**About the project**

Trafficking in human beings covers various forms of coercion and exploitation of women, men and children. While responses to trafficking have traditionally focused on combating the criminal networks involved in trafficking or protecting the human rights of victims, European countries are increasingly exploring ways of influencing demand for the services or products involving the use of trafficked persons as well as the demand for trafficked persons as such. **DemandAT** aims to understand the role of demand in trafficking in human beings and assess the impact and potential of demand-side measures to reduce trafficking, drawing on insights on regulating demand from related areas.

**DemandAT** takes a comprehensive approach to investigating demand and demand-side policies by examining demand for different forms of trafficking. The research includes a strong theoretical and conceptual component through an examination of the concept of demand in trafficking from a historical and economic perspective. Regulatory approaches in policy areas that address demand in illicit markets are studied to develop a better understanding of the impact that different regulatory approaches can have on demand. Debates on demand in different forms of trafficking as well as countries' policies are examined to provide a better understanding of policy options and policy impacts. Finally, the research also involves in-depth cases on particular fields in which trafficking occurs (domestic work, prostitution, globalised production of goods) and case studies of particular policy approaches (law enforcement and campaigns). Developing a better understanding of demand for trafficking in all its forms and the ways in which policy interventions may structure that demand will enable a better informed assessment of the potential for demand-side policies and efforts to assist in task of tackling trafficking in human beings.

The research is structured in three phases:

- **Phase 1:** Analysis of theoretical and empirical literature on demand for trafficking and regulating demand in different disciplines, fields and countries. Runs from January 2014-June 2015
- **Phase 2:** Three in-depth empirical case studies on different fields on trafficking: domestic work, prostitution, imported goods. Two on different policy approaches: law enforcement actors and campaigns. Runs from September 2014-December 2016
- **Phase 3:** Integrating project insights into a coherent framework with a focus on dissemination. January 2017-June 2017

**Project Facts**

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<tr>
<th>Coordinator</th>
<th>International Centre for Migration Policy Development (ICMPD)</th>
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Legal Notice

The views expressed in this publication are the sole responsibility of the authors and do not necessarily reflect the views of the European Commission.
1 Contents
1.1 List of Acronyms

AI  Amnesty International
ASEAN  Association of Southeast Asian Nations
BHRRRC  Business and Human Rights Resource Centre
BWI  Building and Wood Workers International
BWI  Building and Wood Workers' International
CIW  Coalition of Immokalee Workers
CMs  Contract manufacturers
CSR  Corporate social responsibility
DemandAT  Demand-side Measures against trafficking in human beings research consortium
EICC  Electronics Industry Citizenship Coalition
EMS  Electronics Manufacturing Services
EPZs  Export Processing Zones
EU  European Union
FDI  Foreign Direct Investment
FFP  Fair Food Programme
FFSC  Fair Food Standards Council
FIZ  Free Industrial Zone
GAWU  General Agricultural Workers Union, Ghana
GCC  Global Commodity Chains
GCC  Gulf Cooperation Council
GPN  Global Production Networks
GVC  Global Value Chains
HRW  Human Rights Watch
IAB  International Advisory Board (for WP9)
IFA  International Framework Agreements
ILO  International Labour Organization
ITC  International Trade Centre
1.2 List of Figures and Tables

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2 Introduction

This report gathers the experience and presents the emerging results of research conducted by academics at Durham University’s Geography Department on ‘Globalised Production of Goods,’ Workpackage 9 of the European Union (EU) funded consortium project DemandAT (Demand-side Measures Against Trafficking). Data collection and preliminary analysis were carried out by Fabiola Mieres, PhD during the period November 2014-November 2016 and supervised by Siobhán McGrath, PhD. The overall aim of the research is to analyse existing and proposed initiatives to address trafficking, forced labour and/or (contemporary) slavery (which we term TFLS) in supply chains. The report is structured around the two key forms of data collection we conducted: first, the identification and mapping of 97 initiatives in the nascent field of governance over TFLS in and through supply chains (the TFLS-supply chain nexus). The dataset shows the variegated forms that this governance takes. Its construction further served as a source from which to choose case studies for further analysis by locating a group of initiatives in particular sectors. Second, we discuss the three case studies: electronics in Malaysia, construction in Qatar, and agriculture in the United States. Finally, preliminary conclusions are drawn with some indicators of potential areas for future research.

2.1 Background and Rationale

While there are longstanding concerns about the conditions experienced by workers in the Global South who produce goods and services destined for consumption in the Global North, reports of forced labour, human trafficking and contemporary slavery have lent new urgency to the issue. The European Union as an important global actor is committed to establishing and strengthening policies to prevent trafficking in human beings (European Parliament and Council of the European Union, 2011), while the importance of engagement with ‘third countries’ has been noted in the Action Oriented Paper on Strengthening the EU External Dimension on Action Against Trafficking in Human Beings (Council of the EU, 2009). As such, the EU is concerned about the entry of products, services and profits resulting from the use of trafficked labour even if production takes place abroad. This stems in part from the recognition that goods, services and profits may benefit residents of the EU in many different ways, whether produced within the borders of the EU or abroad: either through consumption (or government procurement) of the products or in terms of the profits garnered (even if sales are conducted abroad).¹

But the EU has yet to develop a robust policy response around the use of trafficking in global supply chains. Even outside of any benefit received, supply chains can be an opportunity for intervention. A variety of actors – shareholders, consumers, institutions engaged in procurement with EU members, buyers within supply chains, regulatory bodies and government agencies such as export promotion

¹ For a more detailed exploration of the intellectual case to address TFLS in and through supply chains, see section 3.4 of the Working Paper No. 7 by McGrath and Mieres (2016). For further discussions of responsibility see Goodin and Barry (2014) and Young (2004, p.102).
agencies and local development agencies – can influence the terms and conditions under which workers labour, not only within the borders of the EU, but beyond. Thus, there are prospects for having an impact through supply chains in ways which potentially complement other prevention efforts.

We do not limit our analysis to initiatives employing the terminology of trafficking for two reasons. First, we are examining responses to the issue on a global level and therefore need to be sensitive to the use of a range of terms used in different locales. Second, while important distinctions may be made among legal definitions, the interpretation of these concepts – by governments but also other actors such as corporations and advocacy organizations – do not always correspond neatly to these. In practice, on the ground, the concepts overlap. We are concerned here with initiatives which explicitly address these issues, and thus we use the terminology adopted within these initiatives without restricting the use of the terms to strict legal terminology. Thus we use the acronym TFLS to refer to human trafficking, forced labour and/or (new, contemporary or modern) ‘slavery.’

With regards to terminology, it should be noted that we refer to ‘supply chains’ for pragmatic purposes as this is a term widely understood not only in the business sphere but among the public. In terms of the scholarly literature, we draw on the literatures around Global Commodity Chains (GCCs), Global Value Chains (GVCs), and Global Production Networks (GPNs). These bodies of work respond to the increasing complexity of ever more fragmented and dispersed production (see Yeung & Coe 2014; Coe et al. 2008; Bair 2009). These approaches address questions that subsequently emerge around issues of coordination and control that lead firms may exercise over suppliers (and other actors), and the networked nature of production which spans across diverse geographical spaces. While the GVC terminology is most common in the policy sphere (e.g., UNCTAD, 2013), we prefer the term GPN for four reasons: i) GPN analysis allows the incorporation of extra-firm actors, such as supranational organisations, government agencies, trade unions, employer associations, NGOs, and consumer groups; ii) GPN analysis is innately multi-scalar, by this, we mean that factors at scales from the local to the global are seen as interacting; iii) the governance dynamics within global production networks are considered to be much more complex, contingent and variable over time; and iv) the network approach allows us to move beyond the ‘chain notion’ so that production systems can be analysed as intersecting vertical and horizontal relations.

2.2 Research objectives

The primary aim of the project is to map the field of governance activity at the TFLS-supply chain nexus. This is a growing area of activity and we find it important to understand its contours and

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2 For a comprehensive historical review of the evolution of these approaches see Bair (2009). The different terminologies reflect in part different intellectual origins and theoretical commitment but they all refer to the fragmentation and dispersion of production and how these are coordinated by leading firms.

3 For a more comprehensive explanation of the GPN approach see Coe and Yeung (2015).

4 Contrary to the four-fold typology presented in Gereffi et al (2005).
characteristics. We acknowledge that there are initiatives which may influence TFLS in supply chains even without explicit reference to TFLS – but our aim is not to assess impacts. Rather, by mapping existing and new initiatives which explicitly address TFLS in supply chains, the project aims to identify any patterns in the logics of these initiatives – how they are meant to work and what understandings of the problem and of the solutions this reflects. Therefore we are focused on initiatives which include among their stated aims a concern with TFLS. We further aim to investigate how a selected group of initiatives play out on the ground in three different locations and sectors. This will allow us to consider how the logics of the initiatives relate to the logics of the respective industries and begin to unpack the different constraints and possibilities that actors face in the governance of TFLS in and through supply chains.

3 Research Design

In this section, we present the overall research design of the project. We explain the steps taken in the construction of the dataset of initiatives as well as the case study selection and research design.

