

Forced Labour in the Malaysian Medical Gloves Supply Chain before and during the COVID-19 Pandemic: **Evidence, Scale and Solutions**

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MODERN SLAVERY & HUMAN RIGHTS | POLICY & EVIDENCE CENTRE
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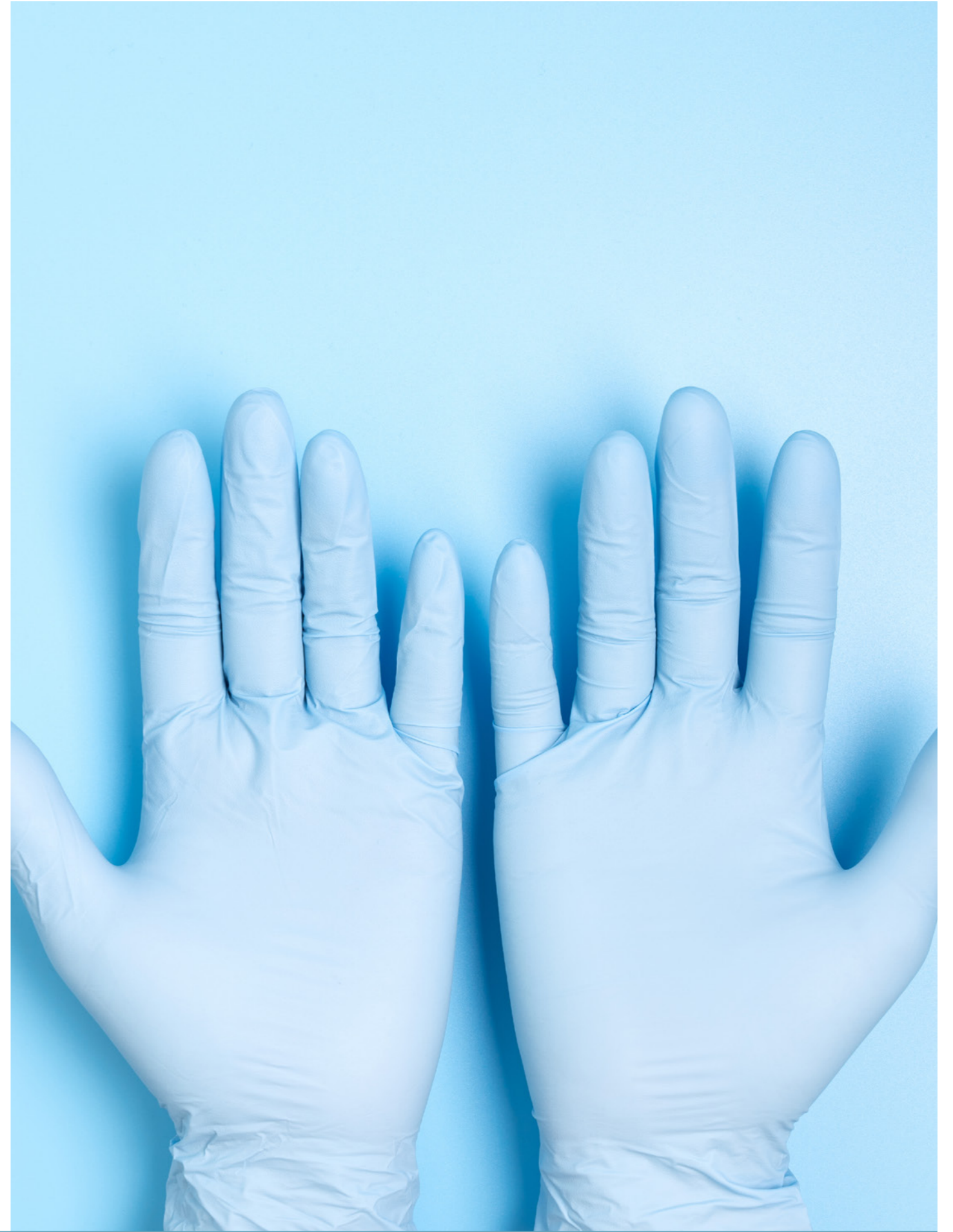
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The views expressed in this report are those of the authors and not necessarily of the Modern Slavery PEC. This project was funded through an open call for proposals to examine the impacts of the COVID-19 pandemic on modern slavery.



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1. Introduction

This report identifies labour issues, and in particular evidence of forced labour, in the Malaysian medical gloves sector before and during the COVID-19 pandemic, and evaluates the ways in which those issues are addressed in the supply chain. The report focuses on the production of medical examination gloves in Malaysia (in a value chain where power shifted to the manufacturers during the pandemic), and supply to the UK's National Health Service (NHS), which experienced a fourfold increase in consumption of gloves from March 2020.

Against the backdrop of an already challenging situation for working conditions in this sector, which is heavily reliant on migrant labour, the pandemic placed further pressure from the increased demand for gloves, and risks of COVID-19 transmission at the workplace.

Our objectives were:

- To document organisation of supply chains for the procurement of medical examination gloves, focused on gloves from Malaysia procured by the NHS, highlighting changes during the COVID-19 pandemic;
- To identify and evaluate evidence and scale of forced labour (and other labour issues) in the Malaysian medical examination gloves industry before and during the COVID-19 pandemic;
- To evaluate effectiveness of approaches to address labour standards through the supply chain, before and during the COVID-19 pandemic;
- To identify barriers to, and opportunities for, positive change to prevent and remediate labour issues in the Malaysian gloves industry, including through NHS supply chains.

Our findings are informed by research conducted on the entire supply chain between August 2020 and April 2021. This includes a survey of 1,491 workers in Malaysia, 11 interviews with migrant workers, and 14 interviews with government officials, suppliers, and procurement managers in the UK, and manufacturers in Malaysia. Surveyed workers and interviewees were asked about their experiences prior to and during the pandemic.

This report, and the data that inform it, will be of value to policy makers, procurers, suppliers, and third sector organisations addressing labour standards in this supply chain. It provides evidence of how forced labour, endemic in the sector,^{1,2} was exacerbated during the COVID-19 pandemic, and how and why attempts to remedy underlying issues failed.

1. Hall A. (2020). Don't forget the people behind the PPE: migrant workers meeting the surge in demand for medical gloves. The Telegraph 17 April: <https://www.telegraph.co.uk/global-health/science-and-disease/dont-forget-people-behind-ppe-migrant-workersmeeting-surge/>

2. Bengtson P. (2019) Clean gloves, dirty practices: debt bondage in Malaysia's rubber glove industry, Diplomat 22 November: <https://thediplomat.com/2019/11/clean-gloves-dirty-practices-debt-bondage-in-malaysias-rubber-glove-industry/>

2. Key findings and recommendations

2.1 Key findings

- The **annual consumption of medical examination gloves in the pandemic increased almost fourfold** in England and Scotland. To meet this demand in England, a parallel supply chain to the centralised one coordinated by NHS Supply Chain was set up by the Department for Health and Social Care, which involved swifter than normal due diligence checks on suppliers, often working through embassies and high commissions. Additional suppliers were also taken on by other home nations.
- Increased global demand for medical gloves during the pandemic led the Malaysian gloves industry to grow rapidly, with prices estimated to have quadrupled, production increased to 280 billion units in 2021, and **Malaysia's earnings from the sector increasing by 103% in 2020**.
- **Power in the gloves supply chain shifted towards manufacturers**, with decisions about distribution, pricing, and payment terms more firmly in their hands.
- **The pandemic increased demand for workers to meet rising production needs**. It also made it challenging to hire new workers due to the government freezing foreign labour recruitment as part of the mobility restrictions to contain the virus. Companies turned to hiring local workers, but persistent under-staffing effectively put additional pressures on workers. COVID-19 also increased risk to health both in the workplace and their living quarters.
- **In-person audits of factory labour standards had to stop during the height of the pandemic, and labour standards assurance had to be conducted remotely**. This made ethical procurement even more distant and desk-based than it had been before the pandemic through the NHS's Labour Standards Assurance System. Modern Slavery statements and commitments to assure labour standards were included in contracts, but the means for auditing and verifying those statements and commitments have been limited.

- Using the **International Labour Organization's (ILO) Forced Labour Indicators** as reference points, the research shows evidence of forced labour in the Malaysian medical gloves sector during the COVID-19 pandemic. Most labour issues are longstanding and continued during the pandemic, but some issues became worse (detailed below).

Indicators where the situation stayed the same during the COVID-19 pandemic:

Abuse of vulnerability:

The restrictive conditions of work permits, which tie workers to one employer, and the financial and psychological barriers to resignation before serving three years placed on workers by employers engenders worker vulnerability. Workers' vulnerability is also abused by recruitment agencies and informal brokers demanding high recruitment fees.

Deception:

Workers reported deception over wages, working hours, and job roles they would be performing. There was also evidence of deception regarding working and living conditions and contracts. Deception often happens at the recruitment stage and was not possible to measure during the pandemic because of the freeze on recruitment of migrant workers. How deception within recruitment operates after the pandemic will be an area for observation.

Physical and sexual violence:

6% (90) of surveyed workers report that they have experienced or witnessed physical or sexual violence. However, subtle forms of violence were more common, in the form of intimidation, verbal, and psychological violence.

Intimidation and threats:

Before migrating, almost a third of surveyed workers (and particularly those employed via subcontractors) reported that their recruitment agency had threatened or intimidated them to prevent them from speaking about recruitment fees. Post-migration, workplace intimidation is centred around ensuring productivity, impeding contract terminations (and to a lesser extent from taking annual leave), and inhibiting workers from raising individual and collective grievances.

Retention of identity documents:

More than half of surveyed workers reported that their recruitment agency and/or associated broker had kept their passports (for between four months and a year) whilst processing their job applications. Once in Malaysia 8% of workers surveyed had their passports kept by the company, from upwards of 4 months. Greater governmental scrutiny and employer awareness of passport retention as a forced labour risk has led to some companies in the sector returning passports to workers.

Withholding of wages:

This does not appear to be a major issue in the medical gloves industry, although some irregularities may occur.

Indicators where the situation worsened during the COVID-19 pandemic

Restriction on movement:

Contracts are normally for a period of three years (renewable), and the gloves companies usually pay for the annual work visa only if a worker works until the end of it. Workers appear nominally free to leave contracts, but the companies' practice of having workers bear the costs of travel back home and the work permit/levy if they break their contract early constitutes a forced labour risk. Almost a third of surveyed workers signed a document stating that they cannot leave their job before the end of the contract. 22% of surveyed workers reported that they were unable to move freely at all times, citing COVID-19 restrictions in the past months as the main cause. There is evidence that COVID-19 and the worker shortage has hampered the ability of some workers to take leave. 42% of surveyed workers reported not being able to take leave freely without the payment of a deposit.

Isolation:

Both factories and workers' accommodation are often located in difficult to reach zones, in industrial estate areas located relatively far from the city. This physical isolation, which worsened during the pandemic, generates social isolation in that workers do not interact with the general population in Malaysia.

Abusive working and living conditions:

Most workers are generally happy with the safety of

working conditions: the majority felt they had enough personal protective equipment (PPE) and that COVID-19 safety measures were generally adequate. However, accommodation is a key issue of concern, with more than half of surveyed workers reporting it to be congested, leading to a lack of privacy, not having enough toilets, and overheating. Hostels also appear to lack recreation facilities, with more than a third of workers citing a problem with available facilities. More than half of surveyed workers indicated dissatisfaction with the quality of food provided. For a section of the workforce, there are also concerns over safety within the hostels. In late 2020 the situation with accommodation worsened when the industry was hit by a series of COVID-19 outbreaks affecting factories across the sector, with thousands of cases among workers. The Malaysian government identified overcrowded and substandard dormitories as a key reason for the outbreaks.

Excessive Overtime:

Our research confirmed long working hours. Surveyed workers worked a mean average of 12.02 hours a day. 12 hours is the longest working time (exclusive of breaks) permissible under Malaysian law. Workers report that overtime is mandatory and they were often well-disposed to this, as they viewed it as an opportunity to increase earnings. However, a small number of workers were pushed over these limits. Many workers reported not receiving their statutory entitlement of a rest day per week. This appears to have worsened during the pandemic in the context of demands on the industry.

Indicator where the situation improved during the COVID-19 pandemic

Debt bondage:

High recruitment fees, often paid by workers taking out loans, mean that workers are tied to their employer at least until debt is repaid. Bangladeshi worker recruitment fees are higher than those of Nepalis. More than half of surveyed workers report taking out a loan at an average amount of \$2,560. Workers take from different, often informal, sources and at varying rates of interest. Particularly in the first year of their employment, many workers in the medical gloves industry are at a high risk of debt bondage. There has been some improvement during the pandemic with movement in the sector towards

reimbursing recruitment fees. United States (US) import bans in 2019 and 2020 on two Malaysian manufacturers on grounds of forced labour appear to have been influential in promoting wider commitment in the sector to reimbursement. A quarter of surveyed workers reported receiving some reimbursement of fee from their company at the time of the survey.

- Organisations at all stages in the supply chain, as well as governments in producing and consuming countries, are involved in initiatives to tackle forced labour, but **there remains an unclear distribution of responsibility for labour standards through a supply chain that continues to be long and fragmented**. At the most basic level approaches include annual reporting obligations for some companies such as the UK's annual modern slavery statements. Social audits of factories have been one of the most common methodologies for identifying and addressing forced labour. At the most stringent end of the spectrum are import bans and seizure of goods implemented by the US government on medical glove shipments suspected of forced labour. Despite supply chain actors participating in these initiatives, **there has been limited success in addressing forced labour issues, and gaps remain**.

- The **direct impacts of COVID-19 on working and living conditions most consistently reported by workers are: a fear of contracting the virus, a workload increase, a reduced ability to take breaks, increased opportunities for overtime, and lockdown measures** associated with the Malaysian government's Movement Control Order (MCO) restricting movement out of factory compounds and accommodation. These impacts are however not generalised and do not affect all workers equally.

- In the Malaysian medical gloves industry, a lack of transparency both before and during the pandemic regarding the results of social audits, and **limited recognition within audits of high recruitment fees as a forced labour risk**, are noted as issues of concern.

- In the UK's NHS, **a process is already underway to improve upon the Labour**

Standards Assurance System and a training programme in ethical public procurement has been initiated by the UK government.

- Proposed amendments to the Modern Slavery Act address the omission of public bodies in modern slavery reporting, but at the time of writing there is no timetable for these amendments. The **UK government's Transforming Public Procurement Green Paper** was published in 2020 to propose changes to public procurement following EU exit. It **indicates potential changes in approach to social factors**, which can include forced labour, in public sector supply chains. The UK government's Procurement Bill also promises change.
- The Malaysian government has tackled forced labour under the National Action Plan on Anti-Trafficking in Persons 2016-2020, however the ILO stated that the Plan's activities were insufficient. **In March 2021 the Ministry of Home Affairs launched the National Action Plan on Anti-Trafficking in Persons 2021-2025 (NAPTIP 3.0), and it remains to be seen whether this will improve on its predecessor.**
- The Malaysian Department of Labour's number of inspectors is reported to be insufficient to provide coverage of workplaces. **Malaysian Government efforts during the COVID-19 pandemic have focused on identifying and enforcing employers' improvement of sub-standard accommodation, fuelled by concerns that cramped accommodation** played a role in spreading COVID-19. The Ministry of Human Resources has indicated improved migrant worker accommodation as a key target for improvement.
- In parts of the Malaysian medical gloves industry there was recognition of labour standards issues and willingness and efforts to reform employment practices. However, **committed engagement to improving labour standards has been uneven across the industry**, with variable employment practices and attitudes to labour management across companies.

Evidence of forced labour in the medical gloves sector shows that **current systems for addressing labour standards are failing. Forced labour is endemic in the sector, with issues continuing and in some cases exacerbated by the COVID-19 pandemic.** The shift in the balance of power from the supplying intermediaries and buyers to the manufacturers, and the ability of manufacturers to charge higher prices for gloves, has not translated sufficiently into remediation of forced labour, despite some attempts at redress. Organisations at all stages in the supply chain are involved in initiatives to tackle forced labour, but responsibility can be opaque in a supply chain that continues to be long and fragmented.

2.2 Priority recommendations

- Purchasing power of governments must be leveraged in ways that mandate greater transparency in supply chains and more meaningfully address labour issues.
- Procurement organisations should require evidence of forced labour diagnosis and remedy as a condition of contract (which most commonly is with intermediary suppliers) rather than the current paper based or audit assurances.
- Manufacturers should provide functioning, confidential external grievance mechanisms (e.g. helplines) operated by independent third parties for workers and those being recruited.
- Manufacturers should also engage with third party expert support to diagnose forced labour issues, and develop robust corrective action plans. Corrective actions must include effective awareness training to workers on issues of forced labour, how to report these, and company actions to prevent recurrence.
- Workers should engage with the third party grievance mechanisms and also with worker representatives where these exist, to report issues whenever possible.

- Where there is brazen or persistent breach of contract over issues of forced labour, buyers should take action for financial or legal redress.

2.3 All recommendations

UK governments should:

- Ensure that social values, labour issues, and specifically the remediation of modern slavery and forced labour, are firmly embedded in new procurement legislation following European Union (EU) exit, especially the new Procurement Bill announced in May 2021.³
- Advance work that develops ethical public procurement knowledge, education, and practical tools for public sector procurement management including in the health sector and for medical gloves and other PPE.
- Monitor the effectiveness of government training modules on ethical public procurement as knowledge is put into practice by procurers.
- Collaborate with and encourage other nations to participate in allied processes.

Procurement organisations should:

- Continue to develop improved labour standards assurance systems and monitor their effectiveness.
- Continue to develop procurement managers' knowledge of forced labour risk factors and assessment methodologies for analysing evidence provided by suppliers.
- Ensure that labour standards are part of supply chain resilience strategies.
- Strengthen relationships with intermediary suppliers and manufacturers, including on the issues and monitoring of labour standards.

