



Migration and Modern-Day Slavery in Supply Chains

Preface

There are 214 million international migrants worldwide. The majority of this population move in order to find work and to provide for their families. Many of these people are successful; in 2009 alone, migrants sent an estimated \$414 billion back to families in their home countries. However, labor protections for migrant workers are notoriously weak, and millions of migrant workers face abysmal working conditions and become victims of trafficking—a modern-day slave trade.

On October 3, 2011, the University of Notre Dame hosted the FLA’s Stakeholder Forum “Migration and Modern-Day Slavery in Supply Chains.” The discussion brought together leading labor experts, advocates and representatives from major apparel brands to learn more about how migration and trafficking affect the manufacturing of clothing and other products. The discussion focused on Bangladesh and India. Speakers included representatives from the University of Notre Dame, Educators for Socially Responsible Apparel Business, H&M, International Labor Organization, PVH Corp., and Manusher Jonno Foundation.

Welcome to Notre Dame

Dr. John Affleck-Graves, Executive Vice President, University of Notre Dame, introduced the school as an institution that not only drives education, but strives to be a source of good in the world. He expressed the University’s commitment to graduating students that change the world in profound ways. Rev. James E. McDonald, Associate Vice President and Counselor to the President, University of Notre Dame, then led an invocation.

Forum Introduction

FLA President and CEO Aurret van Heerden opened the forum recalling that the global labor market developed quickly and without a strong system of regulation. As a result, it became dominated by the law of supply and demand with few constraints, rules or regulations. There remains a lack of consensus on how to regulate migrant work, which is an essential part of the global labor market.

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Migrant workers often turn to human traffickers to circumvent immigration laws of recipient countries and smuggle them into the desired country. These workers incur extraordinary costs and often endure inhumane treatment and risk their lives on the way. Statistics show that slavery is probably at an all-time high, while the price of slaves is at an all-time low. More than two-hundred years after outlawing slavery, slaves are being traded at a rate never before seen,



Notre Dame students, faculty and staff gather at the FLA Stakeholder Forum to learn more about how clothing is made.

said van Heerden. The global economic downturn only deepened this crisis, leaving marginalized people fewer employment options and desperate employers looking to cut costs by casualizing their labor force. In some hard-hit countries, governments have amended labor laws to require less documentation, making it easier to hire trafficked workers.

By default, the responsibility to regulate the global labor market falls on private, voluntary initiatives. The FLA, for example, brings together all parties involved, from buyer to supplier, to try to define a set of best practices. While those of us here today may lack the scale, scope and mandate to end human trafficking internationally, our active presence in the global supply chain allows for the possibility of creating even a minimal set of standards. Developed and developing nations are equally susceptible to trafficking and to employing trafficked workers, van Heerden noted, and ending modern-day slavery is a responsibility that everyone shares.

Some governments have attempted to address this issue, but have been gravely underpowered. Human trafficking remains the second or third largest criminal enterprise on earth, more lucrative than drugs, yet the number of prosecutions is in the single digits. Policing is not working, and sanctions

may only push trafficking further underground.

If we have willing buyers and willing suppliers, surely we can create a clean channel for recruitment of workers, said van Heerden. This channel should be based on a standardized contract that provides the minimum rights and terms and conditions and advances the notion that poverty anywhere threatens prosperity everywhere. We must combat trafficking and slavery within our spheres of influence, van Heerden said, or face the possibility that its scope will continue to grow rapidly.

Mexican Immigration to the United States

Doctor Jorge Bustamante, Eugene Conley Professor of Sociology at the University of Notre Dame, provided a framework for the discussion of migration issues. Dr. Bustamante asserted that while Mexican immigration to the United States is a bilateral issue between the two countries, it is not recognized as such in political and social debates in the United States. Such debates tend to focus on U.S. demand for labor to carry out certain tasks, such as harvesting crops.