3.1.1 Methods I: Exploring the global dimension by mapping the initiatives

In this section we present the steps followed in the construction of the inventory of initiatives around TFLS in and through supply chains. We define an initiative as an act or strategy which is claimed to be a means of addressing a problem. In practice, an initiative typically refers to a law, policy or programme carried out by firms/industry groups, advocacy groups/NGOs, worker organisations, government agencies, inter-governmental bodies, other institutions, or a combination of these types of actors. We included codes and guidelines even if they have no review mechanism or formal institutional implementation; however, we excluded self-regulatory codes of conduct that apply to one firm only.

There were, then, three criteria for inclusion in our inventory. We included 1) initiatives 2) which articulate a specific concern around TFLS and 3) which work in or through supply chains. For each initiative, TFLS may be addressed through supply chains only or it may be addressed from additional angles (e.g., increasing prosecutions of traffickers); similarly, it may address TFLS only or cover additional issues (e.g., workplace health and safety). The key is that both TFLS and supply chains are significant foci of the initiative. Inclusion/exclusion decisions involved judgment about whether these criteria were sufficiently met, and involved in-depth discussion among the two researchers in the project, as well as feedback from two scholars and one practitioner. The inventory was also subject to analysis by the members of the International Advisory Board who extensively commented on the final outcome.

To illustrate the complexities of applying our criteria, we can share some of the decisions made. For the first criterion of constituting an initiative, we excluded from our analysis statements and
declarations if they did not announce any new action(s). In relation to the second criterion, of a concern around TFLS, we decided to include initiatives which made reference to Core Labour Standards (as these include freedom from forced labour). We further decided to exclude initiatives focused on child labour unless there was a clear and explicit focus on forced labour (as not all harmful child labour is understood as forced). The first decision erred on the side of inclusiveness while the second erred on the side of exclusiveness. Decisions on whether initiatives met the third criterion, a focus on supply chains, were often more challenging. While some initiatives are described as supply chain monitoring (SCM) or as addressing supply chain risks, many are couched in alternative language such as ethical trade, responsible purchasing, etc. but which we classified as operating in and through supply chains. In particular, we have chosen to include initiatives around labour recruitment in supply chains but not on initiatives which focus solely on intermediaries (and/or employers) rather than the supply chain these intermediaries feed into. We also decided to include a range of consumer awareness campaigns, institutional procurement policies and boycotts where they can be deemed to target TFLS in supply chains. Finally, while the issue of demand in relation to sex work is being analysed by colleagues through research in another workpackage of the DemandAT consortium project, our inventory excludes initiatives in this field.\(^5\)

In terms of the methods used for the construction of the dataset, a web-based desk review was started in November 2014, and carried out through March 2015. A second round of revisions as to inclusion/exclusion of initiatives was conducted in May 2016. It relied on material gathered by organisations that work on labour issues such as Verité in the United States, the Joseph Rowntree Foundation (JRF) in the UK, the Global Alliance against Trafficking in Women (GAATW), based in Bangkok, Thailand, and the London-based organisation Business and Human Rights Resource Centre (BHRRC), and cross-checked with some of the findings using the International Trade Centre (ITC) Global Standards Map. In addition to these sources, we relied on the use of social media, in particular Twitter, to follow developments in the field and learn about the evolution of the initiatives. A first draft of the dataset presented and discussed at an in-person meeting of the Workpackage International Advisory Board held at the University of Durham in June 2015. Over the course of three days in June 2015, both Dr. Mieres and Dr. McGrath presented the preliminary dataset which covered initiatives identified until May 2015.

We found that the level of activity in this field has become very high, in particular in the Global North. Since the project started, for example, the UK passed the Modern Slavery Act in 2015, the Global Fund to End Slavery was consolidated, and the Electronics Watch\(^6\) network was established as an independent organisation. These are examples of the rapid pace upon which developments in the field

\(^5\) With the exception of the Global Business Coalition against Trafficking (gBCAT) which recognises sex trafficking together with forced labour in their work on supply chains. See: http://www.gbcat.org/#about

\(^6\) Electronics Watch is an independent monitoring organisation whose mission is to assist public sector buyers to meet their responsibility to protect the labour rights of workers in their global electronics supply chains more effectively and less expensively than any single public sector buyer could accomplish on its own.
are happening, and for this reason, future research will have to follow up on new and evolving initiatives as well as, critically, to evaluate their effectiveness and impact. It is therefore important to bear in mind that the dataset constructed captures an area of activity at a particular point in time in a field deemed likely to grow quickly in future years.

Each initiative in the dataset has been coded for a number of characteristics: what type(s) of actor(s) initiated it; and what type(s) of actor(s) implement it; the stated geographical scope of the initiative (e.g., global, regional, national, sub-national); whether the focus on TFLS forms part of a wider set of issues addressed by the initiative; the industry scope of the initiative (targeting one industry or multi-industry); and the mechanism by which the initiative would impact the issue. These characteristics were based on reading and interpretation of public information on the initiatives, while in selected cases, further information was sought on the initiatives. Our dataset thus constitutes the first exercise of its kind in mapping the emerging field of governance in the TFLS-supply chain nexus.

The three case studies undertaken during the second phase of the project begin to shed light on the dynamic aspect of how some of these initiatives play out on the ground. The rationale for case study research in this field is presented in the following section.

3.1.2 Methods II: Studying initiatives on the ground through case studies

The second phase of the project involved studying selected initiatives 'on the ground' through three case studies in order to shed light on their sector-specific configuration. The aim is to unpack the local dynamics and study how the initiatives might intersect with the coordination of global production networks in different contexts and geographical locations. It is important to mention at this stage that WP9 has not aimed to document new instances of TFLS in supply chains. Rather the cases chosen are all instances in which others – workers’ organizations, advocates, journalists, etc. – have documented these problems on the ground and have labelled the findings either ‘human trafficking’, ‘forced labour’ and/or ‘contemporary/modern slavery’. In all of these documented cases, responses have been put in place and the aim of WP9 is to analyse those.

The qualitative research design is rooted in the academic disciplines of economic and human geography in as much as we start from the presumption that initiatives will take shape differently in specific places. Our mode of inquiry, however, is inter/cross-disciplinary. Case study research to unpack how the units of analysis, i.e. initiatives play out on the ground involved studying the power relations within global supply chains and the role of non-firm actors in seeking to either take account of or change these power relations. The ultimate goal of the case studies is to analyse whether the logic(s) of particular initiatives are well suited to address TFLS in and through supply chains, by attending to the experience of the actors involved on the ground. For these reasons, data was collected qualitatively through semi-structured interviews with a wide range of informants and focus-
groups. The challenges and ethical implications of collecting data in this way will be addressed later in this section.

The rationale for employing a qualitative methodology lies in bringing back the context-dependence of the meanings attributed by social actors as well as the relativity of such meanings implied by the underlying logic of qualitative research (Denzin & Lincoln, 2005; Mason, 2002; Flick, 2002; Munck, 2004). The three case-study analyses seek to achieve theoretical innovations at a middle level of conceptual abstraction (Bennett & George, 2005; Gerring, 2007; Blatter & Blume, 2008). Qualitative methods offer a powerful means to investigate social reality in all its complexity, and provide an ontological depth to enhance both the causal-explanatory and the emancipatory potential of social science research (Iosifides, 2011). The open-ended, rather than hypothesis-oriented nature of the questions posed to interviewees allowed the research process to move back and forth between empirical findings and the theoretical framework to continually redirect our understanding of the complexities of TFLS in and through supply chains.

Case-study research has also proved useful to unpack the ‘relational’ nature of GPN research. The study of the initiatives on the ground ultimately called for an understanding of the labour dynamics within production networks, but also how these labour dynamics are shaped and influenced by institutional contexts such as migration and employment regulation. The nature of the ‘relational’ was better captured by a qualitative approach. The case study research contributes to answering to this call by Coe and Yeung (2015, p.15) in which ‘there is still little consideration of how governance is shaped by the wider regulatory and institutional context in which all firms are situated.’ In this vein, a more scholarly contribution we hope to make regards what the study of TFLS brings to debates around the governance of labour within GPNs.

### 3.1.2.1 Case study selection

In their study on ethical consumerism, Bartley et al (2015, p.4) claim that ‘research on standards “on the ground” remains rare, and comparisons of different industries and locations are just beginning to emerge’. Through the study of the initiatives on the ground, this research project begins to fill this gap. We selected three industries in three different geographical locations for case-study research. Table 1 shows the three sectors and locations where field research was conducted as well as key initiatives for these cases. The nature of the case study selection lies in understanding each case as a ‘whole’ (De Vaus, 2001) as well as making comparisons between the cases. The nature of the initiatives that are being studied, due to their different temporal development and specificity of context, involves understanding each case and its complexity, a significant undertaking. This means that comparisons between cases can only be made at a later stage. The different temporal development of the initiatives makes simple comparison impossible.

**Table 1. Case study selection**
The three case studies presented in Table 1 have in common that instances of TFLS have been reported in recent years. In the case of the electronics sector in Malaysia, a report published in 2014 by the NGO Verité entitled *Forced Labor in the Production of Electronic Goods in: A Comprehensive Study of Scope and Characteristics* stated that forced labour was present in the Malaysian electronics sector in more than isolated cases, and characterised it as ‘widespread’ (Verité, 2014). A total of 501 electronic workers were interviewed using a quantitative survey by a team of twelve researchers complemented with qualitative interviews. Forced labour was found in significant levels among workers manufacturing all of the main four categories of electronics products that comprise the majority of the industry in Malaysia, namely: electronic components, boards (which includes semiconductors and cables), computer peripherals (monitors, printers, keyboards, scanners, telephones, modems, routers, etc.) and consumer electronics (TVs, DVD players, stereos, and game controllers) (Verité, 2014, p.172). The report found that 28 percent of interviewed workers were found in situations of forced labour.