- Require evidence of forced labour diagnosis and remedy as a condition of contract (which most commonly is with intermediary suppliers) rather than the current paper based or audit assurances. This should include, at a minimum:

Evidence of methodology for calculating recruitment fee repayment;

Evidence of scope of payment (who is included);

Evidence of fact of complete repayment (payment schedule should have finished);

Evidence of functioning, confidential external grievance mechanisms (e.g. helplines) operated by independent 3rd parties, and specific instances of the resolution of grievances to workers' satisfaction;

Evidence that workers who have been killed or injured whilst employed (not necessarily on the production floor) have been compensated at least to the levels required under Malaysian law;

Evidence that all accommodation meets Malaysia's Act 446 on Minimum Standards for Workers' Housing;

Evidence of expert 3rd party investigations into all indicators of forced labour, with corresponding action plans for the resolution of all other indicators beyond those listed above. The resolution of these should be made a condition of contract.⁴

- Where there is brazen or persistent breach of contract over issues of forced labour, fines should be used or legal action taken.

Distributor/intermediary firms sourcing gloves from either their own manufacturing facilities or separate producers and supplying them to the NHS should:

- Strengthen relationships with manufacturers and procurement organisations, including on the issues and monitoring of labour standards.
- Consider working with independent auditors and civil society organisations in the producing country to develop locally-sensitive, cost effective and robust systems of audit in-country.
- Provide evidence of forced labour diagnosis and remedy in their supply chains, as outlined above.

Manufacturers should:

- Provide functioning, confidential, external grievance mechanisms (e.g. helplines) to workers that are operated by independent 3rd parties. Ensure that these grievance mechanisms are also open to candidates during recruitment to ensure effective due diligence.
- Engage with 3rd party expert support to diagnose any forced labour issues, and develop robust corrective action plans. Include within any such corrective action plans: the provision of effective awareness training to workers on issues of forced labour; the company's corrective actions to prevent their recurrence; and how workers should report any such issues via external grievance mechanisms.
- Improve information to workers on rules and regulations, legal entitlements and end of contract conditions and communicate this information in workers' own languages.
- Fully comply with the Employer's Undertaking (Aku Janji Majikan).⁵ Compliance with paying the worker levy in accordance with the Fees Act 1951 is especially recommended. Under no circumstance should workers be made responsible for any of its cost.

3. GOV.UK (2021) Queen's Speech 2021, 11 May: <https://www.gov.uk/government/speeches/queens-speech-2021>

4. International Organization for Migration (2021), Operational guidelines for businesses on remediation of migrant-worker grievances, Geneva: <https://publications.iom.int/books/operational-guidelines-businesses-remediation-migrant-worker-grievances>

5. Ministry of Human Resources (2017) Aku Janji Majikan (Employer's Undertaking): https://www.mohr.gov.my/pdf/Aku_Janji_Majikan.pdf

- Reduce use of subcontracted employees and ensure that any subcontractors engaged eliminate forced labour indicators.
- Improve worker voice mechanisms such as works councils and trade union representation.
- Establish or continue zero cost recruitment policies to pay worker recruitment costs.
- Work with migrant workers' countries of origin governments and recruitment agencies to monitor and improve recruitment processes, especially to eliminate fee payment, and provide workers with accessible and accurate information about available jobs. Related to this, we recommend research into recruitment chains and processes to better understand the pressures and mechanisms for positive change.
- Cooperate within the Malaysian Rubber Glove Manufacturers Association (MARGMA) to promote best practice at the industry level

Workers should:

- Make use of any effective, independent 3rd party grievance mechanisms to confidentially report any forced labour issues, including at the recruitment stage.
- Engage with worker representatives where these exist, to report issues whenever possible.

Malaysian government should:

- Work with migrant workers' country of origin governments to improve the monitoring of the worker recruitment process.
- Consider a review of the current migrant-sponsorship policy to reduce areas of worker vulnerability. A review could establish mechanisms to enable workers to legally leave their employers in cases of labour rights violations and facilitate labour market mobility between employers.⁶

- Consider reviewing an increase to the minimum wage and/or overtime rate payments, alongside a reduction in weekly total working hours to a limit of 60 hours (currently 72) – to ensure that workers can earn the same total take home pay per week as well as reduce excessive working hours.
- Target resources for, and monitor the effectiveness of, the National Action Plan on Anti-Trafficking in Persons (NATIP 3.0) 2021-2025 and learn from the limitations of the previous National Action Plan.
- Increase the Department of Labour's number of labour inspectors and their coverage of workplaces.
- Restart enforcement of the Employees' Minimum Standards of Housing, Accommodations and Amenities (Accommodation and Centralized Accommodation) Regulations 2020 as soon as possible to address accommodation issues such as overcrowding.
- Play a role in ensuring that companies do not retain passports.
- Ensure compliance with existing labour regulations.

Migrant origin country governments should:

- Improve government legislation and its enforcement concerning recruitment intermediaries, including working with Malaysian manufacturers to identify and remediate recruitment abuses.
- Raise awareness and education of workers regarding worker rights and entitlements, recruitment processes and issues of recruitment system abuse.

Civil society organisations should:

- Raise awareness and education of workers regarding worker rights and entitlements, recruitment processes and issues of recruitment system abuses.

Campaigners should:

- Continue to identify problems of forced labour and other labour rights issues to maintain the visibility of these issues, as this visibility drives positive change.



⁶ See also on legal reform International Labour Organization (ILO) (2018) Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Forced Labour Convention and Protocol: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_650658.pdf (accessed 12/4/2021)

3. Research design

The report draws on multi-sited research between August 2020 and April 2021, during the COVID-19 pandemic. The study took a whole supply chain approach, including fieldwork in Malaysia and the UK (as well as with procurers in Sweden to provide reference to leading edge models for sustainable healthcare procurement). Change caused by the pandemic was a key focus of data collection from all research informants and subsequent analysis.

3.1 Review of literature

A review of academic, policy, advocacy-orientated, and journalistic literature was conducted to provide context on the gloves sector in Malaysia and supply chains connecting to the UK's NHS.

3.2 The survey with workers in Malaysia

A survey was conducted between August and October 2020 of 1,491 workers employed across multiple Malaysian gloves manufacturing companies (company details not provided, to protect anonymity). Table 1 provides nationality and gender demographics of survey participants. The majority were male (1,280, 86%) and from Bangladesh or Nepal (1,251, 84%), which reflects typical composition of the workforce in this sector. Questions, asked in workers' own languages, covered a range of labour issues, including those related to forced labour⁷, and the impact of the pandemic on working and living conditions. The survey was conducted in-person in some cases, where possible, but mostly online.

Table 1. Demographics of survey respondents by nationality and gender⁸

Nationality	Number (% of total)	Number (%) male
Nepal	653 (44%)	601 (92%)
Bangladesh	598 (40%)	594 (99%)
Indonesia	105 (7%)	25 (24%)
Myanmar	49 (3%)	19 (39%)
Malaysia	35 (2%)	18 (51%)
Vietnam	28 (2%)	0 (0%)
India	10 (0.7%)	10 (100%)
Pakistan	9 (0.6%)	9 (100%)
Sri Lanka	4 (0.3%)	4 (100%)
Total	1491	1280 (86%)

⁷ ILO (2012) ILO Indicators of Forced Labour, Geneva: https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm

⁸ Gender data were missing for 7 participants.

3.3 Semi-structured interviews with workers in Malaysia

To gain deeper insight into the lived experiences of workers, in November and December 2020 we also conducted semi-structured interviews with 11 Malaysian glove factory workers. All interviewees were male, six from Bangladesh and five from Nepal, aged 21 to 39, with between 11 months and seven years individual experience working in Malaysian gloves factories. The composition of this group reflects the demographic profile of the workforce in the sector, and the workers were identified using existing networks of one of the collaborators. Six worked in glove packing, one as a technician, one in production, one as a driver, and two fulfilled various roles. Interviews were conducted in person, and in the native language of the participant. Questions focused on a range of labour, including forced labour, issues and the effects of COVID-19 on working and living conditions. In this report these workers are referred to as 'interviewed workers' and workers who participated in the survey as 'surveyed workers'.

3.4 Supply chain interviews

We also conducted 13 remote semi-structured interviews with a variety of actors in the supply chain for Malaysian gloves, and received an email response to queries from one further actor from February to April 2021. This group comprised:

- Management representatives from three large Malaysian medical gloves manufacturers
- Representatives of two UK government departments
- Two representatives from NHS Supply Chain, responsible for medical gloves procurement and sustainability respectively
- Procurement directors from two large hospital trusts and a regional purchasing hub, between them covering regions in the North and South of the UK
- Three large intermediary companies supplying medical gloves from Malaysia to the UK

- The National Coordinator and Unit Head of the National Secretariat for Sustainable Public Procurement in Sweden

Interviews covered themes including manufacture, supply, and procurement of medical examination gloves both before and during the pandemic; labour issues encountered both before and during the pandemic; labour standards specified in contracts and their monitoring before and during the pandemic; legislation affecting glove production and procurement; and perspectives on opportunities for, and barriers to, change in labour standards in the Malaysian gloves sector.

3.5 Research ethics and data management

The project was approved through Newcastle University's ethical review procedures. Voluntary consent was obtained from interview participants. Participants are anonymous in the report unless they consented to be named. All worker names are pseudonyms.

3.6 Data analysis

Data from the workers' survey were used to generate descriptive statistics on the pattern and extent of forced labour indicators. We used chi-squared and t-tests to investigate relationships between these indicators and worker nationality or contractual status. Data from semi-structured interviews were first coded into themes, and content then scrutinised to understand and connect these themes. Findings from the survey and interviews were cross-correlated to verify findings, and amalgamated to provide the primary evidence on indicators of forced labour.

Interviews with government, procurement, and production and supply chain representatives were also analysed via thematic and content analysis, with a further round of analysis to connect and corroborate evidence, and to triangulate with data from worker interviews and the survey.

3.7 Study scope

The study focused on representatives of key nodes in the production, supply, and procurement of medical examination gloves in Malaysia and the UK, including gloves factory workers, manufacturers, distributors,

procurement organisations, and government. We did not include labour recruitment agencies and civil society organisations in Malaysia or in migrant workers' countries of origin. UK logistics workers were also outside the study's scope. These represent important areas for future research.



4. UK procurement of medical gloves, the organisation of supply chains, and labour standards

4.1 Pre-COVID-19 NHS procurement structures

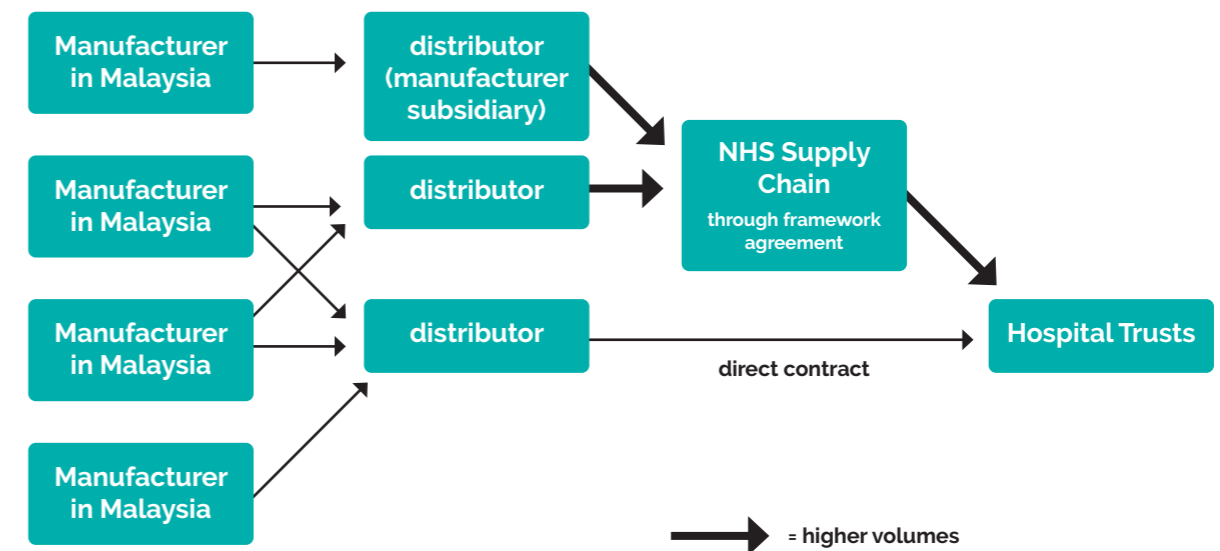
Prior to the pandemic procurement and supply of PPE and other medical equipment, including examination gloves, for use in the UK NHS was predominantly conducted by NHS Supply Chain in England on behalf of hospital trusts, regional hubs, and other healthcare organisations. Procurement in other home nations was coordinated by National Services Scotland, NHS Wales, and the Department of Health in Northern Ireland.

In England, NHS Supply Chain performs sourcing and logistics roles for the NHS, and since 2018 has been coordinated by Supply Chain Coordination Limited (SCCL), a managing organisation owned by the Secretary of State for Health and Social Care. NHS Supply Chain organises procurement through 11 Category Towers, with cost-saving as a major factor driving procurement. Contracts for supply of a product are issued through a competitive process, leading to framework agreements that normally run for two years with optional extension for a further

two years. Framework agreements are typically issued across many suppliers (also known as intermediaries or distributors), who may or may not be manufacturers. Whereas NHS trusts can technically procure items independently, in practice NHS Supply Chain supplies around 95% of goods to England (including gloves). The contract tendering process in the UK is framed by the 2015 UK Public Contracts Regulation, which is in turn shaped by the World Trade Organization General Procurement Agreement and by EU Procurement Directives, which seek to support fair, transparent, and open competition.

Medical examination gloves are purchased through Category Tower 2 – Sterile Intervention Equipment and Associated Consumables⁹, and prior to the pandemic, annual supply was estimated at 2 billion units. For medical examination gloves manufactured from nitrile, latex, or vinyl, the current Framework Agreement runs until March 2022 and includes 19 suppliers, 15 of which have been previously approved by NHS Supply Chain as suppliers, and 4 of which are recently listed¹⁰. These suppliers include a range

Figure 1. Pre-COVID-19 medical gloves supply chain in England



⁹. NHS Supply Chain (no date) SCCL Timeline » NHS Supply Chain: <https://www.supplychain.nhs.uk/about-us/sccl-timeline/>.

¹⁰. NHS Supply Chain (no date) Examination Gloves and Surgical Gloves - NHS Supply Chain: <https://www.supplychain.nhs.uk/product-information/contract-launch-brief/gloves-examination-and-sterile-surgeons>.

of corporate structures – some UK-based, some multinational, and most source from independent manufacturers, the majority of which are based in Malaysia. NHS Supply Chain inventory of gloves was traditionally low, and based upon a monthly forecast of demand.

In Scotland gloves are procured by NHS National Services Scotland through a single supplier model.

4.2 Operations during COVID-19

The number of gloves distributed for use by health and social care services in England between 25th February and 23rd August 2020 was 1.84 billion, compared with 1.76 billion for the whole of the previous year between 1st January and 31st December 2020¹¹. Interviewees remarked on an almost fourfold increase at times of peak demand during the pandemic. For Scotland, between 1st March 2020 and 26th May 2021 just under 7 million gloves were issued¹² compared with an annual consumption figure of closer to 2.5 million pre-pandemic. With comparable increases across the world, colossal demand overwhelmed established procurement systems and global supply chains.

For gloves supplied to Scotland, the existing supplier expanded sourcing to an additional manufacturer. In addition a new contract was signed with a different supplier who was required to comply with existing criteria on labour standards and provide a statement of standards assurance. The contracting authority recognised such information could not necessarily be verified, especially in the absence of in-person factory audits.

In England, NHS Supply Chain continued to supply gloves through existing Framework Agreements but demand exceeded capacity. In Spring 2020 the Department for Health and Social Care (DHSC) established an emergency parallel supply chain for PPE by triggering Regulation 32 of the Public Contracts Regulations 2015 to enable new contracts to be urgently set up, and exempting contracting organisations from usual procurement procedures and timetables. Around 45 contracts were awarded by the parallel supply chain, with assurance of manufacturers' credentials based on information from UK government institutions such as embassies and high commissions. Contracts awarded through the parallel supply chain stipulated that suppliers were required to comply with law and regulations regarding modern slavery, and conduct due diligence in their own supply chains and that of any subcontracted parties.

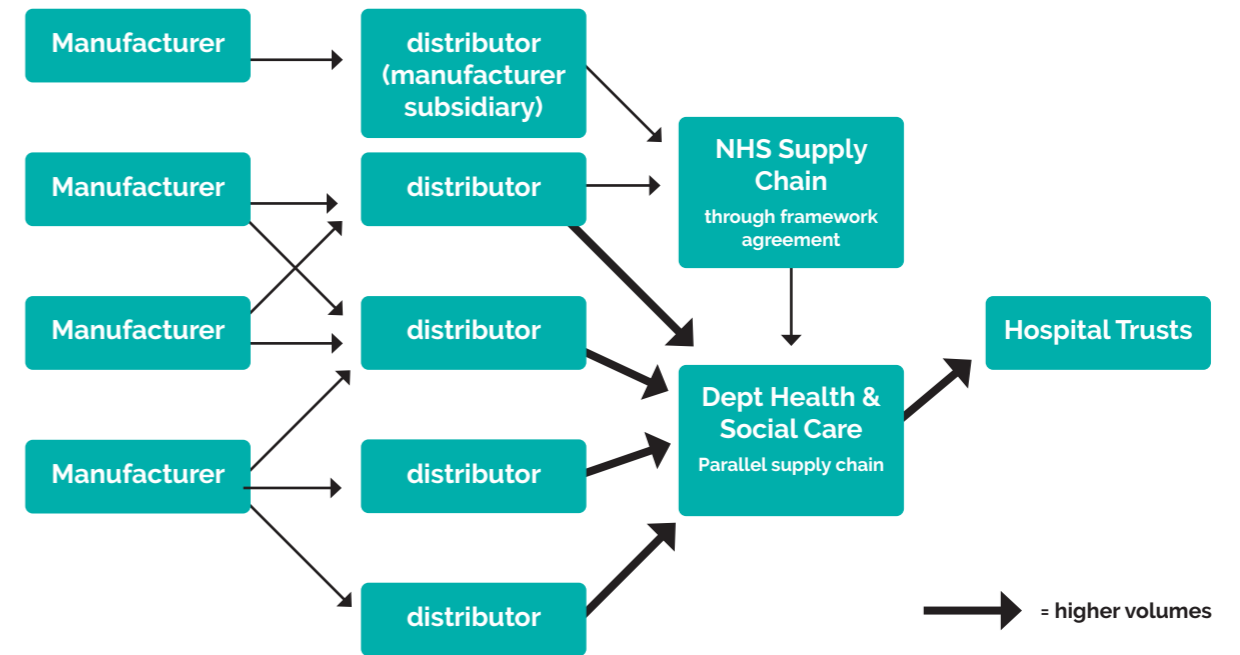
Unprecedented demand for gloves meant that global supply chains were disrupted, and many customers made alternative approaches to manufacturers and offered prompt payment, creating a spot market and up to fourfold increase in price. However, many suppliers stated they respected established relationships, and prioritised supply to long-established customers.

