

Role of ICTs in Safeguarding Migrant Workers

Hannah Thinyane

UNU Institute on Computing and Society, Macau SAR

hannah@unu.edu

Abstract: Worldwide, there are an estimated 244 million international migrants (UN DESA, 2016), with 175 million of these originating from developing regions. People migrate for a number of reasons, with the most cited being access to jobs. The International Labour Organization's (ILO's) decent work agenda aims to ensure dignity, equality, fair income and safe working conditions, with specific mention of these conditions for migrant workers and women migrant workers. This agenda has informed a number of United Nations initiatives, including the 2030 Agenda for Sustainable Development, and numerous conventions aimed to protect the labour rights of migrant workers (2015). Despite this, the number of labour abuses continues to rise across the world. The ILO estimates that there are almost 21 million people who are victims of forced labour (ILO, 2012a), particularly in unskilled and semi-skilled positions.

This paper discusses the role that data and technology can play in safeguarding migrant workers from abuse and exploitation during recruitment and employment, in particular in unskilled and semi-skilled positions. It discusses the use of data and technology by migrant workers to improve their situation, and the situation of others. The paper describes three cases of using technology to safeguard migrant workers: during recruitment; for forensic evidence in the case of exploitation and abuse during employment; and for the identification of workers in situations of forced labour. In doing so it highlights the importance of developing appropriate methodologies and metrics for collecting and validating data that represents the scope of the societal challenge of exploitation and abuse of migrant workers.

Keywords: migrant workers, ICT for development, reporting

1. Introduction

Worldwide, there are an estimated 244 million international migrants (UN DESA, 2016), with 175 million of these originating from developing. People migrate for a number of reasons, with the most cited being access to jobs. In 2015 the International Organization for Migration (IOM) estimated that there were 105 million people working in a country other than their country of origin (2015), equating to just over 43% of the estimated 244 million international migrants. Over the decades, the debate surrounding the link between migration and development has swung between optimism and pessimism. Optimists point to migration as being integral to development, identifying it as a way to level out inequalities in opportunities. These scholars often point to remittance flows from migration as a way to reduce poverty and redistribute income, with some citing it as more effective for economic growth than development aid (Danmola, and Wakili, 2013; Stojanov and Strielkowski, 2013). Pessimists on the other hand, view migration as a symptom of development failure, noting that it only occurs because of the exploitation of developing countries by the global capitalist system (De Haas, 2010).

The International Labour Organization's (ILO) decent work agenda aims to ensure dignity, equality, fair income and safe working conditions, with specific mention of these conditions for migrant workers (MWs) and women migrant workers. This agenda has informed a number of United Nations initiatives, including the 2030 Agenda for Sustainable Development (United Nations, 2015), most notably in Goal 8 which aims at decent work for all, and sustainable economic growth. There are three legally-binding instruments developed by ILO to protect MWs: the Migration for Employment Convention (C97)(ILO, 1949); Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (C143)(ILO, 1975); and the Convention concerning Decent Work for Domestic Workers (C189) (ILO, 2011a). All three of these instruments include articles to protect MWs from exploitation and abuse, and, in particular with the latter two, to provides the same basic labour rights as other workers. Convention 189 stands out from the others as it establishes that these labour rights should be granted regardless of the migration status of the worker. Despite this, the number of labour abuses continues to rise across the world. The ILO states that there are almost 21 million people who are victims of forced labour (ILO, 2012a). The Global Slavery Index cites a much larger figure of 45.8 million in situations of modern slavery. This exploitation has been found to be more prevalent in unskilled and semi-skilled positions, with employers treating MWs as expendable resources in the agriculture, construction, mining, manufacturing, home care, and domestic work industries.

This paper discusses the role that data and technology can play in safeguarding MWs from abuse and exploitation during recruitment and employment, in particular in unskilled and semi-skilled positions. It begins with a discussion of labour exploitation and abuse. It then describes three cases of using technology in safeguarding MWs: during recruitment; for forensic evidence in the case of exploitation and abuse during employment; and for the identification of workers in situations of forced labour. It then critically discusses the implications of using data for the societal challenge of exploitation of migrant workers, highlighting key considerations that need to be made when developing innovative solutions to address the exploitation of migrant workers.