The publication of the report prompted the Electronics Industry Citizenship Coalition (EICC) to develop a strategy in regards to forced labour, and the coalition created a taskforce to address forced labour in the industry. In parallel, Hewlett Packard (HP) developed a special standard on migrant workers, and Apple reimbursed workers for the payment of recruitment fees. (A detailed description of these responses follows below.) The series of responses by industry actors needed to be studied on the ground, and for this reason, the case study was conducted.

The second case study encompassed the construction sector in Qatar. In 2012 Human Rights Watch (HRW) published a comprehensive report covering the labour abuses of migrant workers in Qatar. The report entitled *Building a Better World Cup* (Human Rights Watch, 2012) was the result of two field visits in 2011 where 73 migrant workers were interviewed along with a number of company
representatives, labour attachés of four sending countries and public officials of the Qatari
government. This report was the first systematic study to document the abuses that migrant workers
encounter in Qatar. In 2013 there was a follow-up through a series of reports that were published on
the situation of migrant workers in Qatar, namely, the exposé in the Guardian (Booth et al., 2013) and
Amnesty International (AI)’s publication The Dark Side of Migration in which 210 construction migrant
workers were reached either through one-to-one interviews or focus groups (Amnesty International,
2013). Amnesty International’s team visited 20 labour camps housing construction workers in Doha,
the Industrial Area, Sailiya, Al Khor and Umm Salal, and attempted to access three further labour
camps in the Industrial Area were prevented by representatives of companies from entering (Amnesty

One interesting aspect of the 2013 report by AI is that it calls construction companies, both Qatari and
international, to put in place robust due diligence mechanisms to prevent labour exploitation. This
implies looking beyond their own employees to develop policies that ensure that people working on
their projects –including subcontractors and suppliers- are not subjected to abuses. It also asks them
to play a much more active role in preventing the abuses as ‘no one should be under any illusion that
this will require a culture change’ (Amnesty International, 2013, p.11). This ‘call’ on corporations to
contribute to systematic change, as well as the strategies of Building and Woodworkers’ International
(BWI) prompted the selection of the case study.

The final case study looks at an initiative in the agriculture sector of the United States which has
received widespread recognition for its successes in addressing ‘slavery in the fields’, the Fair Food
Programme in the Florida tomato industry, which has been in place since 2011. It has introduced the
‘penny per pound’ model in which buyers meet the cost of a wage increase, but also a comprehensive
system of ‘worker-driven social responsibility’ which includes worker’s education, training, monitoring
and policies to eliminate sexual harassment in the fields (Sellers & Asbed, 2011).7

In the following section the data collection procedures are described which include interviews
conducted, other sources of data which have been relevant for the study, and some brief reflections
on language and research support received for completion of the fieldwork.

3.1.2.2 Data collection

Interviews

A total of 45 interviews have been carried out for the three case-studies. A standard protocol for
qualitative interviewing was followed as approved by the Research Ethics Committee of Durham
University’s Department of Geography. Each participant was presented with an information sheet with

7 The work of the Coalition of Immokalee Workers has received the 2015 Presidential Medal for Extraordinary Efforts
Combatting Modern-Day Slavery, the 2014 Clinton Global Citizen Award, the 2013 Franklin D. Roosevelt Freedom from Want
Medal, the 2003 Robert F. Kennedy Human Rights Award and the 2010 Hero Acting to End Modern-Day Slavery Award
among many other recognitions. For a full list of their awards, see: http://www.ciw-online.org/highlights/
basic information on the project and a consent form that was signed by the participant, with participants anonymised wherever possible. While a protocol of potential questions was prepared in advance, interviews were open-ended and tailored according to the position of the participant in relation to the Global Production Network and/or the relevant initiatives. Given the sensitivity of the topic, and the level of research participation showed variance in terms of context.

**Other sources of data**

The case study design also entailed reliance on an extensive amount of grey literature: industry publications, business magazines, reports by the Organization for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the International Labour Organization (ILO), the World Bank (WB), The Asian Development Bank (ADB), HRW, as well briefs and reports produced by labour organizations and human rights organizations. Academic publications and discussions with scholars who are experts on the industries and the selected contexts were also conducted. In Malaysia the researcher visited the University of Malaya in Kuala Lumpur, and the Sains University in Penang. In Qatar, the researcher visited the School of Foreign Service at Georgetown Qatar, the University College London (UCL) Qatar branch, and the University of Qatar and was visiting researcher at the Bin Khalifa University, part of the Qatar Foundation in Education City (Doha).

The researcher also attended a series of events to collect further data. In Malaysia she attended an event organized by KPMG entitled ‘The Future of Manufacturing’, and two migrant trainings conducted, one in Melaka organized by the Coordination of Action Research on AIDS and Mobility (CARAM) Asia, and another one, outside Kuala Lumpur organized by the BWI Asia Office. In the US, the researcher attended a worker-education session as conducted by members of the Coalition of Immokalee Workers (CIW), as well as an audit conducted by the Fair Foods Standards Council (FFSC) in one of the grower's farms. In the case of the construction sector in Qatar, data was collected in two instances. First, the researcher attended a 4-day mission to Doha organized by the BWI in November 2015. She was part of a team of journalists and European trade unionists who over the course of their stay visited labour camps, held meetings at embassies of sending countries, and participated in meetings about the Global Sports Campaign. The second visit included a visiting position at the Center for Islamic Legislation and Ethics at the Bin Khalifa University within Education City in Doha.

**Language issues and research assistants**

The majority of the interviews were conducted in English, except for a few cases in the context of the US where Spanish was used. The researcher on the ground is a native Spanish speaker. In Malaysia, when migrant workers were interviewed, Bahasa Malay/Indonesia was spoken and a union organizer who assisted the researcher on the ground conducted the translation. In Qatar all interviews were
conducted in English and when Tamil and Bangladeshi was spoken by some workers, the union organizers conducted the translations.

3.2 Research Ethics and challenges

This section presents brief reflections on the ethical implications of the research as well as the challenges and/or difficulties in pursuing it on the field. It addresses issues of access to informants, dealing with vulnerable populations and management of data collected through interviews.

In terms of access to participants, one of the difficulties was the presentation of the research as ‘TFLS’ in and through supply chains in particular to the business community. In recent years, the issue of ‘modern slavery’ has become an important media focus and therefore, potential participants, especially in the business and industry sectors are reluctant to talk about their management practises and/or general activities in fear of accusations. However, the negative label that has accompanied business in the recent years has also come with a positive outcome in some cases, as some potential informants from the business community saw participation in the research as an opportunity to demonstrate the actions that they are taking. Therefore, it was the responsibility of the researcher to treat the information with extreme caution and also to explain the terms of the research with clarity. Many participants opted for not being recorded and were provided the opportunity to withdraw from the interview at any time. The project nonetheless encountered difficulties recruiting participants which are likely due to the sensitivity of the topic.

One important ethical consideration is that some of the participants interviewed are considered ‘vulnerable population’ (Creswell, 2003). As in all of the field-based case studies, confidentiality was guaranteed as well as the right to withdraw from the research at any time. Furthermore, interviews with vulnerable individuals were conducted in the presence of someone they trusted, such as a union-organiser and/or other civil society actor, and in places considered safe for the participants.

Finally, all of the participants were introduced to the project by an oral explanation by the Research Associate, a written description of why their contribution was important to the project and a consent form outlining how the material would be used. In one occasion, one civil society organisation required the researcher to sign a non-disclosure agreement as a condition of participating in interviews and facilitating access to other participants.

3.3 Engaging stakeholders: International Advisory Board

An important element of the research project was the selection, recruitment and establishment of an International Advisory Board (IAB), comprising persons who serve as peer-reviewers on all aspects of the project and who provide insights on the topic. During the period November 2014-January 2015, the researcher contacted various civil society organizations and trade unions in the world that have experience in addressing TFLS in supply chains. The process of identifying potential board members
involved seeking advice from an International Trade Union Confederation (ITUC) member who is part of the Advisory Board for the DemandAT Consortium, established scholars in the field of labour studies and GPNs, the Global Labour Institute in Manchester (UK), the Solidarity Center in Washington DC (USA), and the labour NGO Verité. Members have been selected based on diverse regional and industry expertise, and experience of addressing issues of TFLS in supply chains. They have also been selected because of their experience on building workers’ and migrants’ rights on the ground.

The IAB is composed of: Anannya Bhattacharjee, International Coordinator of Asia Floor Wage Alliance in New Delhi, India; Fathallah Omrani from the General Trade Union of Workers in Textile Garment and Clothing Industries in Jordan; Jin Sook Lee, from the Building and Wood Workers’ International (BWI), Geneva; Leonardo Sakamoto from the Brazilian NGO Reporter Brasil; Laura Germino, Greg Asbed and Steve Hitov from the Coalition of Immokalee Workers (CIW), USA; and Andrews Tagoe from the General Agricultural Workers’ Union (GAWU) in Ghana.