During the COVID-19 pandemic supply of medical examination gloves to UK hospital trusts has been through a 'push model', whereby they are provided with products free of cost and with no choice in which brands they receive. In England, provision of free PPE has been extended to at least 31st March 2022. This shift in supply chain organisation during the pandemic raises risks of forced labour issues due to pressures on production, as well as risks that problems are not found due to the curtailment of already limited labour standards assurance systems.

11. Department of Health and Social Care (2020) Experimental Statistics – Personal Protective Equipment Distributed for Use by Health and Social Care Services in England: 17 August to 23 August 2020: <https://www.gov.uk/government/statistics/ppe-deliveries-england-17-august-to-23-august-2020/experimental-statistics-personal-protective-equipment-distributed-for-use-by-health-and-social-care-services-in-england-17-august-to-23-august-2020>.

12. GOV.SCOT (2021) Coronavirus (COVID-19): PPE Distribution Statistics: <https://www.gov.scot/publications/coronavirus-covid-19-ppe-distribution-statistics/>.

Figure 2. COVID-19 medical gloves supply chain in England



4.3 Relationships and structure of the supply chain

Supply chains for medical examination gloves (and indeed for other simple PPE) are consistent with global supply chains for many consumer goods through an era of deregulation and export-oriented industrialisation in the late 20th and early 21st centuries: production occurs predominantly in regions of low-cost export-oriented production (incorporating low-cost labour) and supply chains are often characterised by a Just-In-Time model of distribution. Purchasing and supply of PPE are

organised through long and complex linkages and arms-length relationships (unlike supply chains for many consumer goods, which are more often led by a corporate 'lead firm' and can operate through direct purchasing).

There are no comprehensive data available on the inter-relations of manufacturers and suppliers in medical gloves supply chains, but media reports in recent years have demonstrated some of the complexity. For example Ansell, one of the largest global suppliers of medical gloves, has its own manufacturing facilities in Vietnam, Sri Lanka, Malaysia and Thailand¹³, yet also sources

13. Department of Health and Social Care (2020) Experimental Statistics – Personal Protective Equipment Distributed for Use by Health and Social Care Services in England: 17 August to 23 August 2020: <https://www.gov.uk/government/statistics/ppe-deliveries-england-17-august-to-23-august-2020/experimental-statistics-personal-protective-equipment-distributed-for-use-by-health-and-social-care-services-in-england-17-august-to-23-august-2020>.

gloves from the Malaysian factories of Top Glove¹⁴, WRP¹⁵, Smart Glove, and Brightway¹⁶. And Top Glove, a Malaysian company and the world's largest manufacturer of gloves, supplies to hundreds of brand names in over 150 countries.¹⁷

Prior to the COVID-19 pandemic, the purchasing power of intermediary suppliers¹⁸ and procurers dominated the supply chain, and purchasing practices prioritised cost-saving. Fragmentation and arms-length relationships in the supply chain were associated with low transparency and poor accountability for labour rights issues (and so low risk to supplier or purchaser reputation).¹⁹

During the pandemic, the huge increase in demand for medical examination gloves has seen a dramatic

shift in power towards manufacturers (associated with record profits)²⁰, and with decisions about distribution, pricing, and payment terms more firmly in their hands. The response of the medical gloves sector to the pandemic is said to exemplify an "adaptive and effective" global supply chain²¹ (notwithstanding a shortfall in supply for some world regions), but such opinions may not incorporate important implications for labour issues. The pandemic has also exposed fragilities and limitations in supply²², and future resilience may include holding larger inventory, domestic or regional manufacture, and automation. Tightening regulations and partnerships in both purchasing and producing countries has also been discussed as a strategy,²³ which could also facilitate improving labour standards.

14. Khadem N. (2018) Top Glove, Malaysian rubber gloves supplier to Ansell, accused of abusing workers' rights, ABC.net 8 December: <https://www.abc.net.au/news/2018-12-08/rubber-gloves-supplier-to-ansell-accused-abusing-worker-rights/10595996>.

15. Khadem N. (2019) Australia urged to follow US, ban shipments of rubber gloves over forced labour concerns, ABC.net 13 October: <https://www.abc.net.au/news/2019-10-14/australia-urged-to-ban-import-of-gloves-from-ansell-supplier-wrp/11594690>.

16. CBC (2021) The truth about your lifesaving PPE, 15 January: <https://www.cbc.ca/news/marketplace/the-truth-about-your-lifesaving-ppe-1.5874589>.

17. Top Glove (2021) Webinar to update on Glove Market, Workers; Hostels Improvement and US Customs and Border Protection. (CBP) WRO Status, 8 April.

18. Gereffi G. (2020) What does the COVID-19 pandemic teach us about global value chains? The case of medical supplies. *Journal of International Business Policy*, 3:287-301.

19. Hughes A. et al (2019) Public sector procurement and ethical trade: Governance and social responsibility in some hidden global supply chains. *Transactions of the Institute of British Geographers*, 44(2):242-255.

20. Tognini G. (2021) Billionaires making 'boatloads of money' from once-cheap medical gloves, *Forbes* 11 February: <https://www.forbes.com/sites/giacomotognini/2021/02/11/billionaires-making-boatloads-of-money-from-once-cheap-medical-gloves/?sh=4703edec661c>.

21. Dallas M. et al (2021) The mutual constraints of states and global value chains during COVID-19: the case of personal protective equipment. *World Development* 139:1-13, p.8.

22. Gereffi G. (2020).

23. Gereffi G. (2020).

4.4 UK guidelines and legislation on labour standards in procurement

There have been longstanding provisions and guidelines on incorporating labour standards into the NHS procurement process:

- The Ethical Procurement for Health workbook was launched in 2011 (second edition 2017)²⁴ by the British Medical Association (BMA), the Department of Health (now Department of Health and Social Care), and the NHS Sustainable Development Unit, and provides guidelines on inclusion of labour rights protection into contracts.
- NHS Supply Chain instigated a Labour Standards Assurance System (LSAS) in 2012, with four levels of progress from 'Foundation' to 'Progressive' based on suppliers' incorporation of labour issues into purchasing policies and practice, including monitoring, corrective action, and review. Suppliers under a Framework Agreement were expected to reach at least Level 1 after six months of contract award, and at least Level 2 after 18 months. Assessment was largely

desk-based, but pre-pandemic required suppliers to arrange an annual independent audit of labour standards of their sub-contracted manufacturers.

- NHS National Services Scotland uses a desk-based approach to setting and monitoring labour standards in high risk supply chains.
- The 2014 revisions to EU Procurement Directives made it possible to include sustainability and social criteria (such as labour standards) in contracts, which are incorporated into the 2015 UK Public Contracts Regulations.
- The 2015 UK Modern Slavery Act requires companies with a turnover of greater than £36 million, including contracted first-tier suppliers, to produce statements on their activity to tackle or eliminate forced labour in their business or supply chains. The Act does not apply to the public sector but proposed amendments would require public bodies with budgets over £36 million to produce statements. However, there is currently no definite timetable for amending legislation. At the time of writing there are Government plans for a Procurement Bill.²⁵

24. British Medical Association (2017) Ethical Procurement for Health: Workbook: [ethical_procurement_for_health_workbook_20_final_web.pdf](https://www.nhs.uk/procurement/ethical-procurement-for-health-workbook-20-final-web.pdf) (nhsprocurement.org.uk).

25. GOV.UK (2021) Queen's Speech 2021.



5. Overview of the Malaysian medical gloves sector

5.1 Local industry mapping

Malaysian manufacturers accounted for 63% of the global market in medical gloves in 2020, with manufacture also based in Thailand (18%), China (10%), and Indonesia (3%)²⁶. Malaysia originally manufactured rubber gloves but expanded into nitrile synthetic gloves in the 1990s in response to issues of latex allergy.^{27 28} The HIV/AIDS epidemic in the late 1980s increased demand and led to sector expansion, with 250 glove companies established by 1990, but the 1997/98 financial crisis led to consolidation and today manufacture is dominated by a 'Big Four' of companies (Top Glove, Hartalega, Kossan Rubber, and Supermax), and a number of smaller manufacturers.

The COVID-19 pandemic led to rapid expansion of the gloves industry. In September 2020 the Ministry of Trade and Industry in Malaysia estimated demand of 330 billion units of gloves for that year (a 13% increase), with Malaysia to produce 220 billion of those, and for 2021 predicted 420 billion pieces with Malaysia to produce 280 billion.²⁹ In 2020 Malaysia's earnings from gloves exports increased by 103% to RM35.3 billion (\$US 8.6 billion), and company profit margins were up to 49%. Such demand and profitability has seen new entrants to the gloves market in Malaysia.

5.2 Employment

In 2019 there were an estimated 1.98 million migrant workers in Malaysia, forming a large part of the labour market particularly in manufacturing, agriculture, and construction industries.³⁰ However, there is also a large population of irregular migrant workers, increasing estimates to a total of 3-4 million, forming 20-27% of the labour force. Dominant nationalities of migrant workers in Malaysia are Indonesian (40%), Nepali (22%), and Bangladeshi (14%), and they are geographically concentrated in manufacturing hubs in the states of Selangor (30% in 2018), Johor (18%), and Kuala Lumpur (15%).³¹

Many medical gloves factories operate in the Klang Valley area which encompasses parts of Selangor and Kuala Lumpur. The Malaysian Rubber Glove Manufacturers Association (MARGMA) estimated that in 2019 the gloves industry employed 71,800 people of which 61% were migrants. The majority of migrant workers are employed in production or packing roles, but some Nepalis work as security guards (purportedly a role reserved only for Nepalis with military training).³²

There are a number of potential and different types of labour market intermediaries. Private recruitment agencies are present both in Malaysia and migrant

²⁶ Hutchinson F. & Bhattacharya P. (2020), Malaysia's rubber glove industry – a silver lining amidst dark clouds, ISEAS Yusof Ishak Institute Perspective 138: https://www.iseas.edu.sg/wp-content/uploads/2020/11/ISEAS_Perspective_2020_138.pdf (accessed 8/4/2021)

²⁷ Kawano M. (2019) Changing resource-based manufacturing industry: the case of the rubber industry in Malaysia and Thailand' in Tsunekawa K & Todo Y eds. *Emerging States at Crossroads*, Singapore: 145-162.

²⁸ Lebdioui A. (2020) 'The political economy of moving up in global value chains: how Malaysia added value to its natural resources through industrial policy' *Review of International Political Economy*: 1-34.

²⁹ Reuters (2021) Malaysian rubber glove group says demand to outstrip supply until 2023, 15 March: <https://www.reuters.com/article/us-malaysia-gloves-idUSKBN2B709W>

³⁰ Devadson E. (2020) Foreign labour policy and employment in manufacturing: the case of Malaysia, *Journal of Contemporary Asia*: 1-21

³¹ World Bank, 2019, Malaysia: Estimating the Number of Foreign Workers, Washington DC: <http://documents1.worldbank.org/curated/en/953091562223517841/pdf/Malaysia-Estimating-the-Number-of-Foreign-Workers-A-Report-from-the-Labor-Market-Data-for-Monetary-Policy-Task.pdf> [accessed 9/4/2021]

³² Kern A. & Müller-Böker U. (2015) The middle space of migration: A case study on brokerage and recruitment agencies in Nepal, *Geoforum* 65:158-169

source countries, and may be contacted by prospective employers to facilitate advertising and recruitment to positions. There are also labour outsourcing companies ("subcontractors") in Malaysia, who as well as recruiting workers, facilitate their work permits and become their employer (including paying wages) as opposed to the company or factory where they are actually deployed. In our survey 74% (1074) of migrant workers had an employment contract direct with the manufacturing company, and 26% (385) with a subcontracted labour outsourcing company.

5.3 Regulatory context

Employment in Malaysia is governed by legislation and regulations on both national industrial relations and foreign worker recruitment and deployment.

The Employment Act 1955,³³ Employment (Limitations on Overtime Work) Regulations 1980, and Minimum Wage Order 2020 apply to all workers, including migrants, and determine workplace conditions. Key aspects include:

- Normal work hours should be less than 8 hours a day, and a maximum of 12 hours inclusive of overtime. Workers are entitled to one full rest day per week.
- There is a monthly limit of 104 hours of overtime.
- Workers employed for more than one month are entitled to a written contract.³⁴
- Minimum salary is MYR 1200 (\$290) a month.
- Wages are to be paid through a bank, and in general deductions are not permitted except for accommodation and food provided by the employer.

³³. The Employment Act 1955 only applies to Peninsular Malaysia. Sabah and Sarawak have their own labour ordinances. The vast majority of medical gloves factories are in Peninsular Malaysia.

³⁴. ILO (2018)

³⁵. Crinis V. & Parasuraman B. (2016) Employment relations and the state in Malaysia, *Journal of Industrial Relations* 58(2):215-228, p.216

- Employers have an obligation to address complaints of sexual harassment.
- Employees are permitted to join trade unions or participate in their activities.

However, these regulations have limitations. There is no requirement that an employment contract should be in a language the employee understands. Overtime exceeds the 56 hours per week total (inclusive of overtime) established by the ILO (Convention No.1 1919). Migrant workers are only entitled to join existing Malaysian trade unions, and not to create their own. Trade unions in Malaysia have been described as having "no real power to negotiate with employers, and lack the political space and resources to demand reform."³⁵

The Immigration Act 1959/63, Immigration Regulations 1963 and Passports Act 1966 govern migrant workers' entry and stay in the country. They stipulate:

- All non-citizens require an entry permit or pass to enter Malaysia.
- Migrant workers are issued with a Visit Pass (Temporary Employment) (VP TE) on condition of passing the Foreign Workers' Medical Examination (FOMEMA). The VP TE is valid for 12 months but may be renewed at the employer's discretion.
- The VP TE is tied to a single employer, with a change of employer or employment prohibited. To change employer workers are required to leave Malaysia and re-apply from their home country.
- It is an offence to be in possession of another person's passport or identity documents "without lawful authority".

Again there are issues with these regulations. The Passports Act is weakly enforced, and it is common for Malaysian employers to hold migrants' passports, yet migrant workers are legally required to carry their passport with them outside of work premises. Because the VP TE is tied to a single employer, migrant workers may feel trapped with that employer, and if unhappy some may abscond to work illegally elsewhere³⁶, but in doing so lose access to entitlements under law, and are vulnerable to immigration enforcement and deportation. Policies are also aimed at preventing permanent migration: foreign workers are issued fixed-term work permits and not allowed to bring dependents. There is a foreign worker tax levy which was historically paid by workers, but changed in 2009 to be payable by employers, reverted in 2013 to workers, and reverted again in 2018 to employers, although there are allegations that even when employers are liable there are sometimes wage deductions to recoup costs.³⁷ Employers are obligated to pay the levy under threat of legal sanction,³⁸ and wage deductions for it are prohibited under the Employment Act.³⁹

In terms of labour market intermediaries, there are two relevant pieces of legislation. Private recruitment agencies are governed by the Private Employment Agencies Act 1981 (amended 2017), administered by the Ministry of Human Resources, where regulations include capping placement fees for migrants at one

³⁶. Franck A. (2019) The 'street politics' of migrant il/legality: Navigating Malaysia's urban borderscapes, *Asia Pacific Viewpoint* 60(1): 14-23

³⁷. Devadson (2020).

³⁸. Ministry of Human Resources, 2017, Pembayaran Levi Pekerja Asing (Levy Payment for Foreign Workers): <https://www.mohr.gov.my/images/pdf/ukk/KENYATAAN-MEDIA-PENGUATKUASAAN-PEMBAYARAN-LEVI-PEKERJA-ASING.pdf>.

³⁹. The worker levy is currently RM 1,850 (\$440 at time of worker survey/interviews).

⁴⁰. Khadka U. (2020) Brokers going for broke, *Nepali Times* 20 July: <https://www.nepalitimes.com/opinion/brokers-going-for-broke/>.

⁴¹. Khadka, U. (2020) Why has zero-cost migration not happened? *Nepali Times* 10 January: <https://www.nepalitimes.com/opinion/why-has-zero-cost-migration-not-happened/>.

⁴². ILO (2018).

month's wages, and incorporating past convictions for human trafficking or forced labour in the granting of licenses to employers. Labour outsourcing companies are governed by the Employment Act 1955, regulated by the Ministry of Home Affairs, and are permitted to conduct both recruitment and supply of labour (including support of work permits), and makes principal employers and subcontractors jointly liable for payment of employee wages.