2. Labour exploitation and abuse

In literature and popular media, the terms ‘labour exploitation’, ‘modern slavery’, ‘forced labour’ and ‘human trafficking’ are interlinked and often used interchangeably. The US Department of State (2016) link forced labour, human trafficking, and modern slavery, as terms used to describe “compelled service ... including involuntary servitude, slavery, or practices similar to slavery, debt bondage and forced labour”. Justice Centre in Hong Kong discuss the relationship between labour offences and labour exploitation with the following:

A seemingly minor labour offence, when compounded with other pre-existing vulnerabilities or human rights abuses, may be enough to push an exploited worker past the threshold of forced labour. A worker does not always fall victim to forced labour at the time of recruitment, but may become so further along in the employment experience. (2016, p. 15)

Skřivánková (2010) presents a continuum of exploitation, from ‘decent work’ to extreme exploitation. ‘Decent work’ draws from ILO’s decent work agenda that was introduced in 1999, and defined as “opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men” (ILO, 2016). The continuum of exploitation is included as **Figure 1**. In the diagram, end points show workers in situations of decent work and forced labour. Between the two points are situations that do not comply with ILO’s definition of decent work, but show labour violations (to some degree or another). These range from on the left, more benign forms of labour violations such as discrimination and payment under minimum wage, to on the right hand side, forced labour. This continuum of exploitation allows for an understanding of forced labour situations that evolve over time (often due to immigration status, or power dynamics). It also illustrates where trafficking fits between decent work and forced labour. Using Skřivánková’s definition, “the purpose of trafficking is exploitation that is achieved through a series of exploitative and coercive actions, one of its forms being forced labour. Cases where forced labour is an outcome of trafficking are signified by the point on the scheme where trafficking and forced labour correlate” (2010, p. 20).

In their definition, the ILO suggest the following six indicators of forced labour: threats or actual physical harm; restriction of movement and confinement; debt bondage; withholding of wages or excessive wage reductions; retention of passports and identity documents; threat of denunciation to the authorities (ILO, 2012b). Skřivánková proposes a reduced list of key characteristics of forced labour: coercion, and denial of freedom.

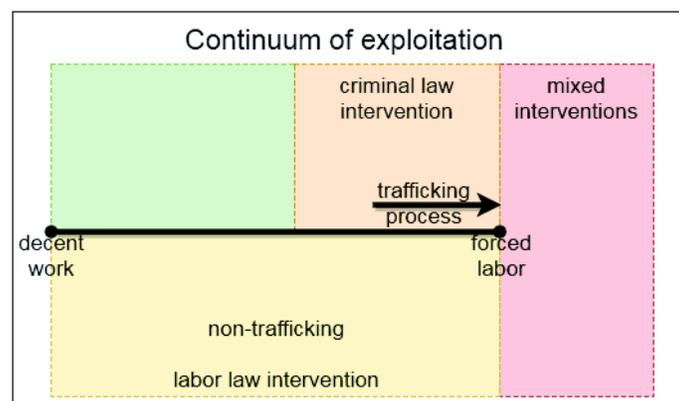


Figure 1: Continuum of exploitation and intervention. Adapted from (Skřivánková, 2010)

The Justice Centre in Hong Kong warns about focussing specifically on physical violence as a means of coercion into forced labour, saying “Violence and other forms of abuse might be some of the tools of coercion, but they are not the only means by which labour is forced. Threats related to recruitment debt and immigration status (for example, withholding of wages, confiscation of passports or denunciation to authorities) can also be used to coerce workers” (2016, p. 13). In this research we use Skřivánková’s continuum of exploitation to identify the types of labour exploitation and abuse that we are concerned with. Following the caution from Justice Centre in Hong Kong, we adopt ILO’s broad definition of the six indicators of forced labour.

3. Methodology

In this project an interpretivist research approach is used, that “considers the application of ICTs as a process intertwined with social change – that is, a sociotechnical process as understood by social construction theory” (Gigler, 2015, p. 65). Within this view of the social-embeddedness of technology, a case study approach is employed, which is defined as a “strategy for doing research which involves an empirical investigation of a particular contemporary phenomenon in its real life context using multiple sources of evidence” (Robson, 1993, p. 52). This approach allows researchers to focus on the primary strength of case study methodology, that it “enables the uncovering of events or processes that one might miss with more superficial methods” (Erickson, 1986, p. 238). A case study approach allows an in depth study of specific factors that influence, in this case, the use of technology by migrant workers. In doing so, it emphasizes linkages between local processes and the broader socio political and economic context in which they occur (Pettigrew, 1990; Rossman and Wilson, 1985). Critics of case study research cite the overt specificity and intense focus that is required when performing the in depth analysis (Gigler, 2015). Drawing from this, critics note that case study findings are so specific, that they cannot be transferred to other contexts. Yin however argues that “case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes ... the investigator’s goal is to expand and generalize theories and not to enumerate frequencies” (1994, p. 10).