4 The governance of TFLS in and through supply chains

4.1 Mapping TFLS-supply chain governance

This section is a summary of the mapping of initiatives in the TFLS-supply chain nexus, as described above. This section draws extensively on McGrath and Mieres (2016) where the dataset and its analysis is presented so readers interested in further details should consult this paper.

4.2 Dataset

The construction of the dataset yielded 97 initiatives at the TFLS-supply chain nexus. In our dataset, 42% of initiatives (n=41) define their remit as ‘TFLS’ while 58% define it as ‘wider’ (n=56), covering labour conditions and labour rights that include but go beyond TFLS. Further analysis will consider the difference between these two groups.

The majority of initiatives claim to be ‘global’ in their scope (59% from our dataset). This is no surprise in line with the fact that we are studying global supply chains, which are geographically dispersed and fragmented. In turn, 20% of initiatives are national, many associated with national government initiatives, such as those around procurement. There are also some notable initiatives such as the National Pact to Eradicate Slave Labour in Brazil. Regional initiatives account for 13% out of the total. These regional initiatives are particularly clustered in Asia and some are associated with the inclusion of the Core Labour Standards (CLS) in the loan strategies of Regional Development Banks (see Ebert & Posthuma, 2011). Sub-national cases represent those carried out in particular locations within
countries, such as the Tamil Nadu Project conducted by the Ethical Trade Initiative (ETI) which aims to create a multi-stakeholder approach to address sumangali in the garment sector.\(^8\)

The industrial scope of the initiatives shows that the wide majority (66%) cover various sectors, and this is linked to the important number of multistakeholder initiatives that span different industries and sectors. Apparel and footwear account for 14%, showing a slight predominance over the other sectors. We see the predominance of these industries as a legacy of the anti-sweatshop movement of the 1990s. This movement began to challenge the logic of global sourcing by seeking to attribute responsibility for labour abuses in supply chains to the lead firms which exercise governance and obtain high profits relative to other supply chain actors (Hale & Wills, 2007).

We find that the majority of initiatives (27%) have been initiated by more than one actor, that is, a combination of companies, civil society (either NGOs and/or trade unions) and/or government actors. For example, the Cotton Campaign addressing forced labour in Uzbekistan’s cotton industry includes union federations, industrial associations, NGOs and responsible investment companies. Our analysis further shows that 23% of initiatives have been started by governments. These include national and regional banks that have included CLS in their loan strategies, such as the German Investment and Development Corporation (DEG), the Netherlands Development Finance Company (FMO), the Danish Industrialisation Fund for Developing Countries (IFU), the NorFund from Norway, the Swiss Investment Fund for Emerging Markets (SIFEM) and the Swedish SwedFund, to name a few. Government-initiated initiatives also include procurement and disclosure mechanisms, which have been a recent focus of legislation and policy in both the US and the UK.

NGOs initiated 21% of the initiatives in the database, and examples of these include Stop the Traffik Consumer Campaigns, the development of technological applications to trace ethical shopping such as Ethical Shopping App and Slavery Footprint (Made in a Free World Initiative). In addition, we see the US Labour-NGO Verité developing a Fair Hiring Website and Toolkit as well as a Supply Chain Accountability program. The Fair Food Programme and Anti-Slavery Campaign as developed and run by the Coalition of Immokalee Workers – a worker-based human rights organisation – are further examples.

As far as companies and business associations are concerned, 14% of the initiatives in our inventory found their origins within these set of actors. The most well-known example in the field of business and human rights is the Global Compact, whose labour principles 3, 4, 5, and 6 are based on the CLS. Further examples include the Global Business Coalition Against Trafficking (gBCAT) and sectoral

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\(^8\) Under Sumangali and similar schemes, young workers in poor rural areas, particularly women, are attracted by the prospect of paid work, safe accommodation and a final lump sum payment. The Sumangali scheme has been reported to contribute to excessive hours of work for minimal pay, and women have reported feeling pressure to stay on the employment relationship until the end of the contract period in situations approximating forced labour.
approaches such as the Pharmaceutical Supply Chain Initiative and Responsible Jewellery. Other emerging business-led initiatives are beginning to address the issue of labour recruitment more closely such as the Hewlett Packard Migrant Worker Standard, and the Patagonia Migrant Worker Standards. Despite differences in application, both of these standards ban the payment of fees on behalf of workers to access employment in factories part of their supply chain. These initiatives are of particular note as the response to concerns around TFLS appears to be expanding the boundaries of Corporate Social Responsibility (CSR) to substantively include labour contracting and recruitment within supply chains (see the section on the electronics sector for further details).

International organisations initiated 11% of the initiatives. The ILO is positioned as a key organisation providing guidance, such as via their recently updated handbook for employers published by the Special Action Programme to Combat Forced Labour (SAP-FL). The 2014 Protocol to the Forced Labour Convention is also significant here, in that it explicitly states that businesses have a responsibility to “identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked” (Beirnaert & Muskat-Gorka, 2015). In addition, the 2011 UN Guiding Principles on Business and Human Rights (Protect, Respect and Remedy Framework) address forced labour as a ‘risk’ for the business community (UN, 2011).

Trade unions have initiated only 2% of the initiatives in our inventory, although it should be noted that this does not capture the increasing incorporation of TFLS in International Framework Agreements (IFAs) which are excluded from the inventory as they form a category of intervention in their own right. The role of Building and Wood Workers’ International stands out with their campaigns targeting the Fédération Internationale de Football Association (FIFA) and world sporting events. Despite the low representation of trade unions as unique initiating actors in the inventory, they do form part of a number of multi-stakeholder initiatives with other civil society actors, like NGOs.

Another important aspect of the analysis refers to the actors that are implementing the initiatives – which actors are running the program or applying the policy, as this may differ from those who instigated it or set it up. Data from our inventory shows that companies are to some extent directing the development of this emerging field of TFLS governance in the context of supply chains (41%). Other initiatives are implemented by multiple actors (24%) among which companies are also involved in some of the initiatives (e.g., Made in a Free World, Better Cotton Initiative and the International Cocoa Initiative). Governments implement 23% of the initiatives in our inventory. The remaining initiatives are implemented by NGOs, international organizations, foundations and trade unions.

Our last dimension for analysis is constituted by the ‘mechanisms’ that characterise the initiatives. Each represents the ways in which the initiative is meant to impact on the problem of TFLS and they
are therefore suggestive of the logics and assumptions underpinning the initiatives.\textsuperscript{9} There are overlapping mechanisms characterising the initiatives, while the majority of initiatives fall under one category (52\%) showing that there is a dominant mechanism that characterises the initiative (see Figure 1). However, 35\% of initiatives present two mechanisms, while 12\% have a three-fold dimension, and only one initiative has a four-fold mechanism scheme: The Fair Food Programme together with the Anti-Slavery Campaign run by the Coalition of Immokalee Workers. This is a comprehensive program of supply chain monitoring, worker organising, consumer information and awareness, and boycott strategies run with the Alliance for Fair Food that has been developed over a number of years (see the section on US Agriculture for further details) – integrated within a wider strategy that includes anti-slavery investigations leading to prosecutions.

\textbf{Figure 1. Initiatives with a single dominant mechanism (n=50)}

![Bar chart showing initiatives with a single dominant mechanism](chart.png)


When looking at the dataset in general, we observe significant activity around supply chain monitoring (SCM), as well as employer guidance (EG). In addition, most initiatives that fall under the category of supply chain monitoring also present an important component of employer guidance. In our inventory, 34 initiatives have two main mechanisms and out of this number, the pairing of SCM with EG is prominent, characterising 12 initiatives. However, a closer look at the initiatives whose remit is limited to TFLS with SCM as a mechanism shows that the range of actors involved in sustaining this form of governance is not only driven by corporations, but by other NGOs and even national governments (for example through transparency and disclosure legislation). Therefore, the \textit{nature} of supply chain monitoring may be shifting as the limitations of codes of conduct have been documented in the literature, for example, Locke (2013).

\textsuperscript{9} Please see section 4.2 of McGrath and Mieres (forthcoming 2016) for a detailed explanation of the mechanisms and their coding decisions.
Moreover, the development of the initiatives we are analysing is being accompanied by the emerging field of ‘training in issues pertaining to modern slavery’. Examples include the International Centre for Parliamentary Studies, Source Intelligence, TRACE – Anti-Bribery Compliance Solutions\textsuperscript{10}, Professional Security\textsuperscript{11}, and the University of Delaware’s online short courses on addressing slavery in supply chains.\textsuperscript{12} In a similar fashion, the issue of compliance and harmonization with disclosure legislation is spurring the development of TFLS consultancy - individuals and/or companies that provide services to companies around analysing, addressing and reporting on TFLS in the context of SCM.

4.3 Implications for global governance

As global supply chains have consolidated as a fundamental feature of the organisation of the global economy, the implications for understanding TFLS within the domain of supply chain governance are three-fold.

First, TFLS has become an issue area in itself in the field of supply chain governance. In the UK for example, we are beginning to see reports and statements from corporations disclosing the activities they are taking to address the issue of TFLS in order to comply with the Modern Slavery Act of 2015. Systems of due diligence and supply chains risk assessment are being put in place, despite the fact that it is still early days to assess whether the Modern Slavery Act has had an impact in decreasing the incidence of TFLS in corporations’ activities and no consensus has emerged from the initial attempts to examine responses to the Act. Corporations are not required to make public their findings of instances of extreme labour exploitation and may be reluctant to do so. Further, their audit schemes do not always capture these extreme forms of exploitation which are ‘hidden’ along supply chains (see Lister and LeBaron 2015).