Despite this legislation there has been widespread abuse in the recruitment and employment of workers by intermediaries. The Malaysian government suspended recruitment of Bangladeshi workers in September 2018, after concerns recruitment was channelled through only ten agencies charging extortionate fees, but in January 2020 reported it may be restarting such recruitment aligned with a policy of zero cost recruitment. In May 2018 the Nepali government halted recruitment to Malaysia because of illegal fees, until a new policy was effected in September 2019 stipulating zero cost recruitment and a reduced minimum contract duration from three to two years. However many Nepali workers still report paying recruitment fees.^{40 41} Labour outsourcing has also created confusion over the identity and responsibilities of the primary employer, and the Malaysian government has indicated phasing out labour outsourcing by 2021.⁴²

The **Employees Minimum Standard of Housing, Accommodations and Amenities Act 1990** covers worker accommodation, and was supplemented during the pandemic by modified regulations effective September 2020. The government relaxed enforcement in April 2021 until the end of the year to give employers time to adapt.⁴³ These stipulate:

- Employers or accommodation providers are responsible for preventive measures in controlling infectious disease.
- A minimum 3m² floor area per employee in a dormitory and 3.6m² in a bedroom.
- A maximum of 15 employees sharing a bathroom and toilet in a dormitory, or 6 in a non-dormitory bedroom.
- A fine of RM 50,000 (\$12,110) for non-compliance.⁴⁴

Employers of foreign workers are required to sign the Employer's Undertaking which commits them to paying the worker levy and complying with all relevant legislation.⁴⁵

43. Mahpar N. (2021) Govt goes easy on enforcement of workers' housing law, for now, Free Malaysia Today 22 April: <https://www.freemalaysiatoday.com/category/nation/2021/04/22/govt-decides-not-to-enforce-workers-housing-law-for-now/>.

44. Lim I. (2020) New rules for employees' minimum housing standards from Sept 1: Employers to comply or be fined RM 50,000, Malay Mail 30 August: <https://www.malaymail.com/news/malaysia/2020/08/30/new-rules-for-employees-minimum-housing-standards-from-sept-1-employers-to/1898538>.

45. Bernama (2017) Majikan wajib tandatangani aku janji, bayar levi (Employer must sign undertaking, pay levy), 28 December: <https://www.mohr.gov.my/index.php/en/68-arkib/keratan-akhbar-2017?iccaldate=2021-04-1>.

46. Bhutta M. & Santhakumar A. (2016) In Good Hands: Tackling Labour Rights Concerns in the Manufacture of Medical Gloves, (London): <https://www.bma.org.uk/media/1093/in-good-hands-medical-gloves-report-web-23-03-2.pdf>.

47. Bar Council Malaysia, 2019, Migrant Workers' Access to Justice: Malaysia: [https://www.malaysianbar.org.my/cms/upload_files/document/Migrant%20Workers%20Access%20to%20Justice%20Report%20\(28Nov2019\).pdf](https://www.malaysianbar.org.my/cms/upload_files/document/Migrant%20Workers%20Access%20to%20Justice%20Report%20(28Nov2019).pdf).

48. Bhutta & Santhakumar (2016).

5.4 The pre-COVID-19 landscape of working conditions

Pre-COVID the Malaysian medical gloves sector was characterised by a high proportion of migrant workers on temporary contracts (typically three years duration). During this time, retention of workers' passports was commonplace, working hours were long (including breaches of legal limits on overtime and rest days), and there was poor quality accommodation.⁴⁶ In addition, grievance mechanisms were absent, unclear, or ineffective,⁴⁷ and union membership rare. As it is the case with migrant workers in Malaysia across a number of sectors, migrant workers in the medical gloves sector take out loans to pay high recruitment fees, and the resulting indebtedness places pressure to remain in employment even where conditions are abusive.⁴⁸

5.5 Operations during COVID-19

On 16th March 2020, after 553 recorded COVID-19 cases in Malaysia the government implemented the Movement Control Order (MCO) to limit social and workplace interaction, including closing non-essential businesses and travel. At the time of the fieldwork survey in August-September there was a rise from 9,000 to 12,000 cases within Malaysia. Cases rose to 32,000 in November and 105,000 by the end of December.⁴⁹ The COVID-19 crisis increased demand for gloves, and an estimated need to grow the workforce by 32%, or 25,000 workers.⁵⁰ However, government strategy to contain the virus included a freeze on foreign labour recruitment, and some of the workforce gap was met through increasing automation, hiring of local Malaysian workers (at higher rates of pay) and where permitted, redeployment of existing migrant workers already in the country.⁵¹ MARGMA successfully lobbied the Malaysian government to provide an exception to the MCO to allow full staffing of glove factories in recognition of this as an essential service, as well as the operation of businesses critical to glove supply chains such as raw materials, services, and packaging. In some factories staggered shifts were used to limit workers on duty at any one time.

During the pandemic specific concerns of workers in the gloves industry were their risk of exposure to COVID-19, and the pressure to meet intensified demand. To meet workforce shortages, companies moved to fully exploit latent capacity, with workers reported to work up to 111 hours of overtime a month, beyond the (already high) legal limit of 104 hours.⁵² Reports also indicated a lack of social distancing: in the workplace, on company transport between worker accommodation and factories, and in crowded worker hostels.⁵³ Lockdown measures implemented by the Malaysian government have resulted in workers living confined in factories and company hostels for over a year. This measure was designed to help protect against the virus, but in late 2020 there were a series of outbreaks of COVID-19 infection affecting thousands of workers in the gloves industry, with overcrowded and substandard dormitories identified as a key cause.⁵⁴ In November 2020 the Malaysian government launched investigations and introduced fines for companies (of around US\$12,300) for each worker found in substandard housing.⁵⁵

49. World Health Organization (2021) COVID-19 Situation Reports (Malaysia): <https://www.who.int/malaysia/emergencies/covid-19-in-malaysia/situation-reports>.

50. Hutchinson F. & Bhattacharya P. (2021) Malaysia's rubber glove industry – the good, the bad and the ugly, ISEAS Yusof Ishak Institute Perspective, 35: https://www.iseas.edu.sg/wp-content/uploads/2021/02/ISEAS_Perspective_2021_35.pdf.

51. Khadka U. (2020) Disposable medical gloves, indispensable migrant workers, Think Piece 2 MigResHub, Migration Policy Centre, RSCAS/EUI: <https://cadmus.eui.eu/bitstream/handle/1814/70316/MigResHub%20think%20piece%20No%202.pdf?sequence=1>.

52. Miller J. (2020)

53. Patisson P. (2020) NHS urged to avoid PPE gloves made in 'slave-like' conditions, Guardian 23 April: <https://www.theguardian.com/global-development/2020/apr/23/nhs-urged-to-avoid-ppe-gloves-made-in-slave-like-conditions-coronavirus>.

54. Straits Times (2021) Malaysia enforces requirement for improved worker lodging to rein in COVID-19: <https://www.straitstimes.com/asia/se-asia/malaysia-enforces-requirement-for-improved-worker-accommodation-to-rein-in-covid-19>.

55. Straits Times (2020) Malaysia industries in shock as govt threatens to impose stiff fines on poor migrant lodgings, 28 November: <https://www.straitstimes.com/asia/se-asia/malaysia-industries-in-shock-as-govt-threatens-to-impose-stiff-fines-on-poor-migrant..>

5.6 Life and work in a Malaysian gloves factory

Most migrant workers in the Malaysian gloves industry are dependent on employers not only for work, but also accommodation and food, and are tied to a specific employer by their work permit.

Accommodation is either owned by the company or outsourced to a provider and included in most (though not all) contracts for workers - at a cost to the employee, and is typically in the form of a large dormitory located within factory premises or a short distance from it (so many workers' daily lives are confined to a limited geographic area). Long working hours, safety concerns, and a desire to limit expenditure also contribute to many workers remaining close to their work and housing. Companies also often provide workers with food at canteens during working hours, for which wage deductions are made, and often also at other times. Cooking facilities are available only in some dormitories.

Workers are employed in a number of roles but most commonly in the packing or warehousing departments (readying gloves for shipment), or in quality control. Stripping gloves from the hand moulds on which they are formed is increasingly automated, and so now less often performed by workers. Companies provide little formal training for new recruits, who are instead expected to learn on the job from experienced colleagues.

Workers interviewed for part of this study, including six interviewed workers as well as many surveyed workers reported they are satisfied with their job.

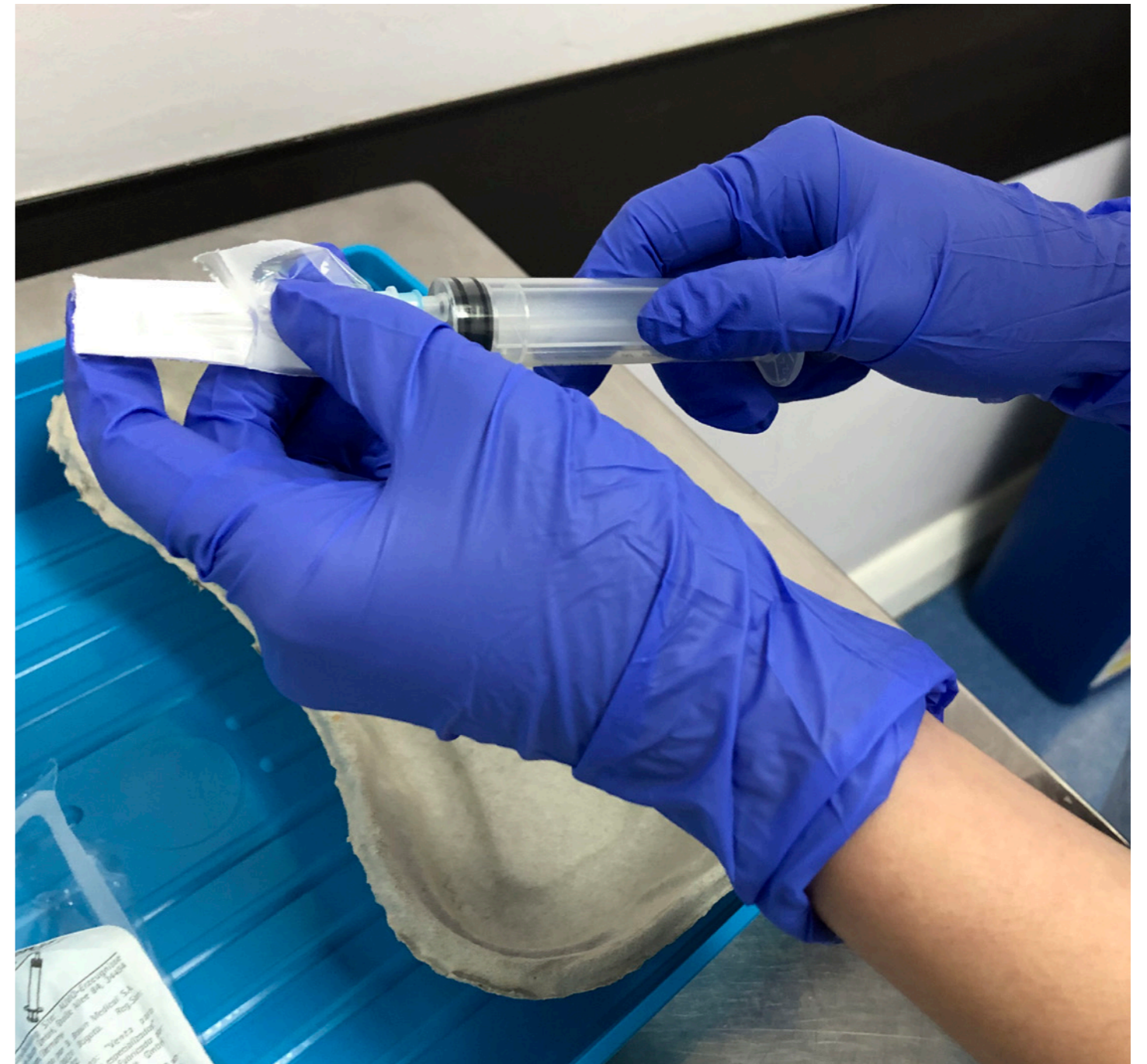
'Timely salary' is the most common reason for job satisfaction, followed by PPE and general safety measures within the workplace, opportunities to work overtime, affordable accommodation, and being listened to by management. Our research also indicates that work satisfaction is heavily influenced by the fulfilment of 'plans for future' that workers made before migrating:

I am happy with this job because I can support my family for their healthcare, child education and their basic expenses (male Nepali worker).

After 8 months working here I managed to help my family to build a new house (...) I am so happy that I can do so much for my family (female Myanmar worker).

In contrast, work dissatisfaction is associated with many of the factors discussed in the Forced Labour Indicator sections below, as well as workers' inability to be with relatives. Work dissatisfaction and harsh treatment is however perceived by many workers as the price to pay for them to be able to achieve particular personal goals:

The one thing we are here for is money so if you are paid well and on time the other things are minor (male Nepali worker).



6. Evidence of forced labour In the Malaysian gloves sector

This report uses forced labour as a framework for analysis under a broader frame of modern slavery. Modern slavery is taken to mean "the severe exploitation of other people for personal or commercial gain" and is an umbrella term for a range of exploitative practices.⁵⁶ The report focuses on forced labour, as evidence suggests this is the most prominent form of exploitation experienced by workers in the Malaysian gloves industry. Forced labour is defined by the ILO 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 [sic] voluntarily".⁵⁷

The ILO identifies eleven indicators of forced labour (defined further in relevant sections below): abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.

These indicators represent the most severe labour rights violations, but we recognise they are not synonymous with all labour rights violations. Evidence of these indicators may represent labour rights infringements rather than definitive forced labour, and conversely indicators may fail to capture other rights issues such as freedom of association, access to collective bargaining, or discrimination. Indicators should therefore be understood as signs or clues that there is a higher likelihood of forced labour. It should also be borne in mind that practices can

relate to more than one indicator. For example, retention of identity documents can lead to restriction of movement, and in turn restriction of movement can lead to isolation. In our data there is evidence for indicators occurring together. Co-occurrence strengthens indication rather than signalling definitive forced labour.⁵⁸

6.1 Abuse of vulnerability

Abuse of vulnerability is a forced labour indicator when employers take advantage of a person's vulnerable position, for example by imposing excessive hours. People lacking knowledge of local language or laws such as migrants can be more vulnerable. In our sample 98% of workers were migrants, who are highly vulnerable to exploitation both pre-migration and when in Malaysia. This vulnerability is caused by a combination of poverty, common informal recruitment processes, and associated debt bondage, limited rights and entitlements in Malaysia due to their migrant status, dependency on one employer for a job, visa or work permit, housing, and food and drink.

Migrant workers in Malaysia are subjected to diverse human and labour rights violations, and often unable to escape such a situation because they are threatened, coerced, segregated or isolated, have debts to repay, or are obliged (due to diverse structural factors) to choose between their personal safety and wellbeing, and the need to financially sustain themselves and their families.^{59 60}

Vulnerability is abused, directly or indirectly, by various actors simultaneously, either due to particular actions or purposeful inaction. For instance, the Malaysian government's regulations towards migrant workers make a very profitable industry possible within its borders, with low government investment. Abuse of workers' vulnerability within manufacturing factories takes a more direct form.

Some of the managers misbehave with us. They take a chance on Bangladeshi workers as they know we spent a lot of money to come to Malaysia, and are a lot less likely to react due to the fear of deportation (male Bangladeshi worker).

The restrictive conditions of work permits, incorrect work permit information, and the requirement to serve three years unless they pay their way out, serves to heighten vulnerability. In our survey 36% (540) of workers reported not having a work permit covering the place they currently work at, with reasons for incorrect permits including factories having multiple sites with a work permit only attached to one of them, or work permits being for the subcontractor and not the employing company.

I have brought to the management's attention to change my permit because it's for a different city but no one does anything (...) I am afraid what to do if I get stopped by police one day (male worker).

Workers' vulnerability can also be abused, and exacerbated, by recruitment agencies and informal brokers that demand illegally high recruitment fees with no guarantee of job contract, and by loan sharks – often local non-governmental organisations (NGOs), neighbours and relatives – who informally lend money at exorbitant interest rates.

COVID-19 impacts:

Vulnerability underpins other forced labour indicators and the impact of COVID-19 on abuse of vulnerability can be seen most clearly in the indicator sections

for Restriction of Movement (Section 6.3), Excessive Overtime (Section 6.10), and Abusive Working and Living Conditions (Section 6.11).

6.2 Deception

Deception can be a forced labour indicator if workers do not have free and informed consent about work conditions they would not accept if they did. Indicators of deception were present in our data: over wages, working hours, employment roles, contractual arrangements, and working and living conditions:

- 9% (135/1491) of workers reported a job or job location different from their contract, including workers unexpectedly employed by subcontractors rather than directly; performing job roles not in the contract; unexpected gender mix of the factory workforce (i.e. not all female as expected); longer than expected working hours; and poor quality accommodation.
- 39% (581) were unsure if terms were as specified in their contract.
- 38% (52) of those with different contractual conditions and 33% (198) of those unsure also reported not being able to leave their job if they want to, suggesting some coincidence of deception and restriction of movement, a stronger indicator of forced labour.
- 3% (49) of workers did not and 10% (149) were "unsure" whether they received a contract in their local language, and a further 13% (199) received it in English (which some workers cannot read).
- 13% (190) of workers reported receiving a lower salary they were advised during recruitment.

They showed me a very nice Youtube video on the workers' hostel. This is false advertising as I am living in a very bad condition (female worker).

⁵⁶ Anti-Slavery International (2021) What is Modern Slavery?: <https://www.antislavery.org/slavery-today/modern-slavery/>.

⁵⁷ ILO (1930) Forced Labour Convention, 1930 (No. 29), Article 2 (1): http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029.

⁵⁸ Impactt (2021) Tackling Modern Slavery in PPE Supply Chain: A Practical Guide for UK Bodies: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/989252/Tackling_modern_slavery_in_PPE_supply_chains_-_guidance_for_public_bodies.pdf.

⁵⁹ Verité (2014) Forced Labour in the Production of Electronic Goods in Malaysia: A Comprehensive Study of Scope and Characteristics: https://www.verite.org/wp-content/uploads/2016/11/VeriteForcedLaborMalaysianElectronics2014.pdf?mod=article_inline.

⁶⁰ Transparentem, 2019, Forced Labor Probe in Malaysia Drives Buyers to Act: <https://www.transparentem.com/wp-content/uploads/2021/02/Transparentem-Malaysia-2019-Investigation-summary.pdf>.