Immigration reform, the preferred solution of U.S. politicians, is inherently a unilateral solution, and will be unable to solve a bilateral issue. The United Nations agrees that the issue of migration requires a bilateral solution due in part to indigenous demand factors interacting with indigenous supply factors, such as Mexican workers' wish to migrate to find better-paying jobs. Dr. Bustamante used the Canada-Mexico immigration policy as an example of a bilateral solution to the migration issue. While the 30,000 Mexican migrants in Canada make up a much smaller population than the millions in America, they prove that migrant workers can fill the need for labor in Canada in a safe and legal way.



Panel 1: The Sumangali Scheme in India

Migration and Types of Labor in India

Coen Kompier, Senior Specialist, International Labor Standards, International Labor Organization, introduced labor issues in India. Kompier stated that migration in India tends to be internal, rather than migrants leaving or coming to the subcontinent. Areas in the north are extremely poor, with maternal and child mortality rates rivaling those in sub-Saharan Africa, while cities like Bangalore are akin to California's Silicon Valley. More than 90 percent of all employed people work in the "unorganized sector," the Indian terminology for the informal economy. This population is generally made up of Muslims, tribal groups and others who fall into lower castes. There is no exact data, but it is estimated that about 70-80 million people migrate within India each year to work on a contract basis.

Kompier outlined criteria set forth by the Supreme Court of India regarding practices that could result in forced labor:

- Non-payment of minimum wages
- Partial or late payment of wages
- Unclear idea of wage rate
- No freedom of movement
- Poor working conditions
- Resistance by employers and labor authorities to recognize and register trade unions

The Indian government estimates that more than 12 million children are engaged in hazardous work. According to law, education is free and compulsory from the ages of 6-14. However, many schools function poorly and it is estimated that 30-70 million children do not attend classes. Many of these children belong to the excluded groups listed above.

Kompier maintained that deception turns migration into trafficking. It is hard to determine whether migration has turned into trafficking until the person finds out their wages and working and living conditions. Although India adopted the Interstate Migration Act—which requires workers and employment agencies to be registered with the government—this law is not enforced, making it difficult to track offenders.

Evolution of the Sumangali Scheme

Sakthivel Sivasamy, Executive Secretary, Tiripur Exporters' Association (TEA), stated that currently, 350,000 workers are employed in the Tiripur garment sector in Tamil Nadu.

Sumangali translates to "an unmarried girl who becomes respectful after marriage." Per Indian cultural norms, mothers are pressured to find a suitable marriage for their daughters after they complete high school. Users of the Sumangali Scheme convince families to send their daughters to work for three years in return for the promise of a lump sum used to pay a dowry.

The Sumangali Scheme prevails in textile mills, where women make up 70 percent of the workforce. Due to the recent spotlight placed on the Sumangali Scheme by international media and charges that it represents a form of slavery, the Tamil Nadu government met with two major textile mill associations to address the issue. The government suggested the following actions:

- Payment of minimum wages
- Providing health insurance
- Lifting restrictions on employees who wish to leave or go home
- Issuance of identity cards/time cards/attendance cards
- Providing proper facilities and food in dormitories

The Tiripur Stakeholders Forum—an initiative comprised of the Tiripur Exporters Association, unions, NGOs, and the Brand Ethics Working Group—developed a guidance document to help members provide safe and healthy accommodations for female-migrant workers coming from different parts of the country. The document includes guidelines on recruitment, training, terms of employment, working hours and wages, and recommendations for housing.

The full document can be found at www.tsf.org.in/guidelines

What and Where is the Sumangali Scheme?

Linda Johansson, CSR Program Manager, H&M Hennes & Mauritz AB, described the Sumangali Scheme that is present in garment factories, vertical garment factories and spinning mills. Johansson stated that the following factors are associated with the presence of the Sumangali Scheme:

- Forced labor
- Minimum wage, or wages being withheld until the end of a three-year contract
- Restricted freedom of movement
- Poor living conditions
- Excessive overtime
- Health and safety risks
- Exploitation of low caste females
- Supporting dowry system

The scheme has to a certain extent been accepted by society because it allows young, unmarried women to make some money, which will go toward their bride price. There are so many domestic and international buyers for their products that factories and spinning mills can choose to sell to brands who do not audit or who are less concerned with putting an end to the Sumangali Scheme.