Second, activity at the TFLS-supply chain nexus reflects changes in the way in which civil society organizations are engaging with the issue. There is significant geographical and contextual variegation, but work on the issues in inherently transnational. In the case of the construction sector, global unions are targeting corporations benefiting from construction projects in Qatar vis-à-vis the World Cup in 2022. There is also interest by other civil society organizations on the consolidation of the worker-driven-social responsibility programme as set up within the Fair Food Programme.

Finally, our dataset revealed that the area of activity around TFLS-supply chain is variegated with levels of hybridity that redefine the role of nation-states, international organisations and multinational corporations per se. These hybrid forms of governance and its complexity are addressed through the case studies in the following sections.

\textsuperscript{10} See http://www.traceinternational.org/blog/220/Human_Trafficking_in_Supply_Chains
\textsuperscript{11} http://www.professionalsecurity.co.uk/news/training/forced-labour-training/
\textsuperscript{12} See http://www.udel.edu/srsb/slavery/
Case Study I: Electronics in Malaysia

5.1 Overview of the sector

5.1.1 Global trends

The electronics hardware industry is arguably the world’s most important good-producing sector (Sturgeon & Kawakami, 2010). Not only did it employ an estimated 18 million workers in 2010 (Better Work, 2010), it is also a sector that generates more revenue than any other sector while its products enhance productivity in other activities and stimulate innovation across entire economies (Mann & Kirkegaard, 2006). The electronics industry can be labelled a ‘propulsive sector’ (Hirschman, 1958) as in the US for example, innovation in electronics hardware has helped spawn a host of downstream service industries, including computer systems design services, telecommunications, as well as data processing (Sturgeon & Kawakami, 2010, p.245).

The global electronics industry has evolved into a highly competitive, innovative and fast changing industry, with short product cycles and a just-in-time production model (ILO, 2014). For companies to stay competitive in such an industry, they must ‘master this pace of change for success.’ To cite one example, the more technologically dynamic and highly valued components such as semiconductors and hard disc drives, experience a 1 per cent decrease in value per week (Curry and Kenney 2004, cited in ILO, 2014, p.1).

Electronic products and systems have become deeply entwined in our social fabric and the use of outsourcing and subcontracting strategies by multinational corporations (MNEs) in the 1980s has led to the development of ‘global’ value chains. MNEs began to separate management activities from production ones in order to focus on research and development (R&D), product design as well as brand management and marketing. Global sourcing has become a common feature of the sector. Factories can be relocated with relative ease and produce a wide variety of products. As a result, GVCs in the electronics industry are considered to be more geographically extensive and dynamic than in any other goods-producing sector (Sturgeon and Kawakami, 2010, p.247; ILO, 2014).

Electronics companies from ‘developed countries’ relocated to Malaysia, Singapore, Taiwan (China) and Thailand during the 1970s and early 1980s (Rasiah et al., 2014), and later to China, Indonesia and the Philippines. More recently, India and Eastern European countries such as the Czech Republic, Hungary, Poland and Romania have become production sites (ILO, 2014, p.4). In North America, the passing of the North American Free Trade Agreement (NAFTA) paved the way for the development of manufacturing facilities in Mexico during the 1990s. However, the majority of subcontracted and outsourced manufacturing continues to be carried out in Asia; this is due to labour costs considered low for the industry, the established supply base and proximity to important final markets (ILO, 2014). In the context of Malaysia, as it will be discussed further, the establishment of
export processing zones (EPZs) became attractive spaces for investment. China dominates electronics production in Asia and globally, however, other Asian countries have established significant electronics industries, with South Korea, Taiwan, Malaysia and Singapore all playing important roles within global production as shown in Figure 2.
The global value chain of the electronics sector is composed of three main actors: brand firms (also known as 'lead firms' in GVC parlance), contract manufacturers and component suppliers. There are other entities that play an important role in the broader industry such as distributors, but the focus on these three main actors provides a useful simplified portrait of the global electronics industry and its operations (see Figure 3). Brand firms sell branded products and systems in final markets to individual consumers, other businesses and/or government agencies. These firms 'lead' the global value chain by placing orders with suppliers, they subcontract and outsource a considerable amount of their manufacturing activities. They largely determine conditions of the orders such as price, quality and delivery requirements. As of 2013-2014, the main electronics firms are shown in Table 2.
The second type of firm is contract manufacturers (CM) who constitute a small group of first-tier suppliers (see Figure 3). These are suppliers who have undertaken manufacturing, assembly and testing of parts and final products for other companies, and sometimes provide design services as well. Thus, there are different types of CMs. Production services alone – comprising component purchasing, circuit board assembly, final assembly, and testing – are referred to as electronics manufacturing services (EMS), which may also be known as original equipment manufacturers (OEMs). Manufacturing plus product design services are known collectively as original design manufacturing (ODMs) services. Nearly all large ODM contract manufacturers are based in Taiwan, with manufacturing now concentrated in China (Sturgeon and Kawakami, 2010, pp.258-259). Table 3 provides a snapshot of the most important CMs.

Table 2. Large electronics firms (2013-2014).

<table>
<thead>
<tr>
<th>Company</th>
<th>Latest reported annual revenue (US$ million)</th>
<th>Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Samsung Electronics</td>
<td>220,185</td>
<td>286,284</td>
</tr>
<tr>
<td>Apple</td>
<td>170,910</td>
<td>80,300</td>
</tr>
<tr>
<td>Foxconn</td>
<td>131,138</td>
<td>1,200,000</td>
</tr>
<tr>
<td>Hewlett-Packard</td>
<td>112,298</td>
<td>317,500</td>
</tr>
<tr>
<td>IBM</td>
<td>99,751</td>
<td>431,212</td>
</tr>
<tr>
<td>Hitachi</td>
<td>95,988</td>
<td>320,725</td>
</tr>
<tr>
<td>Microsoft</td>
<td>86,833</td>
<td>128,000</td>
</tr>
<tr>
<td>Sony Corporation</td>
<td>71,509</td>
<td>140,900</td>
</tr>
<tr>
<td>Panasonic</td>
<td>71,331</td>
<td>271,789</td>
</tr>
</tbody>
</table>

Table 3. Selected large contract manufacturers

<table>
<thead>
<tr>
<th>Company</th>
<th>Latest reported annual revenue (US$ million)</th>
<th>Country of origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foxconn</td>
<td>131 138</td>
<td>Taiwan, China</td>
</tr>
<tr>
<td>Quinta Computer</td>
<td>29 212</td>
<td>Taiwan, China</td>
</tr>
<tr>
<td>Flextronics</td>
<td>26 109</td>
<td>United States</td>
</tr>
<tr>
<td>Compal Electronics</td>
<td>22 965</td>
<td>Taiwan, China</td>
</tr>
<tr>
<td>Wistron Corporation</td>
<td>20 705</td>
<td>Taiwan, China</td>
</tr>
<tr>
<td>Jabil Circuit</td>
<td>18 337</td>
<td>United States</td>
</tr>
<tr>
<td>ASUSTek Computer</td>
<td>15 372</td>
<td>Taiwan, China</td>
</tr>
<tr>
<td>Inventec</td>
<td>15 299</td>
<td>Taiwan, China</td>
</tr>
<tr>
<td>Samus-SCI</td>
<td>5 917</td>
<td>United States</td>
</tr>
<tr>
<td>Celestica</td>
<td>5 786</td>
<td>Canada</td>
</tr>
</tbody>
</table>

Source: ILO (2014, p. 6)

The third actor in the global supply chain is component suppliers which range from large global firms that design and produce technologically advanced components to very small firms in charge of the production of parts and components. A special group of component suppliers are ‘platform leaders’, who in some industry segments, particularly personal computers, have been successful in implanting their technology (software, hardware or a combination) in the products of other companies (Sturgeon and Kawakami, 2010, p.260). Examples of these are Microsoft and Intel. Other component suppliers are engaged in relatively low-value-added activities but are critical for the functioning of the global supply chain (ILO, 2014, p.6).

These three sets of actors that make up the electronics global value chains have rendered the sector one of the most dynamic and expansive mainly for two reasons. First, electronics parts and final products have a high value-to-weight ratio that makes long distance shipping relatively inexpensive (Sturgeon and Kawakami, 2010, p.254). Low transportation costs and rapid delivery support the movement of goods within GVCs and allows companies to engage in cost arbitrage on geographic variation in operating costs. The second reason for the expansive nature of the sector lies in the industry’s product and value-chain architecture which has been characterised as highly ‘modular’ (Sturgeon, 2002; Sturgeon & Lester, 2002).

The nature of product modularity relies on the development of standards for describing components, system features, and production processes, and the ability to codify electronic systems and system elements have been greatly enhanced by computer-aided design (CAD) technologies (Sturgeon and Kawakami, 2010, p.254). This has also allowed a ‘value chain modularity’ in which many firms can
contribute to the realisation of specific products and component producers and other firms in the supply chain can be substituted without a need for deep engineering changes. In this way, the relationship between the brand and the CM is based on standardised protocols (Gereffi et al., 2005).