As per my offer I was supposed to receive RM 18.50 [\$4.40] basic salary for 8 hours. But once I started work I received only 8.50 RM [\$2] basic. So once I got my first month salary I was really upset (female worker).

The agent promised me that I will earn a good amount and can send at least RM 2000 [\$475] to home but once I started working I could only send RM 1000 [\$238] per month (male Bangladeshi worker).

We signed on wherever they asked us to sign so we don't know what was written in contract or offer letter. We had an oral deal (male Nepali worker).

Deception over the aspects above is underpinned by deception of expectations. Brokers presented an attractive picture of migration and spurred workers' aspirations that their lives will improve in order to demand recruitment fees. Most interviewed workers felt they have been cheated by brokers. While fulfilment of some aspirations was possible for some (such as better lives for children, building their own houses, and good healthcare for relatives), others expressed regret that they could have achieved similar or more, should they have invested the recruitment fees in their home country.

Brokers show us so many dreams with salary but all fades away (male Bangladeshi worker).

COVID-19 impacts:

Deceptive acts are most evident at the recruitment stage. Our evidence pertains to workers recruited

61. Currency amounts reported in the worker survey and interview data are converted into dollars at prevailing exchange rates at the time of the survey e.g. Malaysian ringgit 0.238. Proxy rates are used due to rate variability at different times of recruitment. Malaysian ringgit and other national currencies have remained stable against the dollar in the past five years, when the vast majority of workers were recruited. An exception is Myanmar kyat, the volatility of which has led to its exclusion from some data.

62. Reasonable restrictions include health and safety measures in hazardous worksites or the need to request prior permission.

63. Chi-squared tests indicated statistically significant associations between not being able to leave and nationality and contractual status.

pre-pandemic and with the migrant recruitment freeze in place, new instances of workers realising deception on arrival in Malaysia will have decreased. The effects of pre-pandemic deceptive practices remained evident through 2020 as described above. Our research did not extend to the actions of migration brokers in workers' home countries during the pandemic, and we are unable to confirm if deceptive practices ceased there with the recruitment pause. We were unable to confirm if deceptive practices happened within in-country recruitment during the pandemic, with very little data available. Our evidence indicates deception as a systemic feature of recruitment processes which will likely begin again when foreign recruitment is restarted. How deception within recruitment operates in a new COVID-19-changed world will be an area for close further observation.

6.3 Restriction on movement

Restrictions on movement can be an indicator of forced labour if they prevent reasonable entry or exit of a worksite.⁶² Retention of Identity documents, which also impacts freedom of movement, is discussed in Section 6.7.

- 47% (703) of surveyed workers reported feeling unable to leave their employment due to contractual or other restrictions.
- Such stipulations were present irrespective of whether workers were on a company or subcontractor contract.⁶³
- 30% (442) stated either they cannot leave before the end of their contract, they have to pay to leave the contract early, or both.

- 26% (395) had signed a document stating they would not leave before the end of the contract (Figure 3).
- 20% (147) of those stating inability to leave had also signed the document.

Workers are nominally free to leave, but companies and recruitment intermediaries place financial and psychological barriers to leaving. If workers wish to leave before their contract expires, they can be required to pay for a flight home, and 1-2 months salary to compensate the company for the cost of their work permit (worker levy). Employers are solely responsible for paying levy costs and this practice is prohibited. Workers are often under the impression they are unable to leave before contract end, often caused by poorly translated contractual terms, and sometimes workers are even made to sign documents to this effect. Signing of documents inhibiting movement can also be seen as a form of intimidation or threat (see Section 6.6). Many workers also have debts arising from recruitment fees, making paying to leave financially difficult.

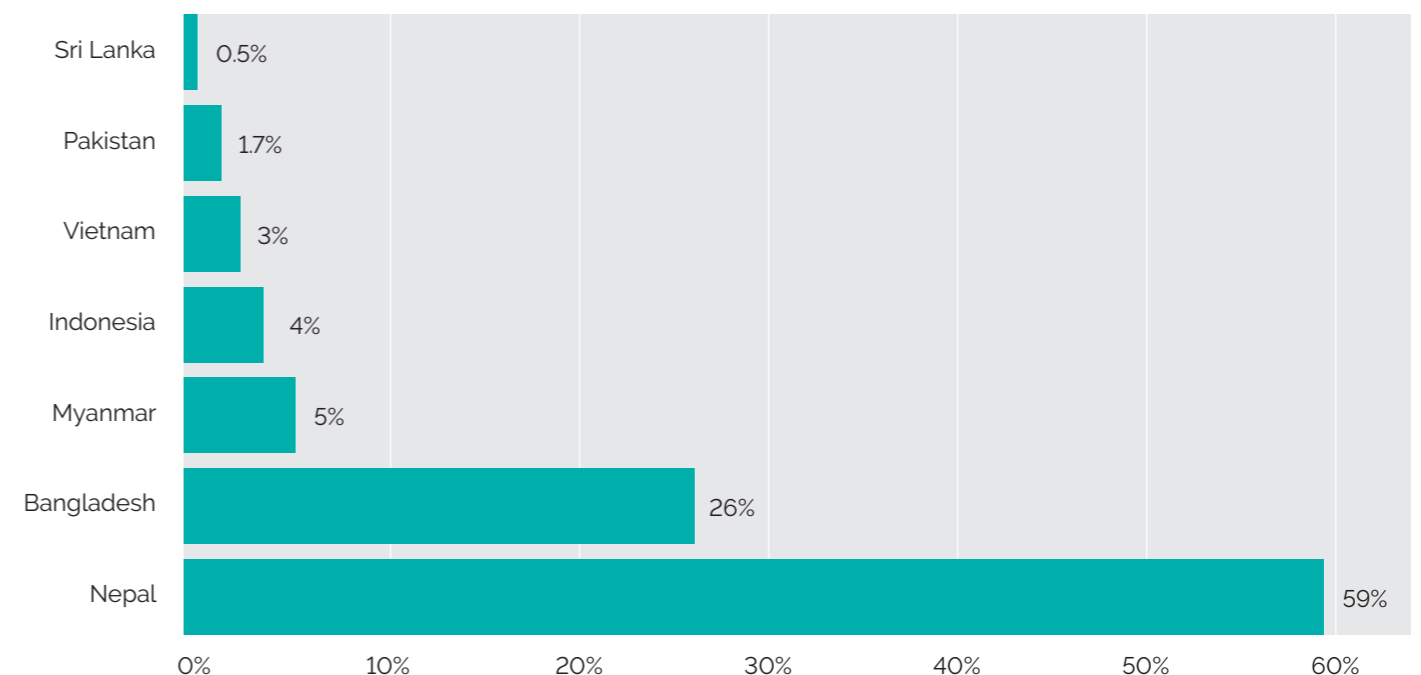


40% reported Unable to take leave without paying a deposit

I cannot leave the job before the end of my yearly work permit (yearly renewal) or until the end of the contract period (3 years). If there is something very urgent, we can only abscond from the company and buy an air ticket from outside and return home. ... If we try to leave the company legally that's always troublesome for us as the company wants a very strong reason and advance notice at least a month and we need to deposit air ticket money so I have seen workers choose to abscond as that's the easy option (male Nepali worker).

The contract must end to leave the job. They threaten us with money expenses for flight and visa that we will have to bear if we choose to leave our jobs and people then don't leave (male Nepali worker).

Figure 3. Workers reporting they signed a document stating they cannot leave their job before the end of contract (%)



Many workers found it difficult to take annual leave (for medical leave; see Section 6.10). Leave days were often dictated by the company, and at a very short notice. However, others reported they could take annual leave at their preferred time, but that requests were not always approved. 40% (596) of workers reported not being able to take leave freely without payment of a deposit. Flying home on leave required payment of a deposit of between RM 500-3000 (\$119-714) to compensate for work permit costs if they did not return. 17% (104) of these signed a document stating they could not leave jobs before the end of contract.

Interviewed workers highlighted that pre-pandemic they were able to move relatively freely, including shopping at local markets or visiting other places in Malaysia. However, a curfew time of 9-10pm applied to accommodation.

COVID-19 impacts:

The pandemic has significantly affected workers' freedom:

- 22% (330) of surveyed workers reported that COVID-19 restrictions meant they were unable to move freely.
- Some workers reported being confined to accommodation and factory premises as special measures to prevent the spread of COVID-19. This is stricter than measures applied to the general population during the MCO and so an indicator of forced labour. They were not allowed outside of their accommodation even on days off, and sometimes for several months continuously.
- Some reported difficulty in remitting money as they were unable to visit a bank
- Workforce shortages were felt by some to further decrease ability to take leave, and one worker reported he felt forced to continue employment after his contract ended due to workforce issues.

I can take days off (annual leave) with approval from the department head according to my contract but since I arrived, I didn't get approval for annual leave. They always said due to manpower shortage there will be no one to cover my work so they said they only allow if we really have some strong reason or sickness (male Nepali worker).

6.4 Isolation

Isolation can be a forced labour indicator if workers lack contact with the outside world. Workers face multiple, often overlapping, forms of geographic and social isolation. They are typically required to live in accommodation chosen by the company, often located in industrial estates relatively far from the city, which prevents their interaction with the general population. Workers are also isolated from relatives, and sometimes can only travel to their home country at the end of the three-year contract (see Section 6.3 above). Separation of men and women in company-managed accommodation can also isolate families working in the same factory: one interviewed worker had migrated with his wife but rarely sees her because of gender segregation in accommodation, and difficulty in coordinating days off.

COVID-19 impacts:

Workers' isolation increased during COVID-19. Government and company restrictions confined workers to their accommodation and workplaces (see Section 6.3), and increased dependence on companies to provide them with basic necessities. Surveyed workers reported feeling trapped and hopeless, a situation compounded by pandemic-related restrictions on movement.

I feel like I am in prison. I only work and go home over and over and over again. I cannot do anything else (male worker).

I go to work and go back to my room to eat and sleep, and the next day I go back to work again... I feel trapped (male worker).

Please tell management I am sick all the time here, I am so stressed. I eat, work, and sleep at the same place all the time. Even on my day off I see the factory in front of me (male worker).

6.5 Physical and sexual violence

Physical or sexual coercion can be a strong indicator of forced labour. Amongst surveyed workers, 6% (90) reported experiencing or witnessing physical or sexual violence in the workplace, including kicking, face and head slapping, face and body punching and, to a much lesser extent, groping. As discussed in Section 6.6 below, more subtle forms of violence, such as verbal and psychological intimidation, were reported to be more frequent. Management and company response to these events appear mixed: workers stated that some abusive managers and supervisors were transferred or dismissed, but in other instances the company appeared not to respond.

COVID-19 impacts:

Our research did not encounter evidence of any change in physical and sexual violence due to COVID-19.

6.6 Intimidation and threats

Intimidation or threats can be used against workers when they complain or try to leave their jobs. This may include threats of physical violence or psychological coercion. Most workers faced several, and overlapping, forms of intimidation and threats, both during recruitment and in the workplace.

31% (455) of workers reported that their recruitment agency had threatened or intimidated them against speaking about recruitment fees, including:

- 20% (41) of female workers vs 32% (414) of male workers;
- 41% (159) of subcontracted workers vs 27% (296) of those with company contracts;
- 39% (41) of Indonesians, 36% (213) of Bangladeshis, and 30% (194) of Nepalis.

36% (533) of all workers had signed a document or stated on video that they had either paid no recruitment fees, or lower fees than they actually did.

They [the agency and the broker] recorded the video where I confirmed that the total amount I paid was BDT 180,000 [\$2,121]. I confirmed this amount in front of the camera so that they would not cancel my [work] visa (male Bangladeshi worker).

They told me not to share the recruitment amount. The maximum amount that I could say to other was 90,000 [\$1,060] (male Bangladeshi worker).

I had no way to refuse recording this video, because they [agency and broker] warned me that if I don't declare that I paid less money I can't come to Malaysia and they will not pay me back my money that I already handed over to them (male Bangladeshi worker).

Interviewed workers described a strict and hierarchical culture at work, and a tense and intimidating working environment. 7% (111) of surveyed workers had been threatened and/or intimidated in the workplace: by managers, supervisors, or security guards (or sometimes by other workers). Workplace intimidation included:

- issuing fines for workers not meeting productivity targets: for example those who arrive late, take 'too long' a break or don't maintain a 'good' pace of work;
- warning and reminding workers of their contractual obligations, for example that return flights are issued only to those who complete their three-year contract;
- persisting policing or issuing unpaid suspension for workers who report individual or collective grievances.

Interviewed workers reported a dual role of factory security guards: in both policing and intimidating workers but also in allowing them to take a break if needed (and here being on good terms with the security guards seemed critical).

In all factories there are processes for workers to report issues and concerns, but 18% (265) of surveyed workers did not feel comfortable reporting grievances. Many stated that managers rarely responded positively to issues raised, but instead with rudeness, threats and intimidation in the form of 'advice' and 'warnings,' or unpaid suspension. Only one interviewed worker felt managers would respond positively to issues he raised. Raising grievances collectively is even more difficult: unionisation is perhaps impossible, and according to workers attempts at raising collective concerns are rapidly dissipated and often punished, including through suspension or even deportation.



18% workers are uncomfortable raising a grievance with HR

The way for me to express my voice and concerns within the company is [via] my supervisor in the workplace and [via] the warden in the hostel (...). It doesn't matter though because the company responds to nothing (...) so we don't report any issues (male Nepali worker).

Human Resources used rude words so I stopped complaining anymore (male Nepali worker).

I asked to change my work area because of my health but I got suspended for almost a month and I still work in the same place (male worker).

If an issue is raised by three or more workers together they will be suspended a minimum of 15-20 days. So workers always remain silent and keep their problems to themselves (male Bangladeshi worker).

COVID-19 impacts:

We did not find evidence of any change in intimidation and threats during the COVID-19 pandemic.

6.7 Retention of identity documents

Retention of identity documents can be a forced labour indicator if workers are unable to access documents on demand or feel unable to leave without them. Workers may experience two periods of passport retention: before migrating, and then again once in Malaysia.

57% (856) of surveyed workers (73% of Bangladeshis (434/598), 56% of Nepalis (367/653) reported that their recruitment agency and/or broker had kept their passport whilst processing their job application, for between 4 and 12 months. Lack of access to their passport meant an inability to search for overseas employment with any other agency.

8% (113) of workers had their passports retained by companies once in Malaysia (25% of subcontracted workers (98/385) and 1% (15/1094) of workers with company contracts). According to one interviewee in the supply chain, this practice is to prevent workers losing or damaging difficult to replace passports, and workers are instead issued with a Malaysian ID card. However, retention of passports obstructs worker freedom, including the ability to abscond. 62% (71) of those with restricted access to passports reported not feeling able to leave their jobs, compared to 47% in total (see section 6.3). One interviewed Bangladeshi worker reported that he had been unable to recover his passport after absconding. Without a passport, workers cannot return home, nor can they find other formal employment in Malaysia.

Greater government scrutiny, employer awareness, and a threat of immigration raids has led to some (but reportedly not all)⁶⁴ companies in the sector returning passports to workers.

COVID-19 impacts:

We found no evidence that COVID-19 impacted on retention of identity documents.

6.8 Withholding of wages

Withholding wages (or delayed or irregular payment) can be used by employers to compel workers to remain with them. In our sample workers were usually paid using bank accounts, and only 2% (35) reported not being paid on time. However, 23% (147/653) of Nepali workers reported not being paid in full (not seen for other nationalities). Workers commonly reported monthly deductions of RM 50-60 (\$12-14) for accommodation, insurance, or expected medical costs, but unexpected deductions and wage irregularities also occurred:

I twice had a problem with payment where some deduction was made without reasonable cause. When I complained about it they did not solve it. And I was not convinced with their explanation (male worker).

35 workers...had a problem with salary calculation where RM 700 [\$166] for overtime was not given. But others received the overtime [payment]. Workers complained but only RM 100 [\$24] on average was given in the following month (male worker).

⁶⁴. Ananthalakshmi A. et al (2021) 'Slavery' found at a Malaysian glove factory: why didn't the auditor see it? Reuters 19 May: <https://www.reuters.com/world/asia-pacific/an-audit-gave-all-clear-others-alleged-slavery-2021-05-19/>.

⁶⁵. Bangladeshi figures from recruits pre-moratorium. Nepali figures include those recruited pre- and post-2018 MOU.

⁶⁶. Median is used as this is more representative due to a range of anomalous outliers affecting the mean.

⁶⁷. This figure was calculated on the basis of 619 workers. 26 Myanmar workers were excluded as their loan amounts were reported in kyat which has undergone high exchange rate volatility. Kyat rates provide an unreliable basis for the proxy exchange rate calculations based on rate at time of interview used in this report, and skew average rates upwards significantly. Including Myanmar data the average loan rate is \$3542.

COVID-19 impacts:

Workers generally reported timely payment including during the pandemic, and some were paid COVID bonuses in cash during the summer.

6.9 Debt bondage

Debt can be a strong forced labour indicator when it has the effect of binding a worker to an employer for a given period of time. We found evidence of debt bondage among workers in the industry. High recruitment fees, often paid through loans, as well as visa conditions tying workers to one employer create a strong risk of forced labour.

- Bangladeshi workers paid average fees of \$4,607, confirming reports of high fees before the 2018 moratorium (Section 5.3).
- Nepali workers paid \$1,427 on average,⁶⁵ and even those recruited post-2018 MOU on zero cost recruitment still paid fees.
- Workers also paid various related costs - including a median⁶⁶ of \$234 for pre-departure medical exam, orientation training, food and accommodation.
- 43% (645) of surveyed workers took out a loan to pay recruitment fees, averaging \$2,059.⁶⁷
- Indebted workers took 11.7 months on average to repay loans, and 12% (182) still had debt to pay.