Within this research, a mixed method research design is used, as this has been found to improve trustworthiness (internal validity), transferability (external validity), and reliability (dependability) of findings (Rossman and Wilson, 1985). This mix of quantitative and qualitative data and analysis is used to reveal different aspects of a single reality (Denzin, 2006).

4. Cases studies

Through a desk-based evaluation of the migration cycle, three particular cases where ICTs can play a role in safeguarding migrant workers were identified: exploitation and abuse during recruitment; for individual reporting of abuse; and for identification of victims of forced labour. This section presents a description of each of these three cases.

4.1 Exploitation and abuse during recruitment

One of the first points during the migration cycle that potential employees are open to abuse and exploitation is during recruitment. While some cross-border recruitment is facilitated through informal or social networks, private employment agencies are playing an increasingly important role in matching the supply and demand of labour across national borders. In 2014, an ILO report found that there are over 140,000 private recruitment agencies worldwide (2014). When appropriately regulated, public and private recruitment agencies ensure efficient and equitable functioning of the international job market, by matching available jobs to skilled workers. However, as the UN Special Rapporteur on Human Rights of Migrants (Crépeau, 2015) and the ILO (2014) have noted, unethical recruiters exploit migrants at every step of the migration cycle, through: collection of exorbitant recruitment fees and linked situations of debt-bondage; misinformation about the nature of employment and living and working conditions; contract swapping, where the contract that is signed by workers is replaced by a new contract without the workers knowledge; retention of passports and other identity papers; illegal wage deductions; ‘tied’ recruitment and employment preventing workers from changing employers; threats if workers want to leave their employers, coupled with fears of subsequent expulsion from a country; and in some instances physical and sexual violence. These practices relate directly to each of the six indicators of forced labour discussed in Section Two.

There have been a number of studies undertaken looking at exploitation and abuse during recruitment, using both offline and online interventions. A study undertaken by the Alliance of Progressive Labor (APL) and Progressive Labor Union of Domestic Workers in Hong Kong (PLU-APL) undertook participatory action research to

investigate recruitment practices and violations faced by Filipino Domestic Workers in Philippines and Hong Kong in late 2012 (Varona, 2013). This report proposed a list of recommendations and actions for worker groups, trade unions, and authorities in Philippines and Hong Kong. It also developed offline “scorecards” for 245 recruitment agencies in Hong Kong and 190 recruitment agencies in Philippines, based on their recruitment practices and violations. Some governments such as Singapore’s Ministry of Manpower (2015) provide online Employment Agency Directories where potential employers and employees can check: numbers of employment agency violations; percentage of Migrant Domestic Workers (MDWs) placed by agencies that have stayed with same employers for at least one year; percentage of MDWs placed by agencies that have transferred to 3 or more employers within one year; number of MDW / MW work passes approved by agencies within last calendar year; names of employment agencies under surveillance and details of breaches; list of agencies whose licenses are revoked due to infringements . This directory provides MWs with an opportunity to report issues of exploitation and abuse by employment agency online, and to submit accompanying evidence.

This research proposes the creation of a centralised system for reporting cases of abuse or exploitation during recruitment, across a number of different sectors. It proposes the development of rich metrics to show the credibility of agencies. This case study propose the collection of electronic evidence to support the reporting of abuse during recruitment. It also investigates the design of culturally relevant interfaces for the collection and presentation of reports.

4.2 Individual reporting of exploitation and abuse

In the case of employment in the areas of home care or domestic work, MWs are particularly vulnerable as their place of work is most often a private home, making it more difficult for authorities to undertake labour inspections than in other places of work. This situation is compounded when considering the harsh restrictions imposed on live-in workers, where the MWs place of residence is their place of work. In some countries, particularly in the Arab states, MWs are also forbidden from forming and joining formal unions, and have little access to formal support from consulates and embassies (Pande, 2012). Despite this however, researchers and activists have found there are still spaces that MWs find to socialise, even in the most restrictive situations (Pande, 2012). Pande term the support provided between MWs as ‘balcony support’, referring to the practice of MWs communicating through open windows or balconies with other workers, and providing support (whether emotional or physical, in the case of food that is swung from one balcony to another) to help an abused worker.