**Figure 3. Structure of global supply chain in electronics**

![Image of the structure of global supply chain in electronics]

Note: CM denotes ‘contract manufacturers’, CS: Component supplier, and S: supplier


All in all, the global structure of the electronics supply chain has been achieved through a process of outsourcing that began in the 1970s, the consolidation of ‘value chain modularity’ whose parameters are dynamic and allowed a shift from vertical integration towards horizontal specialisation. As pointed out by Sturgeon and Kawakami (2010, p.255): ‘it is the formalisation of information and knowledge at the interfirm link and the relative independence of the participating firms that gives value chain modularity its essential character: flexibility, resiliency, speed, and economies of scale that accrue at the level of the industry rather than the firm’. Thus, one of the most important implications of this has been the ability to accomplish work across long distances. This has created opportunities for developing countries as production locations both for MNEs as well as CMs.

In this context, Malaysia as part of the Association of Southeast Asian Nations (ASEAN) has become an important focus of investment and production location for MNEs operating in the sector. The electronics industry in Malaysia is capital intensive and large factories are usually located within Free Industrial Zones (FIZ) with lower-tier facilities in the supply chain usually located at the edges of these FIZs.

In 2014, Verité conducted a study which found a high incidence of forced labour in the Malaysian electronics sector with 28 per cent of workers interviewed found in situations of forced labour. The majority of forced labour indicators found in the study showed no freedom to resign in accordance with legal requirements (50 per cent of the incidence of the indicator), limited freedom of movement and communication (41 per cent), degrading living conditions (21 per cent), and deceptive recruitment (18 per cent).
per cent) (Verité, 2014). These findings have prompted the sector to put in place some responses (i.e., ‘initiatives’), and the next section presents these.

### 5.1.2 Main initiatives

The **Electronics Industry Citizenship Coalition (EICC)** was created in 2004 by a small group of electronics companies under the banner ‘Electronic Industry Code of Conduct’. The primary goal was to create an industry-wide standard on social and environmental issues that addressed ethics within the electronics global supply chain. Over the last years, the EICC has undergone a process of institutional consolidation and in 2013 full-time staff were hired\(^{13}\).

In 2014, a Taskforce to address TFLS in their supply chains was set up. The EICC made reviews to its code of conduct and in 2016, the EICC published its new code of conduct in its 5.1 version, with a revised provision on trafficked and forced labour, which reads as follows:

Forced, bonded (including debt bondage) or indentured labor, involuntary prison labor, slavery or trafficking of persons shall not be used. This includes transporting, harboring, recruiting, transferring or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers’ freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company-provided facilities. As part of the hiring process, workers must be provided with a written employment agreement in their native language that contains a description of terms and conditions of employment prior to the worker departing from his or her country of origin. All work must be voluntary and workers shall be free to leave work at any time or terminate their employment. Employers and agents may not hold or otherwise destroy, conceal, confiscate or deny access by employees to their identity or immigration documents, such as government-issued identification, passports or work permits, unless such holdings are required by law. Workers shall not be required to pay employers’ or agents’ recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

(EICC Code of Conduct Version 5.1, 2016)

The code denotes a strong focus on fees paid by workers, establishing that they should not have to over these recruitment costs. This is a change from version 5.0 of the code which stated:

(…) Workers shall not be required to pay employers or agents’ recruitment fees or other aggregate fees in excess of one month’s salary. All fees charged to workers must be disclosed and fees in excess of one month’s salary must be returned to the worker.

The EICC through its taskforce organises meetings and conferences to address actions that the industry can take as a whole to address TFLS in their supply chains. At the time of the field research for this project, a new initiative called ‘Suara Kami’ (meaning ‘Our voice’)\(^{14}\) was being launched in

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\(^{13}\) See ‘History of the EICC’ at http://www.eiccoalition.org/about/history/

\(^{14}\) The launch of the pilot programme was announced on August 26, 2015. See http://www.eiccoalition.org/news-and-events/news/eiccfmwpilot/
Malaysia as a pilot programme to improve the effectiveness of workers’ access to express their voice through the development of technological applications. The pilot programme was commissioned to a business consultancy based in Hong Kong and run by experts on the supply chain management field. The EICC has been active in opening channels of dialogue with the Malaysian government and civil society organizations in Malaysia to establish comprehensive grievance mechanisms for workers which include migrant workers. However, the engagement with local unions has been very low.

Another relevant example of an initiative in the electronics sector comes from Europe: under the coordination of the NGO Setem, and funded by the European Commission, a consortium of non-governmental organizations called Electronics Watch was created in 2014. The rationale behind the initiative is that public buyers have considerable buying power and they all rely on information communication technologies (ICT) for their operations; therefore, by joining forces, they can create significant leverage to influence structural improvement in the electronics industry. Electronics Watch evolved as an independent monitoring organisation that assists public sector buyers to meet their responsibility to protect the human rights of electronics workers in their global supply chains. Public sector buyers affiliated to Electronics Watch commit to incorporating the Electronics Watch Contract Conditions in their ICT hardware contracts and to paying annual affiliation dues. The Contract Conditions require all contractors to conduct due diligence to mitigate and prevent instances of forced labour, human trafficking and other labour abuses in their supply chain. It also allows Electronics Watch access to monitor factories and engage in remediation initiatives when breaches are found (Electronics Watch, 2016). The dues that are paid by contractors are used to support the supply chain monitoring carried out through an international network of monitoring organisations that are based in or near workers’ communities, and to conduct worker interviews in safe settings where workers are less likely to fear reprisals from employers and public authorities. Electronics Watch call this mechanism ‘worker-driven monitoring’ which they consider an essential strategy in detecting and eliminating TFLS in supply chains, given that vulnerable workers tend to be silenced and may not report abuses to corporate social auditors.

Soon after the publication of the Verité report (2014), the Hewlett-Packard Company15 issued the HP Supply Chain Foreign Migrant Worker Standard in November 2014 with the aim to address issues concerning migrant workers in HP’s supply chain. In 2016, HP published a guidance document with specific actions that suppliers should look into in order to comply with the HP Migrant Worker Standard. One salient aspect of the new standard refers to the practice of recruitment. HP recognised that the vast majority of its suppliers rely on recruitment agencies to source workers, mostly migrant workers, and that migration status may create vulnerability to forced labour. The most important change presented in the HP Migrant Worker Standard calls on suppliers to transition to direct

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15 HP Company separated effective November 1, 2015 into HP Inc. and Hewlett-Packard Enterprise. Both HP Inc. and Hewlett-Packard Enterprise expressed commitment in ‘eradicating forced labour and human trafficking from their supply chains’.
employment of workers, that is, engage with private recruitment companies that are only willing to recruit workers rather than act as their employers, and perform as much direct recruitment and selection of foreign migrant workers as possible. Therefore, the capacity of supplier’s human resources organisation needs to be strengthened to perform all the activities previously done by recruitment agents (HP, 2016, p.6). The other important aspect that the HP Standard introduces is what they call the ‘transitioning to a 'supplier pays' recruitment fees model’. This means that the full costs of recruitment, selection, hiring and transportation must be borne by suppliers (HP, 2016, p.9). The Standard also stipulates a mechanism for monitoring that these fees are paid by the suppliers, and this includes making suppliers triangulate the information they receive from recruiters and sub-agents in terms of all expenses incurred in the recruitment with the information provided by migrant workers upon their arrival, who should be interviewed. Finally, an important aspect that the Standard highlights is the fact that suppliers should not keep migrant workers’ passports.

The HP Migrant Worker Standard represented a novelty in the industry when it was first announced in 2014, however, there are important aspects that relate to working conditions of migrant workers in which the Standard does not have a strict position. This might be in part due to the recognition of the transition process that suppliers need to go through, and might be an element of revision for future versions of the code. In particular, it is left to the discretion of the suppliers whether or not to outsource workers’ accommodation and transportation to the worksite (HP, 2016, p.7).

The issue of recruitment and the charging of excessive recruitment fees has also been addressed by Apple. Since 2008, Apple has engaged in a programme of reimbursing excessive recruitment fees paid by contract workers. In 2014, Apple’s suppliers repaid USD 3.96 million to over 4,500 factory workers. In total since 2008, USD 20.96 million have been reimbursed to over 30,000 workers (Apple, 2015, p.18). The company also paid USD 900,000 to workers for unpaid overtime.

In addition to this strategy of reimbursing, the company audited 200 facilities that hire foreign workers. Apple sees the debt that workers incur through the recruitment agencies as a form of bonded labour and they conducted 70 of what they call ‘bonded labour assessments'. The company has also stated that for suppliers who begin in 2015, no worker employed on an Apple line could be charged any recruitment fees.

In this section we have presented the key ongoing initiatives that have been put in place by the private sector, in particular the EICC, HP and Apple, as well as a civil society driven initiative that addresses public procurement practices in Europe (Electronics Watch). Table 4 summarises the initiatives and in the following section the case of Malaysia is looked at in more detail.

**Table 4. Key TFLS-supply chain nexus initiatives in the electronics sector**

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Initiating actor</th>
<th>Implementing actor</th>
<th>Mechanisms</th>
</tr>
</thead>
</table>

32
### 5.1.3 Regional focus: Malaysia in the global political economy of electronics

Malaysia went through a path of aggressive promotion of EPZs since 1972 with the aim of assisting manufacturing industries (Rasiah et al., 2015). The country underwent a strategy of attracting Foreign Direct Investment (FDI) through the promotion of EPZs and this turned Malaysia into a major exporter of light manufactured goods. Electronics, vegetable oils and fats, textiles and clothing were among the main manufactured exports generated by the Malaysian economy since the 1990s.