Recruitment fees are a pervasive feature of migration to Malaysia. All interviewed workers reported it necessary to pay recruitment fees, and did so because of limited employment opportunities in their home country, perceived opportunity of higher foreign salaries, and an inability to work around systems that empower recruitment brokers and agencies. Brokers are typically known figures in regional villages or towns who connect migrants to agencies in capital cities, and may be migrants' primary or only point of contact during the recruitment process.⁶⁸ Workers may pay brokers, recruitment agencies, or a combination of these, with a fee that is informal and highly variable, and with payment often in cash.

The person we deal with, even we don't know if he is authorised or related to that agent or not. If he takes full money we cannot do anything to them. They are a very strong group and they don't want to take money in bank transfer or with receipts hence they prefer cash (male Bangladeshi worker).

Workers reported recruitment agencies would not initiate or process applications without fees, even where fees are illegal or against policy. Nepali workers recruited after the "zero cost recruitment" policy introduced in 2019 nevertheless reported taking out loans averaging \$1034. One interviewed Nepali worker recounted that he tried to access a job

through an agency in line with the new policy, but his visa application was stalled until he finally paid a broker to approach the agency, and then his application was expedited.

The recruitment agency didn't help me without a broker (male Nepali worker).

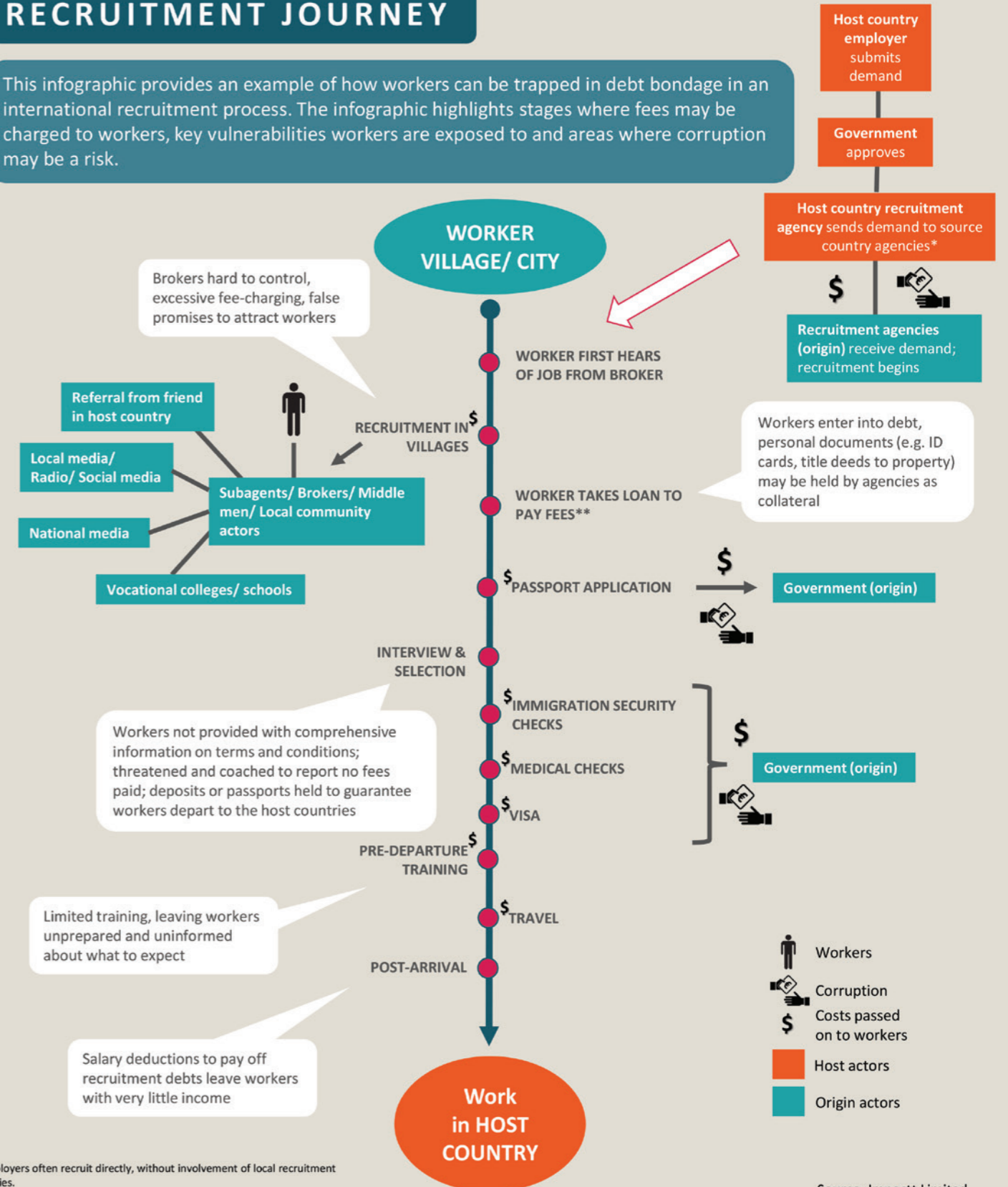
If I started all over again, I couldn't do anything different than this. I was desperate for work and income (male Nepali worker).

The recruitment fees must be removed as its always a real problem for the workers. Workers always suffer with high interest rates and cheating for money from different parties, recruitment broker, agency and loan shark. We need to spend many months to finish our recruitment fees loan (male Nepali worker).

Many workers take out loans to cover high recruitment costs. Bank loans are difficult to get, so workers may borrow money from a variety of other, and often informal sources (family, local acquaintances/neighbours, NGOs, cooperatives). Loans from loan sharks come at annual interest rates ranging from 10% to 36%.

RECRUITMENT JOURNEY

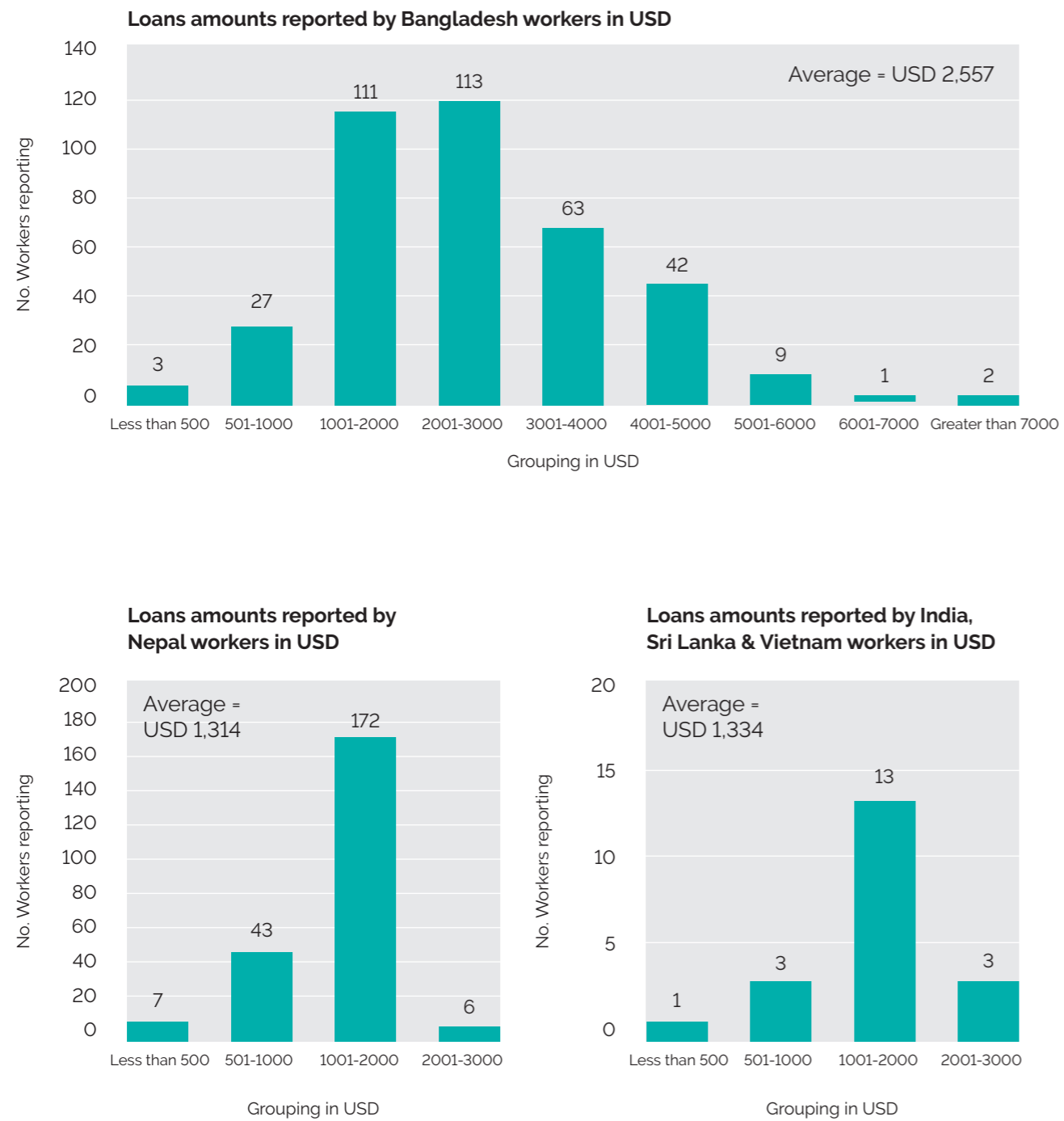
This infographic provides an example of how workers can be trapped in debt bondage in an international recruitment process. The infographic highlights stages where fees may be charged to workers, key vulnerabilities workers are exposed to and areas where corruption may be a risk.



Source: Impactt Limited

68. Deshingkar P. et al (2019) Producing ideal Bangladeshi migrants for precarious construction work in Qatar. Journal of Ethnic and Migration Studies 45(14):2723-2738

Figure 4. Loan amounts reported by workers in United States Dollars (USD)



The average loan repayment time of 11.7 months suggests workers are at high risk of debt bondage in their first year of employment. Some workers may take much longer than a year to repay. One Bangladeshi worker reported taking two years, and was still working to pay off the interest. Of course, pay deductions make it harder still for workers to pay off loans.

Debt may not always be the only, or indeed the primary, reason that workers see restricting them leaving the job. 44% (79/179) of surveyed workers with remaining debt to pay also said they were unable to leave the job. However, 52% (624/1195) of those without remaining debt to pay also reported they were unable to leave jobs, suggesting other unidentified drivers of restricted movement and forced labour (see Section 6.3).

COVID-19 impacts:

The freeze on migrant recruitment during COVID-19 and an average debt repayment time of around a year means that new instances of debt bondage were not recorded in our evidence. It is a factor to be closely monitored when recruitment restarts. Our data suggests that COVID-19 restrictions were more immediate factors restricting worker movement than debt bondage.

There has been recent pressure to reimburse recruitment fees as awareness of labour rights in the industry has become known, although it is not clear how much of this directly links to the COVID-19 pandemic. US import bans in 2019 and 2020 on two Malaysian manufacturers on grounds of forced labour appear to have been influential in promoting a wider commitment in the sector to reimbursement. At the time of the survey 25% (380) of workers reported receiving some reimbursement of fees from their company (comprising 29% (314/1094) of company contracted workers and 17% (65/385) of subcontracted workers), but this proportion may now have increased

Amounts received ranged from RM 110 (US\$26) to RM 3000 (US\$714), with a variable timeframe for payments and communication. Some workers received repayments in regular instalments, others as a lump sum, and only around half of workers recalled receiving a letter to inform them of repayment. Workers valued reimbursement.

Very happy to get recruitment fees back. It will help a lot (male Bangladeshi worker).

In other companies work is cut due to corona but in our company they are reimbursing us. That is in the time of corona so it made me very happy (male Nepali worker).

6.10 Abusive working and living conditions

Hazardous or degrading working and living conditions are a forced labour indicator because they are conditions people would not accept as ideal, but may accept if there are no alternatives.

Working conditions

Reported issues with working conditions include:

- 16% (235) of surveyed workers, mainly Nepali, reported not feeling safe in the workplace;
- 50% (744) of surveyed workers do not have access to medical facilities with free treatment;
- 5% (76) of surveyed workers reported experiencing or witnessing an accident, with major accidents reported including gas blasts, death of workers, severe cuts to hands, arms and fingers, broken limbs, and chemical-related respiratory problems;
- Limited and costly access to healthcare;
- Absent or limited health and safety training;
- Shouting and pressure from supervisors if strict, daily production targets are not met.

Workloads can be high with some workers, depending on role, having strict production targets to meet.

We have a lot of workload, which at times goes beyond our ability. So the department chief misbehaves if the target is not achieved. This creates mental pressure (male Bangladeshi worker).

Interviewed and surveyed workers were generally happy with workplace health and safety measures, including adequate PPE. However, work-related illness and accidents appear relatively common. Production of medical gloves requires chemical substances, generates significant heat and some fast-moving automated machines present hazards. Seven interviewed workers had suffered from work-related ill-health and/or accidents, including repetitive strain injuries, burns, cuts, fractures, fevers, and fatigue.

Workers reported that medical expenses covered by the company were often insufficient. Some companies have clinics within their premises, and others use "nominated" clinics. However, workers highlighted that companies only paid for medical expenses up to RM 200 (\$48) which would not cover multiple visits or major injury, but in some cases companies paid for treatment for serious accidents, and allowed periods of (paid) recovery leave. Others reported difficulties in claiming money from company medical insurance, no payment for sick days, or wage deductions (of RM 300; \$71) for medical testing for renewal of an annual work visa.

It's not easy to get [sick] leave. If we have any problem we need to go to medical and they give medicine which is costly and we need to go back to work, though we have insurance. So, we don't go to medical (male Bangladeshi worker).

Medical support is not enough and for two, three visits the ceiling of RM 200 [\$48] is finished. Outside the factory, the cost is even cheaper. So, many workers go to outside doctors for medical support (male Bangladeshi worker).

Workers have to gain permission from managers to visit healthcare providers. Four interviewed workers specifically stated managers are not sympathetic or supportive if they have a medical issue. Others mentioned that rest day permission was not easily granted, sickness in hostels was ignored or responses delayed, and taking unauthorised leave (without official approval) led to loss of wages. Three interviewed workers reported that it is hard to get leave from nominated or on-site clinics, with clinic staff suggesting a short rest time or medicine and return to work.

I don't feel our managers are sympathetic and supportive with our health needs as sometimes when I need to take the rest day they normally don't allow it. Also...it is very difficult to get medical leave from the company's nominated clinic. They always suggest to take 1 or 2 hours rest and continue the work (...) we cannot get the full day rest (male Nepali worker).

To solve my first health problem I paid RM300 [\$71] and took a couple of days off that were deducted from [my] basic salary (...) Then I had another health problem for which I needed ten days off from work but the company only allowed me three days (male Bangladeshi worker).

Covid-19 Impacts on Working Conditions

Impacts centred on work intensification and the risk of contracting the virus. Ongoing worker repatriation at end of contract and the new recruitment freeze as well as COVID-19 outbreaks have resulted in significant drops in the number of workers, putting additional pressures on workers. Impacts on working conditions are variable with some workers reporting no change to work time or pressure:

There is work pressure for a fast pace as the number of machines is the same and the output is also the same but the workforce is slowly decreasing as many workers have already returned home and new workers are not being recruited due to Covid so we need to cover for them (male Nepali worker).

Break times may not provide a sufficient rest period in the context of high production, with pressure from supervisors to return quickly to work. Workers report that they are generally able to pause from work briefly to use the toilet or drink water, although this is not the case for all.

We cannot take full one-hour break as there is no one for cover my work during break time and we cannot close the packing machine, so we rotate with colleagues and go for break and eat quickly and come back to the work...As there is less manpower at work, we don't get proper time to go to toilet, go for drink when thirsty etc. I feel pressured to work at the workplace as I cannot take my breaktime fully and the gloves packing speed is high as packing machines always have high output and we need to finish all packing as the machines' speed (male Nepali worker).

Two migrant workers included in the survey reported being moved to more dangerous roles or to hotter work stations to accommodate newly recruited local Malaysian workers. Another reported occurrence of accidents as workers were moved to new departments without training in order to replace workers returning home. In addition to Malaysian

government regulations, our research confirms factories implemented measures to prevent disease spread, including shop-floor sanitation, provision of masks and gloves, temperature monitoring, staggered shifts, and social distancing of workers, changes to clocking-in procedures, health and safety briefings, provision for staff to work from home when possible, increased on-site medical staff, and quarantine of infected workers. 92% (1375) of surveyed workers felt that workplace safety measures were adequate, including sufficient PPE. Two interviewed workers stated concerns of inadequate PPE and/or social distancing at their workplace. Another stated that work was as usual, 'except for the fear of covid infection' (male Nepali worker). Data was largely collected before the large-scale COVID-19 outbreaks and we were unable to determine how limited medical entitlements affected access to healthcare of workers contracting the virus. The Ministry of Human Resources has made it compulsory for employers to pay for migrant workers' COVID-19 testing and immunisation.⁶⁹

We have had no access to numerical occupational health and safety data on work-related injury and disease during COVID-19. Existing literature from before the pandemic shows that work-related illness and accidents were common in Malaysian glove factories,^{70 71} and the pandemic has increased worker ill-health due to COVID-19 transmission at the workplace. In addition, the combination of long working hours, reduced breaks, accumulated fatigue, unattended physiological needs and increased workload and pace of work is known to significantly increase workers' health problems in both the short and long term.⁷²

69. Zahiid S.J. (2021) HR ministry: employers to bear full cost to immunise foreign workers from Covid-19, Malay Mail 6 January: <https://www.malaymail.com/news/malaysia/2021/01/06/hr-ministry-employers-to-bear-full-cost-to-immunise-foreign-workers-from-co/1937854>.

70. Trueba, M.L. et al (2021) Instruments of health and harm: how the procurement of healthcare goods contributes to global health inequality, *Journal of Medical Ethics* 47:423-429.