Research shows that the scheme is mostly prevalent in spinning mills (80-90%), though it is sometimes present elsewhere. The two largest spinning mill associations in the region where the Sumangali Scheme is mostly used, SIMA and TASMA, attended the Tiripur Stakeholders Forum mentioned earlier. The Tiripur Peoples Forum and the Tiripur Steering Group are two other multi-stakeholder initiatives that are working to address this issue. Johansson noted that while all of these initiatives show a step forward, there remains a need to coordinate efforts to ensure efficacy. Finally, Johansson suggested that the young women directly affected by the Sumangali Scheme be included in forums and meetings so that their needs can be more directly assessed.

Issues and Initiatives

Lakshmi Bhatia, Fair Labor Association Director of Stakeholder Engagement in India, discussed issues and initiatives surrounding the Sumangali Scheme.

Bhatia shared information about the FLA-sponsored Solidaridad Study, which assessed where the Sumangali Scheme falls in the supply chain. Research suggested that the realities facing many Indian families and the cultural context in which they live allow the Sumangali Scheme to not only persist but to thrive. The findings prove that the social context in India must also change, to be able to better support international initiatives.

Bhatia shared some ideas for future initiatives. As the Solidaridad study wraps up, the Ethical Trading Initiative (ETI) is commissioning an NGO in India to ensure that local stakeholders—village heads, parents and girls affected—are prepared to discuss this issue. Once local stakeholders are prepared, ETI and FLA could host an international event in India that brings all parties together to discuss future plans and programmatic issues.

Awareness programs about topics varying from the global garment trade to legal rights and entitlements to health, nutrition, etc. could be presented in village communities using local tools such as theatre. At the spinning mills level, programs presenting a global perspective on a rights-based approach to work could be introduced. Bhatia noted that the only way we can create the impact the world needs is to try new and creative approaches to solving this problem.

Panel 2: 2010 California Transparency in Supply Chains Act



Ezzy discusses the CA Transparency in Supply Chains Act.



History of the Bill

Mufaddal Ezzy, Policy Advisor, California State Senate President Pro Tem Darrell Steinberg, provided a legislative history of the 2010 California Transparency in Supply Chains Act. In 2010, after the release of the U.S. Department of State Trafficking in Persons Report, Senator Steinberg introduced SB 657, which requires that manufacturers doing business in California and having annual gross receipts of more than \$100 million to disclose their efforts, if any, to eradicate slavery and trafficking. This disclosure must include to what extent the company:

- Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery
- Conducts audits of suppliers to evaluate compliance with company standards for trafficking in supply chains
- Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country/countries in which they do business
- Maintains internal accountability standards and procedures for employees or contractors failing to meet company requirements
- Provides company employees and management who have direct responsibility for supply chains with training on human trafficking and slavery

The bill was approved by the California legislature and signed into law on September 30, 2010. It takes effect January 1, 2012.

Marsha Dickson, Professor and Chairperson of the Department of Fashion & Apparel Studies, University of Delaware, and President of Educators for Socially Responsible Apparel Business (ESRAB), shared some concerns and approaches that companies take to CSR. Dickson noted that many companies take a risk-based approach to fulfilling CSR requirements versus a rights-based approach.

Marcela Manubens, Senior Vice-President, Global Human Rights and Social Responsibility, PVH Corp., added that legislation like the California Transparency in Supply Chains Act ensure that companies do fulfill CSR requirements and PVH is

more than willing to comply.

Lejo Sibbel noted that because the companies must publicly disclose all attempts to end trafficking, if there are any, the responsibility to monitor supply chains now falls on their shoulders. He also shared a guide developed by FLA to help affiliate companies meet requirements of the disclosure act.

