosts a seminar series on “Human Rights Due Diligence on Migrant Workers.” The second session was held online on Thursday, the 3rd of March, 2022, with **Bonny Ling** and **Guna Subramaniam** from Institute for Human Rights and Business (IHRB).

The second session received 97 registrations from 52 companies in a wide range of industries (machinery/electric/automobile manufacturing, food, chemicals/pharmaceuticals, transportation, information/communications, distribution/retail, consulting and other services) and 10 organizations (NGOs/NPOs, educational institutions) and 76 people were in attendance.

The second session aimed to provide an opportunity to learn about principles that should be followed to achieve fair treatment of migrant workers, the financial burden they bear, the situation they face in Taiwan, and human rights issues in Taiwan's fishing sector.

Guna Subramaniam emphasized the importance of fair treatment of migrant workers. He explained that many workers migrate to work, bearing their own recruitment fees, travel expenses, and other related costs and that they are working off a debt, adding the cost of pre-and post-travel COVID19 tests quarantine is an even more significant burden during the pandemic. However, he stressed that it is unfair for workers to bear these costs for their work, adding that ILO Convention No. 181 (Private Employment Agencies Convention) clearly states that “illegitimate, unreasonable and undisclosed costs” are never legitimate. He then introduced the “Employer Pays Principle,” which says that the employer, not the worker, should pay the recruitment costs, and the “the Dhaka Principles for Migration with Dignity (the Dhaka Principles),” which are principles for the responsible recruitment of migrant workers, and stressed the importance of adherence to these principles. He concluded his presentation by introducing the “[Leadership Group for Responsible Recruitment](#),” a company-led collective advocacy platform launched by the IHRB in light of the current situation regarding the recruitment of migrant workers, harnessing the leverage of major international brands to promote responsible recruitment practices among business, the recruitment industry, and government.

Bonny Ling explained the current situation of migrant workers in Taiwan. Although Taiwan has maintained its Tier 1 ranking in the U.S. Trafficking in Persons Report for 12 consecutive years, the fact is that migrant workers in Taiwan face a harsh reality, and this highlights a large gap between what appears on the surface and what is actually happening on the labor front. She mentioned that the fishing sector in Taiwan has a deep-rooted human trafficking problem. The U.S. Customs and Border Protection

(CBP) has issued Withhold Release Orders (WRO), which withhold imports of goods suspected of forced labor at all U.S. ports of entry, for seafood harvested by two Taiwanese-flagged fishing vessels and a flag-of-convenience vessel (Vanuatu-flagged, Taiwan-owned) for alleged exploitation of migrant workers. She also claimed that some companies and local governments imposed unfair movement restrictions on migrant workers during the pandemic, not only in the fishing sector, and unfair treatment of these workers was apparent, which she pointed out was contrary to “the state duty to protect” and “corporate responsibility to respect” human rights in the UNGPs. In echoing Guna Subramaniam, she stressed the importance of complying with the “Employer Pays Principle,” which requires employers to bear the costs of employment of their workers. On the other hand, she noted that it might not be easy to achieve compliance with this principle in Taiwan because the law allows recruitment agencies to charge migrant workers a monthly service fee. Regarding the third pillar of the UNGPs, remedy, she pointed out that migrant workers do not have easy access to justice due to various obstacles, including language barriers. She listed three types of regulations relevant to companies: legally binding regulations, international standards with which they are expected to comply, and self-imposed regulations, each of which must be complied with. She pointed out that in the EU, human rights and environmental due diligence is being legislated, and legal requirements for companies are increasing in other countries around the world. She also pointed out the need for companies to take action to protect the rights of migrant workers. In order to protect and respect the rights of migrant workers at the national level, she stressed the need for stronger engagement among governments, companies, and consumers; corporate leadership to change the mindset of society as a whole; and reforms to social structures that protect and respect the rights of migrant workers in all industries, regardless of the evaluation of the U.S. Trafficking in Persons Report.

A Q&A session followed, and the seminar was closed.

■ References

IHRB

- [Dhaka Principles](#)
- [IHRB resource bank for tools and guidance](#)
- [Global Forum for Responsible Recruitment](#)
- [Fair Recruitment in Review - Philippines to Taiwan: Falling Through the Cracks?](#)

EU

- [ILO report on Definition of Recruitment Fees and Related Costs](#)
- [Migrant Worker Guidelines for Employers](#)