71. Bhutta & Santhakumar (2016).

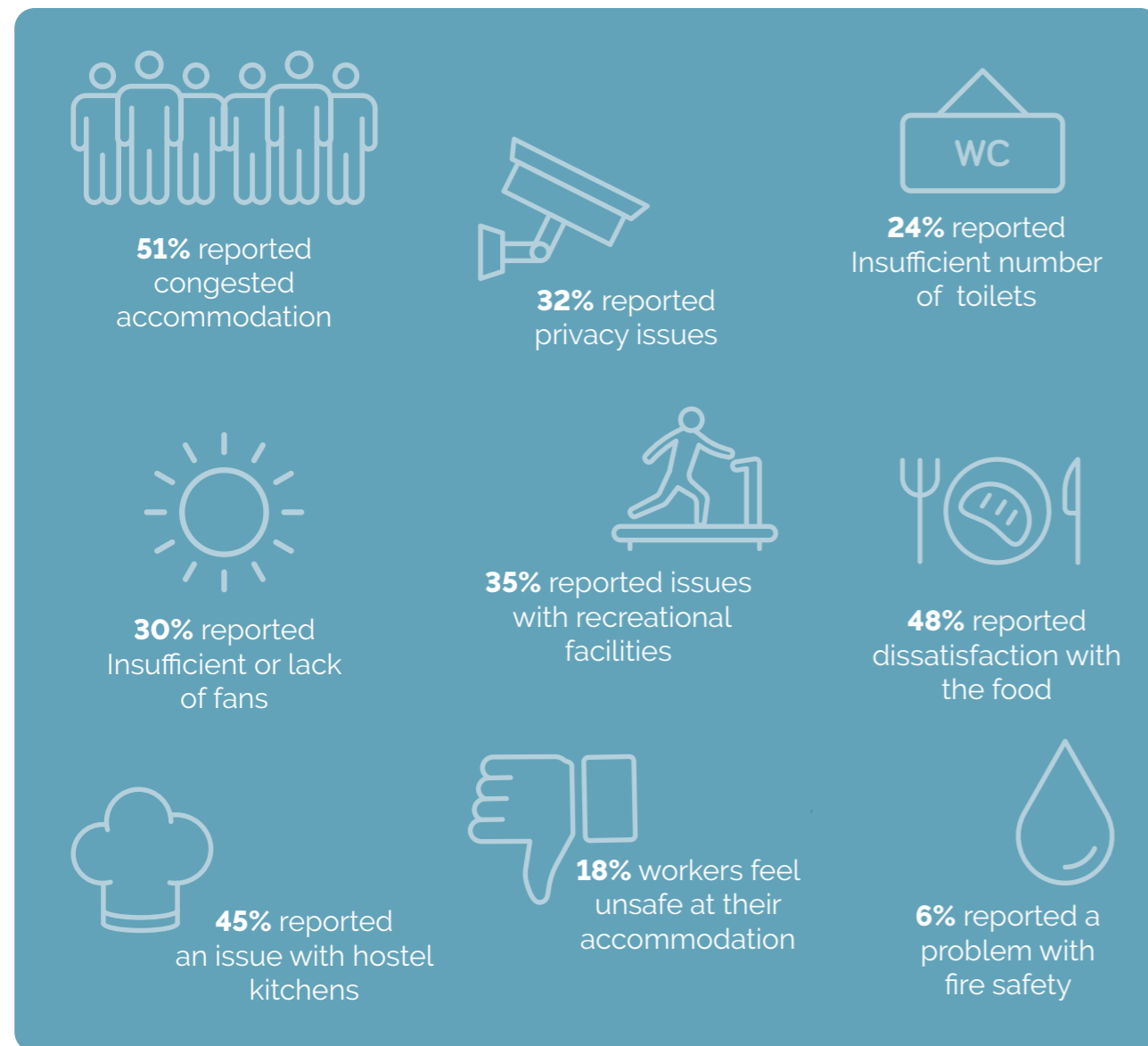
72. Wong K. et al(2019) The effect of long working hours and overtime on occupational health: a meta-analysis of evidence from 1998 to 2018. *International Journal of Environmental Research and Public Health*, 16:2102.

Living conditions

Accommodation is a key issue of concern in the medical gloves industry. Workers are typically housed in hostels, divided into dormitories, which can house

hundreds of workers. Accommodation fees are deducted from wages, although sometimes it is free. Workers very often report low accommodation standards.

Figure 5. Multiple, pervasive issues with living conditions reported by workers



Workers appear to have little option but to put up with these conditions. 45% (350) of those reporting congested accommodation also reported feeling unable to leave their jobs, suggestive of forced labour incidence. Several surveyed workers reported dissatisfaction that they were unable to live in non-company provided accommodation.

COVID-19 Impacts on Living Conditions

Workers across factories report little has changed in their daily living arrangements except the increased risk of COVID:

24 people and one washroom and one toilet...so better to reduce the number of people at the hostel so that people can get fresh easily to live a healthy life (male Pakistani worker).

I don't feel any effect on my living conditions and no effect to transport...The main impacts of COVID is [that I] cannot easily move outside from the company premises but there will always be a high risk of infection while living with many others (male Nepali worker).

When people are taking a shower the water in the kitchen comes out too slowly so we have to wait for cooking (...) and the toilets don't work because of water coming out too slow and has to stay inside toilet for long time (female worker).

I don't feel any big impact of the COVID-19 crisis on my work and personal life...Only the fear of COVID-19 infection is there as we all need to work in factory with many other and live at the hostel with many people (male Nepali worker)

It's crowded and not well managed. We are over 25 living and sleeping together in the same room. There is no privacy and even sometimes I cannot sleep because other workers use the phone or play music (male Nepali worker).

10 of 11 interviewed workers expressed concern that accommodation was as crowded as before the pandemic, and could now carry additional risk of airborne transmission of COVID-19. Companies implemented some measures to reduce risk in worker accommodation, including temperature monitoring, quarantine of infected workers (e.g. in hotels and sports halls), enhanced cleaning, frequent COVID-19 prevention briefings, and fitting dividing screens at canteen tables. Interviewed and surveyed workers said that some workers had been moved to other dorms to make more space, but it was not unusual for 15 people (and sometimes many more) to remain in dorm rooms.

Workers complain of low quality company-provided food, both inside and outside work hours. Companies deduct approximately RM 200-300 (\$48-71) from salaries for food, a deduction reportedly made if workers take the food or not. Hostels often have no or inadequate kitchen facilities. Some hostels prohibit workers from cooking inside.

We have to eat the food arranged by the company and they deduct more than RM 200 (\$48) from our monthly salary for food. The food quality is not good and even if we report to management it's not improved (male Nepali worker).

More than 15 people are living in a room, in the COVID situation it is risky. If anyone is positive we will all have a problem (male Indian worker).

Food is a big issue. Not letting us cook creates us lot of problems. Health and money issues. I wish they changed it (male Nepali worker).

In response to outbreaks, there may have been instances in which COVID-19 infected and non-infected workers were quarantined together in dorms. In such circumstances workers' fear of acquiring or transmitting infection to colleagues is aggravated by uncertainty regarding entitlement to access healthcare and payment for days they are quarantined:

I've been in the quarantine room for 17 days as there was a big Covid outbreak in our factory area. I've already been tested twice...negative both times. As many workers in my factory tested positive, most of the workers are in quarantine. Life is very difficult now as we are not allowed to move around, food has been irregular and of less quality. I have not worked for many days now (...) Not sure [if the company will pay my salary or not for this quarantine period ... I look forward to the end of this Covid situation in my factory so that we can go back to work' (male Nepali worker).

We cannot go out for any situation. If there is an emergency, we will have to manage by ourselves (male Bangladeshi worker).

24% (362) of surveyed workers reported an issue with travel to work, which may indicate COVID-19-related issues with company transport. One interviewed manufacturer reported that they had had to implement strict COVID-19--related safety protocols for transport. Another confirmed that companies faced challenges with managing COVID-19 spread on transport.

6.11 Excessive overtime

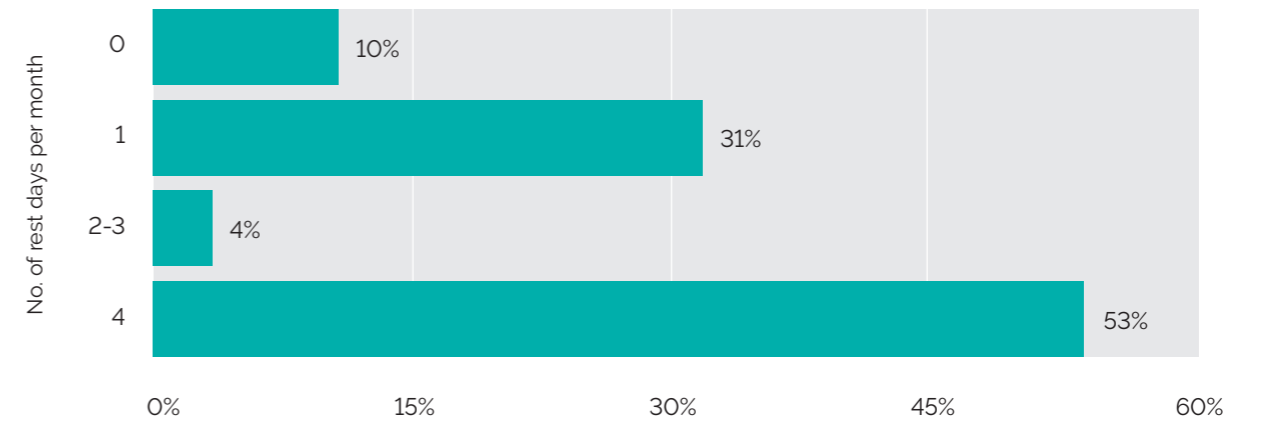
Excessive overtime can be a forced labour indicator when workers are forced to work long hours beyond prescribed legal limits.

- Surveyed workers worked a mean average of 12.02 hours a day.
- Average longest hours worked per worker in the past months was 12.6.
- 8% (119) reported working 14 hours as the longest continuous time worked. If this incorporates 1.5 hours of breaks or less this is above the legal maximum.
- Some indicated working excessive hours, up to 15 hours (six workers), 16 hours (four) and 18 hours (one).
- 10% (149) reported receiving no days off on average in the last three months, against a legal entitlement of one a week.
- 31% (460/1491) had just one day off a month and 4% (56/1491) either 2 or 3 days.

12 hours is the longest working time (exclusive of breaks) permissible under Malaysian law. A typical working day is 12-13.5 hours comprising 11 or 12 hours working and 1-1.5 hours of unpaid break time. Eight hours are paid at the normal rate and 3-4 hours as overtime. Workers report overtime is mandatory, and many (but not all) workers welcomed it as they viewed it as an opportunity to increase earnings.⁷³ These hours are usually within the permissible limit of 104 hours of monthly overtime under Malaysian law.

73. Company manager interviewees also highlighted this point.

Figure 6. Rest days reported by workers (%)



COVID-19 impacts:

The main reported changes are increased hours and opportunities for overtime. One company interviewee noted that the chronic labour shortage in the industry due to the recruitment freeze has caused pressure for excessive overtime. Increased opportunities for overtime work are generally well received by workers. As one interviewed Bangladeshi worker said, 'our priority is income'. Several workers confirmed that factory management had explicitly asked them to work overtime, either by working 2-3 extra hours/day or by working their day off. Most workers reportedly took on the offer in order to earn extra money, though some refused. We found little evidence that workers were coerced or intimidated into working overtime, but a few workers admitted feeling pressured to work overtime. The 10% of workers reporting not having a weekly rest day in the past three months and 31% reporting one day is a possible indicator of increased working hours due to COVID-19. This issue appears to pre-date the pandemic, but interviewed workers also indicated reduction in days off during the pandemic:

Since COVID-19 started there were huge working hours. Even I worked 15 hours a day and as there was no weekly day off since before COVID continuously, I worked 29 days a month. And additional hours are paid as overtime calculation (...) I feel pressured to work overtime as managers always say there is a lot of glove demand and less workforce (...) but I will need to work at fast pace because even though there is less workforce we need to finish certain targets every day anyway (male Nepali worker).

Weekly six days and overtime is mandatory (12 hours job is a must). But previously it was one day holiday in a month. From next month again one day in a month will start (male Bangladeshi worker).

To meet demand companies are using a range of approaches to incentivise workers. One company rewarded all its workers with RM 350 (\$83) per month for continuing production during the crisis, but most companies have simply offered workers overtime at regular overtime rates. According to interviewed workers, one other company is paying overtime hours at lower rates, but announcing that workers exceeding production targets would be rewarded. Most workers are being paid as agreed with management, but a few are awaiting additional payments.

6.12 Evidence that forced labour in the sector is endemic

In the last 30 months there have been media reports of serious and long-standing labour rights infringements of migrant workers in a number of Malaysian gloves factories. These issues parallel our findings above and include high recruitment fees, poor quality and crowded accommodation, retention of passports, and excessive working hours. The companies where some or all of these

indicators of forced labour have been reported by the media include Top Glove, WRP⁷⁴, Brightway⁷⁵, Central Medicare, Supermax, Hartalega, YTY⁷⁶, Kossan, Ansell, and Smart Glove⁷⁷.

The fact that such reports include a range of manufacturing companies, and includes all of the "big four" manufacturers (Top Glove, Hartalega, Kossan, and Supermax), provides evidence that some or many aspects of forced labour are endemic in the gloves manufacturing industry in Malaysia.

74. Ellis-Petersen H. (2018) NHS rubber gloves made in Malaysia linked with forced labour, Guardian 9 December: <https://www.theguardian.com/global-development/2018/dec/09/nhs-rubber-gloves-made-in-malaysian-factories-accused-of-forced-labour>

75. Reuters (2020) Malaysia to charge second glove maker over poor worker accommodation, 28 December: <https://www.reuters.com/article/us-health-coronavirus-malaysia-gloves-idUSKBN29208C>

76. Bengtson (2019)

77. CBC (2021)



7. Effectiveness of current systems for tackling forced labour issues in the supply chain

Our evidence of persisting widespread forced labour in the medical gloves supply chain shows that (at the time of the survey) both current and previous systems for addressing labour standards in Malaysia had had limited impact.

7.1 Failure of UK systems to mitigate risk of forced labour prior to the pandemic

In December 2015 the NHS Supply Chain LSAS system was applied to contracts for gloves, with a total value of those contracts at that time of £70-80 million.⁷⁸ As outlined in **section 4**, the system for evaluating labour risk was predominantly desk-based, but incorporated an annual independent audit of factories. Staff involved in procurement at NHS Supply Chain received little training in LSAS methodology or how to verify or challenge submitted data. In December 2018 a newspaper report demonstrated that this system had failed, because gloves supplied through NHS Supply Chain had been manufactured by WRP and Top Glove (supplied under a different brand name), with both of these manufacturers accused of elements of forced labour.⁷⁹ The suppliers of these lines have not to our knowledge faced investigation

for breach of contract, nor did they have their contract terminated. In our research, manufacturer and supplier interviewees indicated they considered LSAS an inadequate system for addressing forced labour issues, with concerns that it was a paper-based system with low entry threshold, dependent on self-reporting, used subjective and soft criteria, and did not encourage meaningful action.

NHS National Services Scotland (NSS) also used a desk-based approach to setting and monitoring labour standards in high-risk supply chains, which was incorporated into its 2012 contract with Ansell: a supplier of gloves to Scotland at that time. In 2013 there were allegations of worker exploitation at Ansell factories in Asia, including low wages, unreasonable production targets, and anti-union activities. As a result of enquiries from purchasers, Ansell instigated changes and an audit of its factories in 2016 showed improvement.⁸⁰ In response to media queries raised in 2019, NHS National Services Scotland (NHS NSS) declined to comment on whether it was aware of the allegations raised in 2013 or whether it had sought to verify them, but did highlight the requirement for Ansell to adhere to the supplier code of conduct.⁸¹

78. Bhutta & Santhakumar (2016).

79. Ellis-Petersen (2018)

80. Bhutta & Santhakumar (2016)

81. Lo J. (2019) NHS Scotland buys surgical gloves from firm which used forced labour, The Ferret 13 March: <https://theferret.scot/nhs-scotland-surgical-gloves-ansell/>.

The failure of systems based upon codes of conduct or audits to detect labour rights issues is not unique to UK procurement of gloves from Malaysia. Regions of Sweden also had a code of conduct and auditing requirements for its gloves suppliers, but like the UK, was found to be sourcing large quantities of gloves manufactured by Top Glove at around the time this company was accused of forced labour.⁸² Audits had also been conducted of the manufacturer Brightway in 2019 (which provides gloves for the brands Ansell and Kimberley Clark), which found poor standards of accommodation, long working hours, high recruitment fees, and withholding of passports, and there was additional evidence of coaching of workers to provide false or misleading information to auditors.⁸³ It appears those audit findings did not lead to acknowledgement of risk, or corrective action, by suppliers or procurement agencies in any global supply chain linked to Brightway. Previous commentators have expressed concern that auditing in the Malaysian gloves industry is associated with a lack of transparency of results, and limited recognition of high recruitment fees as representing risk of forced labour.⁸⁴ One interviewee in our study suggested that commoditization of audits creates incentives for auditing firms to be less rigorous in identifying issues than they could be.⁸⁵

Social auditing is a popular method for monitoring and addressing labour standards issues, whereby third-party auditors visit factory premises to assess working and living conditions on a range of criteria related to labour rights, including indicators of forced labour. Common auditing systems include SEDEX-SMETA (Sedex Members Ethical Trade Audit), BSCI (Business Social Compliance Initiative), SA8000,

and WRAP (Worldwide Responsible Accredited Production), but multiple codes and systems used by buyers may generate confusion, overlap and 'monitoring fatigue' at manufacturing sites.⁸⁶ A report citing decades of experience from the fashion industry found that audits were often ineffective, and more often appeared to protect company reputation rather than worker rights.⁸⁷

Improving working conditions is premised on an open and respectful work environment. Policy documents or auditing created by external parties rarely affects internal values and beliefs that define workplace culture. Whereas audits can identify issues, they must in themselves be considered an insufficient means to detect or remediate all labour rights issues.