The electrical and electronics industry is the leading sector within manufacturing, contributing to 32.8 per cent of exports in 2013 and employing 27.2 per cent of the labour force according to the Malaysian Investment Development Authority (MIDA). The MIDA divides the sector into ‘electronics’ and ‘electrical’, and within the former, consumer, components and industrial electronics are considered. Components include semiconductor devices, passive components, printed circuits, and media connectors. Semiconductor devices have been the leading contributor in the performance of exports for the industry, representing 47% of the total electrical and electronic products exported in 2013.

The presence of major multinational corporations (MNCs) such as Intel, AMD, Freescale Semiconductor, ASE, Infineon, STMicroelectronics, Texas Instruments, Fairchild Semiconductor, Renesas, as well as major Malaysian-owned companies such as Silterra, Globetronics, Unisem and Inari have contributed to the steady growth of the semiconductor industry in Malaysia. The market has been dominated by foreign owned companies, but in recent years Malaysian companies have been playing a major role.\(^{16}\)

Malaysia positioned itself as an important hub for the attraction of FDI and policy makers guided by a theory of technology spillovers through putting in place a system of tax exceptions to facilitate the business environment and make it ‘FDI friendly’. In practice this was done by setting up Export Processing Zones in many parts of the country (see map 1).

\(^{16}\) Interview with electronics trade union representative.
The electronics industry in Malaysia is capital intensive and facilities tend to be large and formally organized. Of workers in facilities producing the three main categories of export products (semiconductors, computer peripherals, and consumer electronics), 95% work in facilities with over 200 employees and 56% work in facilities with over 2,000 employees. Large factories are usually located within Free Industrial Zones (FIZ) with lower-tier facilities in the supply chain usually located around the edges of the FIZs. For example, in Penang, the largest facilities are in the Bayan Lepas Industrial zone in the south of the island while the smaller peripheral factories are located in Prai (on the other side of the island, in peninsular Malaysia). Although smaller facilities outnumber large facilities, they account for only 5% of employment in facilities producing the top exported products. Smaller scale service providers tend to be located around FIZs and focus on packaging, moulding of cases, and support industries (Verité, 2014, p.24).

The number of inputs in the supply chain is vast and complex, with major components parts each possessing their own supply chains, and in some cases, brand identities, as is the case for the semiconductor industry (Verité, 2014, p.24). Therefore, the disaggregation of supply chains, and the determination of where one supply chain stops and another begins, is a challenging exercise.

According to Best and Rasiah (2003), there is a higher level of technology diffusion in Penang compared to other states in Malaysia due to the local outsourcing by MNCs and local firms. There is also an active, coordinated location policy pursued by the Penang regional government and the Penang Development Corporation (PDC) which has attracted foreign firms.

Intel has been in Penang since 1971 and they are still working with InvestPenang. In Penang, there are more than 300 MNCs and more than 3,000 local companies. There are 4 Industrial Parks (Free

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Fieldwork comment. See map of Penang with FIZ.
Industrial Zones): Bayan Lepas in the island, close to the airport, Prai, Bukit Minyak and Bukit Minyak. In Bayan Lepas we find most of the MNCs and in the others the smaller suppliers.

In the 1960s, the majority of the facilities were based on low cost labour intensive activities and the majority of the workers were Malaysian. The evolution of the industry in Penang shows that the MNCs that located in the area during the 1980s brought their suppliers from foreign companies but later on began to develop the local ones. The main activities were tooling and local back end automation.

During the 1990s and 2000s the semiconductor industry began to ‘mature’ with export manufacturers exploring which other industries might use the development platform. This is when ‘medical devices’ came in. From Electronics (consumer products) and semiconductors, they began to explore medical, aerospace and solar business. Currently they are further looking into services. According to InvestPenang they are ‘moving up’ the value chain. While the labour-intensive nature of manufacturing spurred MNCs to move to lower-cost Malaysia and China, Intel Penang is no longer a ‘manufacturing site’; rather, they are moving to original design manufacturing. The following chart provided to the researcher by InvestPenang shows their understanding of the industry’s evolution.

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18 Material drawn from interview at InvestPenang.
Figure 5. The evolution of the industry in Penang by InvestPenang

In 2015 Malaysia was part of the 12 signatory countries of the Trans Pacific Partnership (TPP) Agreement. At the time of conducting the research, this was being negotiated and finally signed the following year. The implications of this free trade agreement will need to be monitored in the future as it is early days to assess its impacts.19

5.2 Localising initiatives

5.2.1 Electronics in Malaysia: Global supply chains include labour chains

5.2.1.1 Research overview

Field research in Malaysia included a desk-review preparation of key labour standard challenges in the country as well as policy developments since Malaysia’s Independence in 1957. As illustrated above, academic literature on the electronics supply chain and industrial organisation was consulted along with consulting scholars who are experts on the field. The desk review was conducted between mid-June and August 2015 and the researcher spent the month of September 2015 in Malaysia. Prior to the trip, all efforts were made to secure access to informants in Malaysia, so the Malaysian Trade Union Congress (MTUC) was contacted from the UK, and support was received from the BWI Regional Office in Kuala Lumpur as well. The researcher contacted scholars at University Sains Malaysia in Penang and at the University of Malaya in Kuala Lumpur. Table 5 collects the data.

19 However, while the researcher was in Malaysia, many local NGOs and human rights organisations showed disapproval of Malaysia being ‘upgraded’ in the 2014 Trafficking in Persons Report (TIP) as they alleged that trade concerns were dominating human rights ones.
sources, collection techniques and number of interviews conducted during the Malaysia fieldwork. A total of 16 interviews were conducted and a focus group with eight workers was conducted in the Klang Valley area as well as a joint interview with two workers. One follow up interview with an industry representative was conducted from the UK.

Table 5. Malaysia Case-study

<table>
<thead>
<tr>
<th>Data collection techniques</th>
<th>Data Sources</th>
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<tbody>
<tr>
<td>Semi-structured interviews</td>
<td>Census information</td>
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<td></td>
<td>Government documents</td>
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<tr>
<td>Elite-interviews</td>
<td>Newspaper reports</td>
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<td>Critical textual analysis</td>
<td>NGO publications</td>
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<tr>
<td>Participant observation</td>
<td>Think-tanks reports</td>
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<td></td>
<td>Project reports</td>
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<td></td>
<td>Secondary literature</td>
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<tr>
<td></td>
<td>Informants</td>
</tr>
<tr>
<td></td>
<td>- Policy makers (2)</td>
</tr>
<tr>
<td></td>
<td>- NGOs (6)</td>
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<td></td>
<td>- Trade unions (5)</td>
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<td></td>
<td>- Workers (10)</td>
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<tr>
<td></td>
<td>- Employers Federation (1)</td>
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<tr>
<td></td>
<td>- Industry (3)</td>
</tr>
<tr>
<td></td>
<td>- Events: a) Migrants’ Rights Trainings (2); b) Industry (1); c) Policy dissemination, GAATW in Bangkok (1)</td>
</tr>
</tbody>
</table>

Source: Authors’ elaboration

As explained in the Methods section on case studies, the framing of the project as TFLS in and through supply chains proved much more challenging than anticipated in the context of Malaysia. At the time of the field visit, the country was digesting the publication of the Verité (2014) report which was received with pessimism by public officials and business people. In spite of repeated attempts to access interviews with key CMs operating in Penang and in the Kuala Lumpur region only industry representative based in Hong Kong agreed to a phone interview. Another interview with a key member of the EICC was conducted from the UK.

5.2.2 Malaysia: Notes from the field

In this section we focus on the preliminary findings from the field research. One of the key developments in the area is that the publication of the Verite report in 2014 prompted the industry to respond through the creation of the Forced Labour Taskforce by the EICC as elaborated previously. This is an example of a coordinated approach by the main corporations in the electronics sector to address TFLS as an issue area in itself rather than presuming it would be covered by more general sustainability efforts along the supply chain. The focus on Malaysia lies in the fact that it represents the second largest manufacturing base for electronics, and that the country has an important reliance on foreign migrant workers from Indonesia, Nepal, and Bangladesh among other sending countries. Key here is the fact that the majority of the foreign migrant workers in Malaysia rely also on labour
brokers whom they pay fees to. Thus, the EICC developed and launched a worker helpline called ‘Suara Kami’ (sometimes referred to as ‘Suara Kita’ as well). The helpline is part of the development of a larger worker grievance mechanism. At the time of conducting this research, a worker survey with 50 factories was being launched in Malaysia with the aim of mapping the access that workers have to express concerns and raise issues. According to the EICC: ‘The Helpline should be staffed 24/7. For night time calls, we would arrange to forward to mobile phones on call staff. We would not ask staff to work in the office on the night shift unless the call volume warrants this. We would need staff to handle Malay/Bahasa, Vietnamese, Nepalese, Bangla, and English’. In addition to the Helpline, the development of a supplemental Forced Labor Audit for factories has also been mentioned. This stems from the fact that previous EICC audits have not spotted TFLS instances while the study by Verite found incidence of forced labour in factories sourcing for EICC companies.