The abuse that these MWs face is a complex problem, compounded by social and religious norms, and the devaluing of domestic work. It therefore requires a multi-dimensional solution. From a legislative perspective, the ILO suggests that minimum standards for working conditions may help to overcome the power imbalances that lead to exploitation and abuse within home care and domestic work (ILO, 2013a, p. 46). On top of this, Articles 16 and 17.1 of Convention 189 state that MWs should be entitled to “effective access to courts, tribunals or other dispute resolution mechanisms” as well as “effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers” (respectively). The question becomes how MWs can be provided access to these mechanisms, when their physical activity (as well as in more extreme cases, their online activity) is so restricted.

At the International Labour Conference, researchers concluded that “well-crafted regulatory mechanisms with a suitable enforcement machinery make an important difference in the everyday lives of domestic workers - and they convey the message that domestic workers are indeed workers who deserve both rights and respect” (ILO, 2010, p. 94). Empirical evidence has found that the process of making a complaint against employers puts MWs in a vulnerable position, particularly when there is a live-in requirement, or migrants’ visas are tied to individual employers (such as in the Arab states and some Asian countries) (FADWU and PLU, 2016). In a recent study, the Progressive Labor Union of Domestic Workers in Hong Kong (PLU) showed that when claims of abuse are filed against employers they are dismissed from work. In Hong Kong, MWs have 14 days to leave the country once their job has been terminated, but it takes an average of 55 days for claims of exploitation or abuse to be heard in labour tribunal court. On top of being required to find new accommodation and pay for living expenses without an income, when MW cases reach the labour tribunal court, they are often thrown out due to a lack of evidence, as it becomes a case of one person’s word against another.

This case study investigates the use of mobile devices to enable MWs to document and report cases of abuse and exploitation of themselves and others. It suggests that the collection of evidence be undertaken in a manner that ensures the chain of custody, to ensure that evidence can be used to support claims of exploitation and abuse. It also suggests that these mechanisms could provide more efficient resolution of labour tribunal claims, providing more effective to access complaint resolution mechanisms.

4.3 Identification of Victims of Forced Labour

Another key role that technology can play is in the identification of victims of forced labour. In many cases, authorities who come across potential victims of trafficking or forced labour cannot communicate with them due to language barriers. This study proposes the use of simple mobile technology to allow authorities to help identify potential victims. It investigates the use of culturally relevant information to allow workers to self identify as a victim, and seek help from relevant authorities.

Laborlink is an example of a company leveraging mobile phones to enable factory workers to report unsafe work conditions, harassment and exploitative practices (Good World Solutions, 2017). The aim of this non-profit social enterprise is to provide information for large businesses to understand the working conditions of factory workers in their supply-chain, supporting them to make informed decisions on ways to source responsibly. This solution is made possible by the proliferation of mobile devices as well as communication infrastructure (network connectivity) in areas where potential victims of forced labour work.

There are some sectors that often suffer from forced labour, where these conditions are not available. Consider the fisheries sector where there have been numerous reports in local media (Hodal, 2016) as well as UN agencies (ILO, 2013b). In these situations, the victims of forced labour do not necessarily have access to either a mobile device or network connectivity to make a report. Authorities encounter potential victims when undertaking inspections of fishing vessels, but have no means of communicating with them due to language barriers. This case study investigates the use of simple, text free user interfaces on mobile devices to provide MWs with the ability to self identify as a victim of labour exploitation. As well as being applicable in the fisheries sector, research derived from this case study could be utilized in other areas with poor connectivity or limited access to devices, where current interventions leave authorities unable to communicate with MWs.

5. Discussion

The societal challenge of the abuse of MWs is very complex, as by nature it requires the involvement of multiple governments (the sending and receiving countries) to negotiate and protect the basic human rights of the MWs. The three cases presented in this paper all involve, to some extent or another, the exchange of information between sending and receiving countries, as well as the involvement of a number of key stakeholders including MWs themselves, authorities, trade unions, and civil society. This points to a growing role of the importance of shared data between governments and society in order to protect MWs. However, a step prior to this sharing of data is generating the data. This is where our research can contribute to this growing area of interest. Across each of these case studies, new statistics are required so that governments, trade unions and civil societies can understand the breadth of the problems that they are facing. Currently “the numbers of officially identified victims [of modern slavery] tells us next to nothing about the real numbers, and international research on the prevalence of crime remains fraught with political sensitivities...” (van Dijk, 2016, p. 1). This section presents a discussion across each of these case studies of: the creation of new value-added metrics to represent the current state of MWs; the development of appropriate methodologies for collecting data, consider the sampling considerations of hard to reach populations; and a proposal of how cases of abuse and exploitation could be validated.