Panel 3: Responsibility of Sending Countries: Bangladesh

Nike, Inc.'s Policy

Sonya Durkin-Jones, Director, Issues Management & Policy Management, Nike, Inc. shared her company's policy that was put in place to address the problems facing migrant workers. These problems include:

- Lack of knowledge of a contract under which the worker is employed
- Documents in foreign languages
- Inaccurate information about employment
- Unclear information about living conditions and fees incurred upon arrival
- Uncertainty about how to get home when the contract ends

To address these problems, Nike, Inc. requires its factories to pay all recruitment and other fees for workers, including employment, health checks and travel to the country of employment and repatriation when the contract ends. Additionally, contracts must be written in the language of the employee and must be given to the employee before they migrate. Fallout from this policy includes some suppliers ending business relations with Nike, Inc. as well as a reduction in the number of migrant workers due to the complicated hiring process. Durkin-Jones closed by pointing out that the worker is at the heart of these policies and that the intent is to provide clarity for all involved.

Bangladeshi Workers

Rina Roy, Director, Manusher Jonno Foundation, works with migrant workers and shared some positive and negative outcomes of international migration



on Bangladeshis. Positive results of working abroad include:

- Reduction of poverty and unemployment rates
- Improvement in the economic status of the worker and the worker's family
- Acquisition of a skill set, improving chances of self-employment

Roy also pointed out that potential migrant workers can become desperate, making them vulnerable to traffickers.

Challenges Facing Suppliers

Tammy Rodriguez, Director, CSR, at the Esquel Group, explained the complex and challenging process of recruiting and employing migrant workers. First, she said, there is the issue of trying to find credible labor agents where direct recruiting is not possible. Secondly, employers take on many additional responsibilities for foreign workers that they do not take on when hiring local workers, including housing, transportation, medical care, initial and recurring visa and work permits, and ensuring the safety of the employees at the factory and in their housing complexes. While these additional responsibilities can be managed well, the fact remains that properly recruiting and employing migrant workers requires significant additional resources, increasing the overall operational costs for factories. Often, these costs are increased to a level that customers are not willing to pay.

FLA Initiative in Bangladesh

Gowrie Ponniah, Social Development Specialist, shared information about an FLA initiative in Bangladesh. There are currently 7.5 million Bangladeshi migrant workers employed outside of their country. The government requires that half a million Bangladeshi citizens work abroad each year and that 12 percent of the country's GDP comes from migrant worker remittances, according to Ponniah. This means that some responsibility to ensure minimum worker protection should fall on the sending country. The FLA worked with the government, government recruitment agencies, private recruitment

associations, and civil society organizations to produce documents outlining protective measures to regulate the recruitment and employment of migrant workers, which could be used by any potential employer.

The Bangladeshi government already endorsed this initiative, but the documents are general enough that they could be used in any other country.

Conclusion

FLA President and CEO Aurret van Heerden agreed with Doctor Bustamante that the issue of migration is at least bilateral, yet most national governments respond to it in a unilateral way, concerned only with their citizens and their labor market. Multinational companies and international NGOs are the only actors in the supply chain that have a transnational perspective on this problem, meaning that strategies to deal with the issue come from the private sector instead of the government.

To address the problems stemming from international migration, van Heerden made three suggestions:

- The creation of inclusive, local forums which share the responsibility of developing strategies to address problems stemming from migration. These forums would also take into account the fact that the law of supply and demand determines migration and would develop a market-based response to address the issues surrounding it
- The creation of a set of foundations for an ethical process of outward migration beginning at the supply end, so the supplier will know that the risk of trafficking or any other worker rights violation is greatly minimized
- The continuing demand from governments for greater accountability and transparency from companies, so employers will have more incentive to examine their supply chains and better protect migrant workers.

In conclusion, van Heerden expressed hope that in time, supply chain actors will create a seamless opportunity to engage the global labor market in a manner that is as ethical as possible.