7.2 Failure of UK systems to mitigate risk of forced labour during the pandemic

During the pandemic, new suppliers to the parallel supply chain in England had a contractual requirement to undertake due diligence on risk of modern slavery in their supply chain, including subcontracted parties (outlined in **section 4**). There appears to have been limited provision to verify this requirement. Procurement interviewees indicated that due diligence was conducted through assessing existing factory-supplied audits or company modern slavery statements, in line with existing flawed LSAS methodologies, and some contracts may not have been fully verified. Social distancing requirements meant that audits became practically non-existent during the pandemic.

Again, this system appears to have been inadequate. In September 2020 the parallel supply chain was found to be procuring gloves from Top Glove⁸⁸, and in March 2021 from Brightway⁸⁹, both companies accused of using forced labour. One of the largest contracts awarded was to Supermax, a company previously accused of forced labour, and already on a pre-pandemic framework agreement with NHS Supply Chain and assessed through LSAS.⁹⁰

7.3 Proposed amendments to UK public and NHS procurement law and regulations

Proposed amendments to the 2015 UK Modern Slavery Act address the omission of public bodies in modern slavery reporting, however there is currently no timetable for these amendments.

At the time of writing, there is a UK Green Paper under consultation on Transforming Public Procurement, with the objective of simplifying and speeding up public procurement, emphasising value for money, flexibility in adding new suppliers to contracts,⁹¹ and a reference to 'social value' (although it is as yet unclear how that will be incorporated into policy and procedure).⁹² It will be important to monitor whether and to what extent this mitigates risk of forced labour.

NHS Supply Chain has also recognised limitations of the LSAS system, and is currently in the process of developing a more dynamic system for addressing labour standards in supply chains, which will incorporate interactive features for contract management and allow NHS buyers to review evidence provided by suppliers. For example, the system will include and score audit evidence to allow easier identification of supplier issues, and also allow buyers to communicate and work with suppliers to improve such issues.

In addition to revisions to LSAS, the Home Office has recently developed an e-learning module, targeted at PPE, for anyone going through a procurement process in the public sector. It has also recently published guides to tackling modern slavery for PPE procurement bodies and suppliers which contains advice on: identifying risk, remediating and preventing modern slavery, embedding modern slavery statements in contracts, policies, and tender processes; and monitoring and communicating implementation.^{93 94} The real-world effectiveness of these new training modules and guides, and a revised LSAS, will require evaluation.

⁸². SVT Nyheter (2020) Migrantarbetare utnyttjas av rekryteringsfirmor – tvingas betala för jobb, 31 March: <https://www.svt.se/nyheter/lokalt/stockholm/sa-rekryteras-migrantarbetare-till-handskfabrikerna-i-malaysia> (accessed 03/06/21).

⁸³. Ananthalakshmi et al (2021)

⁸⁴. Bengtson (2019)

⁸⁵. Locke R. (2013) *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy*, Cambridge.

⁸⁶. Locke R. et al (2013) Complements or substitutes? Private codes, state regulation and the enforcement of labour standards in global supply chains, *British Journal of Industrial Relations* 51(3):519-522.

⁸⁷. Clean Clothes Campaign. Fig Leaf for Fashion: How Social Auditing Protects Brands and Fails Workers: <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf>.

⁸⁸. Pattison P. (2020) UK government sourcing NHS PPE from company repeatedly accused of forced labour, *Guardian* 25 September: <https://www.theguardian.com/global-development/2020/sep/25/nhs-sourcing-ppe-from-company-repeatedly-accused-of-forced-labour-top-glove>.

⁸⁹. Lovett S. (2021) Government continued to source PPE from Malaysia suppliers accused of modern slavery, *Independent* 14 March: <https://www.independent.co.uk/news/health/covid-ppe-gloves-malaysia-nhs-government-latest-b1812320.html>.

⁹⁰. Lovett S. (2021) Government facing threat of legal action over PPE links to modern slavery, *Independent* 1 April: <https://www.independent.co.uk/news/uk/home-news/covid-ppe-modern-slavery-gloves-uk-b1825502.html>.

⁹¹. Cabinet Office (2020) *Green Paper: Transforming Public Procurement*: <https://www.gov.uk/government/consultations/green-paper-transforming-public-procurement> (accessed 03/05/21).

⁹². Cabinet Office (2020)

⁹³. Impactt (2021) p.28

⁹⁴. Impactt (2021) p.24

7.4 Malaysian government and corporate responses

The Malaysian government has tackled forced labour under the National Action Plan on Anti-Trafficking in Persons 2016-2020. Key areas of focus are enhancing workplace monitoring, employer awareness, cooperation between agencies, and ethical recruitment standards through bilateral MOUs. The ILO stated however that the Plan's activities were "insufficient to achieve significant results" and cited a need for more holistic action to address the "systemic vulnerabilities" of high recruitment fees, unclear regulations of outsourcing companies, wage deductions, and employer accountability.⁹⁵ In March 2021 the Ministry of Home Affairs launched the National Action Plan on Anti-Trafficking in Persons 2021-2025 (NAPTIP 3.0), and it remains to be seen whether this will improve on its predecessor.

The Department of Labour's number of inspectors is reported to be insufficient to provide coverage of workplaces. Inspection and enforcement capabilities are also hindered by the broad and time-consuming responsibilities assigned to the Labour Department, including conciliation, mediation, and prosecution of cases.⁹⁶ Government efforts during the COVID-19 pandemic have focused on identifying and enforcing employers' improvement of sub-standard accommodation, fuelled by concerns that cramped accommodation played a role in spreading COVID-19. The Ministry of Human Resources has indicated improved migrant worker accommodation as a key target for improvement.

Interviewees associated with the Malaysian medical gloves sector discussed employers' pre-pandemic engagement on labour. They highlighted that in parts of the industry pre-2020 there was recognition of labour standards issues, and willingness and efforts

to reform employment practices. However, commitment and engagement has been uneven across the industry, with variable employment practices and attitudes to labour management. There are also significant challenges remaining, even for companies which have been more active in improving worker conditions or recruitment. One specific and ongoing issue of concern is recruitment, and companies which have committed to zero-cost (for workers) recruitment policies report challenges in finding reputable and non-exploitative recruitment agencies to partner with.

7.5 Other purchasing country responses and approaches

Although almost every country in the world sources gloves from Malaysia, very few have taken any action to assess or mitigate labour rights issues in their supply chains.

In Sweden, health procurement is the responsibility of local government in each of the country's 21 regions, with a National Secretariat facilitating and coordinating sustainable procurement issues between these regions. National coordination has worked to standardise and evaluate social and environmental risks in procurement, and standardise the response by creating a joint code of conduct for suppliers and due diligence criteria included in high-risk tenders. Sweden has moved away from reliance on social auditing, and tried to engage with contract performance across the cycle of a tender, including targeted analysis of the most salient risks, on-site investigations, and engagement and dialogue with manufacturers and distributors on remedial actions. Sweden has also coordinated its work with Norway and Finland.

⁹⁵. ILO (2018)

⁹⁶. ILO (2018)

The US is the single largest procurer of gloves (around a third of total world volumes), and has taken strong action to address forced labour concerns in the Malaysian gloves industry. The US Tariff Act 1930 "prohibits the importation of merchandise mined, produced or manufactured, wholly or in part, in any foreign country by forced or indentured labor – including forced child labor".⁹⁷ In September 2019, prior to the pandemic, US Customs and Border Protection (CBP) issued a Withhold Release Order (WRO) to prevent importation of goods from the Malaysian gloves manufacturer WRP.⁹⁸ The order was lifted in March 2020 after remedial action, and when the CBP adjudged the company no longer produced goods with forced labour. In July 2020, the CBP issued a WRO against Top Glove, despite the pandemic and continuing high demand for gloves.⁹⁹

To have the import ban lifted the company had to commit to addressing forced labour indicators and engage in remediation, including worker reimbursement of recruitment fees. Due to ongoing concerns, the CBP issued a subsequent confirmation of a finding against the same company in March 2021.

In the European Union there is growing interest in trade or import legislation akin to that in the US. The European Parliament has asked the European Commission to table a proposal for an instrument for import bans linked to severe human rights abuses, including forced labour. Advocates view such a tool as complementary to EU legislation currently in development on corporate human rights and environmental due diligence.¹⁰⁰

⁹⁷. US Customs and Borders Protection (2021) Forced Labor: <https://www.cbp.gov/trade/programs-administration/forced-labor> (accessed 17/05/2021).

⁹⁸. US Customs and Borders Protection (2019) CBP Revokes Withhold Release Order on Disposable Rubber Gloves, 24 March: <https://www.cbp.gov/newsroom/national-media-release/cbp-revokes-withhold-release-order-disposable-rubber-gloves>.

⁹⁹. US Customs and Borders Protection (2021) CBP Issues Forced Labor Finding on Top Glove Corporation Bhd., 29 March: <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-forced-labor-finding-top-glove-corporation-bhd>

¹⁰⁰. Greens/EFA Group (2021) Towards an EU Import Ban on Forced Labour and Modern Slavery: https://www.annacavazzini.eu/wp-content/uploads/Towards_an_EU_import_ban_on_forced_labour_and_modern_slavery_February.pdf.

8. Prevention, mitigation, and remediation: barriers to and levers for change

8.1 Barriers to positive change

Barriers to remediating forms of forced labour are present in migrant origin countries, in Malaysia, in buyer country supply chain monitoring systems, and in supply chain dynamics.

Origin country of migrant workers

- Persistent migration 'push' factors such as poverty.
- Informal recruitment brokerage networks. Workers lack knowledge of recruitment processes which increases dependence on informal brokers, and payments to them. This can happen even where companies have agreed to pay recruitment costs. Companies also report difficulties in determining how much money to reimburse for informal payments. Interviewed workers almost unanimously suggested that brokers be removed from the process.
- Profitability of current migrant recruitment systems provides incentives for brokers and agencies to continue them, and intermediaries may find new ways to work around regulations in order to still charge fees.
- Lack of transparency in recruitment processes. Workers report lacking information about availability and details of jobs and application processing, increasing dependence on intermediaries.
- Insufficient government monitoring of the recruitment process and regulations such as the Nepali no fees policy. Interviewed Bangladeshi workers especially emphasised poor enforcement and possible corruption in government monitoring of the recruitment process. Ongoing paying of broker/recruitment fees in Nepal indicates inadequate government enforcement.

Malaysia national context

- Government regulations tying a worker to one employer. Fear of termination, loss of legal status, and loss of income are powerful barriers to remediation.
- Legislation is not aligned with international standards in all areas, such as 104 hours of overtime per month permissible in Malaysian law or 72 hours a week, compared to the maximum of 56 hours recommended by the ILO¹⁰¹ and 60 hours by the Ethical Trading Initiative.¹⁰² In some cases workers value lots of overtime but high levels also present risks to workers' health and wellbeing.
- The Malaysian government has historically prioritised national development and industrial production over labour rights enforcement and trade union organising. Labour enforcement authorities are under-resourced.¹⁰³
- Low level of trade union activity and migrant participation limits institutional mechanisms for worker voice.

Manufacturers

- Entrenched attitudes on worker management, related management practices, and lack of engagement in some parts of the industry. Lack of worker voice is a particular concern.
- Measures which place costs on workers such as wage deductions, suspensions, leave deposits, and work permit/levy charges for leaving contracts early are forced labour risk factors.

- The COVID-19 pandemic placing greater power with manufacturers and reducing buyer leverage on labour criteria in contracts reduced incentives for companies to reform worker management practices.
- Subcontracting of the workforce. Evidence suggests subcontracted workers may be more prone to some forced labour indicators.
- Other barriers to remedy for migrant workers in Malaysia include employer retention of passports, and lack of information about legal rights (especially in languages workers can understand).

Intermediary distributors

- Intermediary distributors can be a key link between buyers and manufacturers. They may obscure supply chain labour issues if their due diligence systems are not robust or providing inadequate labour standards evidence to procurement agencies.
- Fragmentation of the supply chain means that distributors may be sourcing from a variety of manufacturers and/or may change the source of their products according to market demands. This may hinder developing long-term relationships and incentives to support change.

Buyer country

- A lack of transparency of origin of products in the supply chain and associated labour risk.
- A lack of alternative sources for the purchase of gloves. Forced labour is endemic in Malaysia, but other countries that manufacture gloves, such as Thailand or China, are also at high risk of forced labour.
- Poor international engagement in the issue, with only a small number of countries that are aware of or take an interest in the issues.
- UK Government's limited regulatory authority, or action even where there are clear breaches of contract. This is different to the US approach which has instigated import bans.

- Limited knowledge or training of people in procurement roles on forced labour risks and how to address them.
- A lack of leadership and voice at senior levels of government or institutions on the issue of forced labour in UK public supply chains.
- Too dominant a focus on cost reduction in purchasing decisions, without due consideration to labour rights.
- Limited resources for meaningful assessment or monitoring of supply chains, particularly in the context of pressure to reduce costs.
- Buyers' ability to influence manufacturers to improve labour conditions may be limited to supply chains where they are buying high volumes and in which sanctions such as removal of suppliers from contracts provides effective leverage.
- Audits as a monitoring tool do not capture all labour issues, and there is little evidence they in themselves lead to change.

8.2 Actual and potential levers for positive change

The following actual and potential levers for change derive from the research findings, including reflections of interviewees, and feed into the project recommendations in **section 2**.

Migrant origin countries

- Removal, reduction or standardisation of fees. This would require strong and consistent government enforcement.
- Improved government legislation and monitoring of recruitment intermediaries

¹⁰¹ ILO, 2004, Overtime, Geneva: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_170708.pdf.

¹⁰² Ethical Trading Initiative (2016) Base Code Guidance: Working Hours, London: https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_working_hours_guidance.pdf.

¹⁰³ Crinis & Parasuraman (2018).

- Government measures could include ensuring companies provide detailed letters to candidates regarding the amount of time their passports will be held, and the specific purposes for which they are being held. These should be for essential recruitment purposes only (e.g. obtaining visas and security clearance).
- Clear and accessible information about jobs available nationally or internationally would decrease dependence on brokers and agencies and vulnerability to abuse. Workers suggested direct contact with companies, such as through social media adverts.
- Awareness raising and education among possible recruits on recruitment processes and issues of recruitment system abuses.

Malaysia national context

- Government enforcement appears to have had some effect on workers receiving passports back and promoting accommodation improvements.
- Government legislation and enforcement at an industry level appears especially necessary to a) address issues such as recruitment which are central in driving endemic forced labour issues and b) address the variable engagement within the industry on labour standards.
- Changes to the current system of migrant sponsorship such as allowing migrants to be more mobile in the Malaysian labour market would reduce dependence and vulnerability.

Manufacturers

- Manufacturers can fully commit to honesty, transparency, high labour standards and eliminating forced labour.
- Manufacturers with more advanced forced labour identification and remediation systems can help to disseminate best practice for the sector.
- Manufacturers can increase cooperation with migrant origin country governments and recruitment agencies to promote reform in recruitment agency attitudes and practices on fee-charging.

- Improved information from companies on rules and regulations, legal entitlements, and end of contract conditions. Strengthening workers' local language knowledge may also have a positive effect in this area.
- Gloves companies can take action to reduce use of subcontracted employees and ensure that any subcontractors engaged eliminate forced labour indicators.
- Improve worker voice mechanisms such as works councils and trade union representation.

Intermediary distributors

- Intermediary distributors can also fully commit to honesty, transparency, high labour standards and eliminating forced labour.
- Intermediary distributors can work with both manufacturers and procurement agencies and build robust due diligence systems to identify and remediate forced labour. Supplying a high-quality evidence base to procurement agencies and engaging both parties on areas of concern appear key.

Buyer country

- Buyer countries can mandate greater transparency on the origin of products, which can help to qualify labour risk
- Import bans such as the US WROs appear to be particularly effective at causing companies' behavioural change on forced labour issues. Fines and legal action for breach of contract could also be effective. However, efforts must be made to embed change (e.g. by improving worker voice mechanisms).
- Purchasing power has potential to bring about change on condition that buyers include, monitor, and enforce labour standards clauses across the cycle of a contract. This is currently more difficult at a time when market power has shifted to manufacturers.

- To enact purchasing power, greater engagement and dialogue with suppliers and manufacturers (including where possible site investigations) holds more potential for substantive change than depending on traditional auditing systems alone.
- Greater visibility of labour standards issues. Stakeholder engagement to raise awareness is important.

- More scope for training in ethical procurement, building on the modules already developed through the Home Office
- Emphasis on supply chain resilience can be leveraged as a platform for improving labour standards.



Appendix

Exchange rates to the US dollar used in the report (2020)

Bangladeshi taka	0.011784
Indian rupee	0.013499527
Indonesian rupiah	0.000068797985571935
Malaysian ringgit	0.238155
Myanmar kyat	0.000728
Nepali rupee	0.008442
Pakistani rupee	0.006192
Sri Lankan rupee	0.005395
Vietnamese dong	0.000043

List of abbreviations

BMA	British Medical Association
BSCI	Business Social Compliance Initiative
CBP	Customs and Border Protection
DHSC	Department for Health and Social Care
EU	European Union
FOMEMA	Foreign Workers' Medical Examination
HR	Human Resources
ID	Identification
ILO	International Labour Organisation
LSAS	Labour Standards Assurance System
MARGMA	Malaysian Rubber Glove Manufacturers Association
MCO	Movement Control Order
MOU	Memorandum of Understanding
MYR	Malaysian Ringgit (currency code)
NATIP	National Action Plan on Anti-Trafficking in Persons
NGO	Non-Governmental Organisation
NHS	National Health Service
NHS NSS	NHS National Services Scotland
PPE	Personal Protective Equipment
RM	Ringgit Malaysia
SA	Social Accountability
SMETA	Sedex Members Ethical Trade Audit
SCCL	Supply Chain Coordination Limited
UK	United Kingdom
US	United States
USD	United States Dollars
VP (TE)	Visit Pass (Temporary Employment)
WRAP	Worldwide Responsible Accredited Production
WRO	Withhold Release Order



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