5.1 Metrics

To monitor progress in achieving the SDGs, 230 indicators have been developed. Three in particular that are applicable to this research include: to end violence against women and girls, including trafficking and exploitation (5.2); to eradicate forced labour, modern slavery and human trafficking (8.7); and to end exploitation, abuse and trafficking of children (16.2). Also related is ILO’s Recommendation 201 (non-binding recommendation associated with ILO’s Convention 189 on Decent Work for Domestic Workers) that suggests the creation of metrics to monitor activities of recruitment agencies (ILO, 2011b: 26(2)).

The metrics derived by Singapore’s Ministry of Manpower seem to provide an interesting point to start with for the first case study, proposed in Section 4.1. To extend this work, a study could be undertaken to deter-

mine other factors that may help MWs to make informed decisions on the track record or recruitment agencies. Interesting metrics that could be derived given a log of claims would be the number of unproven cases that had been reported per individual as well as per agency. These false-positive claims could be used to create rankings of credibility of reporters and agencies. By standardising metrics across sending and receiving countries, the impact of various interventions could be compared, providing empirical evidence on nations' progress in achieving SDG 8 of promoting sustained, inclusive and sustainable growth.

From a private sector perspective, there has been growing interest in making ethical decisions when choosing between contract factories. If, as suggested in Section 4.3, a repository is kept of all cases of MW responses, this information can be used to contribute to businesses decisions about contract factories' track record with regard to labour exploitation. All responses could be analysed by location, sector, primary resource, and stage of processing of resource to determine the extent to which forced labour occurs in that area, with that primary resource.

5.2 Methodologies and Sampling Techniques

One of the main problems with insidious societal challenges such as the abuse and exploitation of MWs is that the scope of the problems is hard to identify. A number of different methodologies have been proposed, such as ILO's capture-recapture methodology (ILO, 2012c), or van Dijk and van der Heijden's multiple systems methodology (2015). These two methodologies assume that information is captured from standard surveys as the primary data sources, with much research going in to the uneven distribution of victims amongst target populations. The three cases proposed in this paper involve collection of information that could be used to contribute to the development of indicators on the scope of exploitation and abuse, using more focussed sampling techniques.

Careful attention would be required in developing the questions, and the methodology for posing these questions that could be used to self-identify potential victims of forced labour. This is particularly important given the sensitivity of the situation that the workers are in. A number of previous studies have suggested that more accurate results could be obtained when sensitive questions are posed electronically, so respondents do not feel any embarrassment in their response (as compared to when they are posed by an interviewer). Another obvious benefit of posing these questions electronically as compared to in an interview is that the respondent can answer more anonymously and confidentially as their response will not be overheard by management.

5.3 Validation

The first two case studies proposed the use of technology and data to support the reporting of exploitation and abuse during recruitment and employment (respectively). A key consideration related to the data associated with these case studies is the privacy of reports and the trustworthiness of data. The verification of reports must obviously be a significant factor when considering the report of any cases of exploitation and abuse. The number of occurrences of abuse, the nature of the abuse, as well as the participants in the event would all need to be verified. Related to this is that reports would need to be secured until relevant authorities had investigated and corroborated the claims. Once reports have been verified, then details such as the name of the agency and the nature of the abuse could be made public. All unverified cases would need to be kept confidential.

In this process, it is important to develop a system that captures, stores, and sends any evidence to authorities in a way that respects the chain of custody. The chain of custody provides a way to preserve evidence from the time that it is collected to the time that it is presented in court, allowing parties to show that evidence has not been tampered with and is therefore admissible (Thomson, 2013).

6. Conclusion

This paper has presented three cases within the migration cycle where MWs are particularly susceptible to exploitation and abuse: during recruitment; during employment in domestic work and home care industry; and in forced labour situations. For each of these cases, it has presented a discussion on the use of technology and data in safeguarding MWs, discussing key considerations on the use of data for this societal challenge. It has suggested that in such a new area of concern as abuse and exploitation of MWs, before the data can be used, it needs to be collected, validated, and analysed. In particular this paper has highlighted the importance of contributing to the design of appropriate metrics, using appropriate methodologies and sampling techniques; as well as the validation of reports of abuse and exploitation.

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