Thus, the Suara Kita Pilot program aims to address issues of workers’ voice and should be evaluated on whether it achieves its aims. In addition, labour recruitment appears to be an emerging area of governance at the TFLS-supply chain nexus in this case. Different responses by company actors include: reimbursement of recruitment fees (Apple), a move toward direct-employment (Hewlett Packard, very early stages), and engagement with particular recruitment agencies (EICC) and again these responses should be evaluated and compared.

However, the broader response from the industry fails in our view to address the nature of production and competition in the global electronics sector and this in turn structures employment and labour recruitment practices. While the sector is characterised by modular supply chains, it also includes competition among contract manufacturers and short product-life cycles. The pressures created by these short product life cycles are a key dynamic in sustaining the distribution of activities and revenue within this Global Production Network, contributing to the reliance on labour brokers to supply a flexible workforce.

The Malaysian Constitution in its Article 6 states that ‘no person shall be held in slavery’ and explicitly prohibits all forms of forced labour, except that which may be provided by law ‘as a form of compulsory service for national purposes, and work incidental to the serving of a sentence of imprisonment’. A Malaysian law adopted in 2007 prohibits human trafficking, and an amendment in 2010 makes specific reference to the protection of foreign workers. Malaysia is signatory of Convention 29 of the ILO.

In 2005, the government of Malaysia’s Ministry of Home Affairs (MOHA) established guidelines that recognised the role of third-party employment agents as managers or employers of foreign workers. As of August 2006, companies hiring fewer than 50 foreign workers are required by the government to employ the services of labour outsourcing companies. In April 2012 an amendment in the Employment Act of 1955 introduced the notion of a ‘contractor for labour’, which officially legitimized the role of labour contractors, suppliers, or employment agents as employers of foreign workers. In practice, it is

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20 Interview with EICC Director.
not always easy to distinguish among the different types of intermediaries and many actors on the ground would not necessarily be aware of the legal distinctions.

In a large electronics manufacturing facility, it is now possible to find multiple employers, including both the factory and employment agents, who are in charge of different subset of workers. The Verité report mentions: ‘Stakeholders interviewed […] noted the lack of a consistent and clear legal framework for regulating the recruitment, hiring, and employment of foreign workers, with some laws applying only to recruiters and others to agencies that not only recruit but also manage and employ workers’ (2014, p.29).

Some of the biggest Malaysia-based labour intermediaries servicing the electronics sector have been in existence for more than twenty years, partnering with private and state employment agencies. They also partner with individual agents and intermediaries in different countries whose nationals can be employed in the manufacturing sector. There are three types of models or structures within which the recruitment, selection, hiring, and management of workers in the Malaysian electronics industry are undertaken by labour intermediaries. These, according to Verité (2014, p.32) are:

a) **Recruit and supply** (Recruitment consultancy): “the client company is the employer of the workers. Recruitment processes are undertaken under the name of the client company and the labour intermediary only provides guidance, oversees, or facilitates the recruitment process”.

b) **Recruit, supply and manage** (total management): “the labour intermediary is contractually responsible for recruiting, deploying and managing the workers for and on behalf of the client company throughout the workers’ employment, but the company usually makes the final selection of candidates and remains the employer of the foreign workers on paper”.

c) **Recruit, supply, employ and manage** (outsourcing): “the full recruitment process and management of workers is undertaken under the name of the labour intermediary acting as outsourcing company. The labour intermediary is the employer of the foreign workers on paper, and the contractual relationship is only between the labour intermediary and the client company, thus relieving the client company of direct legal responsibilities over the workers.”

Both PEAs and outsourcing agencies supplying workers to the first-tier electronics facilities are in some cases contractually obliged by the client companies to adhere to codes of conduct and social responsibility standards that client companies are audited against.

21 Confusion is particularly concentrated around the issue of laws and regulations that apply to agencies that recruit and place (ie. PEAs) as opposed to agencies that manage and employ (ie. outsourcing agencies) foreign workers. By law, the term ‘private employment agency’ (PEA) in Malaysia refers to ‘any person, company, institution, agency or other organization which acts as intermediary for the purpose of procuring employment for a worker or supplying a worker for an employer with a view to deriving either directly or indirectly…the placing services of any company, institution, agency or other organization which levies from either employer or worker from the above service an entrance fee, a periodical contribution or any other charge’. See ‘Foreign workers Management Division’, Official Portal of Ministry of Home Affairs.

22 Asking about ‘state agencies’ ended up being a very sensitive issue because stakeholders interviewed mentioned that they were private but the owners were public servants, and this is when claims of corruption came up a few times.
In addition to the different channels of recruitment being an area for potential vulnerability to forced labour of migrant workers in the Malaysian context, this also rests at the intersection of immigration and employment law. For example, a per capita levy on foreign workers has been in place since 1992, with the responsibility for payment shifting from worker to employer, and then back to worker. In 2009, the government of Malaysia shifted the burden of the levy to the employers, reportedly to raise the cost of hiring foreign workers in order to disincentivize employers from relying on migrant labour at the expense of local workers.

In the manufacturing sector, the levy is MYR 1,250 (USD 387). Verité (2014, p.51) reported that employers require workers to pay back the balance of the levy before they can pre-terminate their employment contracts (even though this is not mentioned in the guidelines). There seems to be space for discretion.23

The Ministry of Human Resources (MOHR) oversees the implementation of labour laws. It has a Foreign Workers Division in charge of the employment issues surrounding foreign workers. MOHR reviews and approves the labour contract and it is also in charge of the licensing and monitoring of PEAs. The Foreign Workers Division within the MOHR accepts and responds to complaints of migrant workers against their agents or employers but has no capacity to inspect businesses hosting foreign workers.24

A unified framework to regulate the migration and the work of foreign workers is lacking in the context of Malaysia. Work permits and recruitment licences are overseen by the MOHA and labour laws by the MOHR. In this vein, initiatives by industry take different forms too, from reimbursement of fees to addressing labour recruitment themselves. The picture as to how the system will evolve is still unclear at the time of writing this report.

Another important challenge in the local context of Malaysia refers to the space for trade unions to operate. Trade unions in the electronics sector in Malaysia are divided in four regions, making it difficult to coordinate action and reach all workers (in particular migrant workers). The trade union attitude towards migrant workers is very favourable but access remains a problem. The presence of ‘in house unions’ and ‘worker committees’ set up by electronics companies is another obstacle as union organizers reported that it is very hard for them to reach those workers and unionize them. Because of this division, which has been fostered by the government, it is difficult to unify a national strategy. Despite the fact that union representation has been officially recognised, further work needs to ensure that workers’ freedom of association and opportunities to participate in collective bargaining become tangible realities.

23 Fieldwork note: With the introduction of the minimum wage in Malaysia in April 2015 (MYR900= £150), many employers began to charge the levy to the workers as they complained that paying 900 made them more expensive. And apparently, for the new budget 2016, the minimum wage in Peninsular Malaysia has to be raised to MYR1000 and in East Malaysia to MYR820 from MYR800.
24 The system of labour inspectors was reported to be weak by participants.
Finally, NGOs and labour organisations have made claims of corruption by the government in the management of licenses for private recruitment agencies to operate as described previously. Corruption is an issue that came up many times in the interviews with different stakeholders and deserves further scrutiny.

6 Case Study II: Construction in Qatar

6.1 Overview of the sector

6.1.1 Global trends

The construction industry represents USD 8.4 trillion worldwide (Andrieu et al, 2016, p.9) and provides formal and informal employment to millions of workers worldwide. The Gulf region is one of the fastest growing areas in the world in which countries from the Gulf Cooperation Council (GCC) are investing important amounts in infrastructure development. According to figures compiled by Alpen Capital, the United Arab Emirates (UAE) account for the maximum value of projects (USD 525.6 billion), followed by Saudi Arabia (USD 407.8 billion), Qatar (USD 113.8 billion) and Oman (USD 29.6 billion) in the year 2014 (Alpen Capital, 2015).

The supply chain in construction is typically made up of three distinct parts: the general contractor, the designer (architect and/or engineer) and the builder. The prevailing model in construction management is: design, bid, and build. The general contractor is hired following a tendering process after the drawings have been completed by the architect or engineer. Many owners (particularly government agencies) let out contracts which are known as ‘design-build contracts’. In these types of contracts, the construction team (known as design-builder) is responsible for fully understanding the owner’s concept and completing detailed designs before proceeding with construction after having received the owner’s approval. Figure 6 illustrates the major supply chain actors25.

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25 Component manufacturers can be: manufacturers of windows and doors; sanitary equipment; plumbing and heating equipment and supplies; bricks, tiles and construction products in baked clay; cement, lime and plaster; articles of concrete, cement and plaster; concrete products for construction purposes; quarrying of stone, sand and clay; mining and quarrying; operations of gravel and sand pits, mining of clays and kaolin; architectural and engineering activities; renting of construction and civil engineering machinery and equipment; services to buildings and landscape activities; combined facilities support activities; cleaning activities; landscape service activities.
Figure 6: Construction supply chain

Source: BWI (no date)

Figure 6 shows the myriad of actors that are part of the supply chain. Figure 7 shows the organization of the construction supply chain.

Figure 7: Supply chain in the construction sector

Source: Own elaboration based on BWI (no date)

The previous diagram should not be taken as static, as there are also different types of arrangements between the ‘design team’ and its relation with the contractor and the client. For example, in some cases the client may work directly with a design team made up of architects and engineers but they might also need advisors and to engage with the contractor. Therefore, the design team might subcontract as well. The design team would need to contact advisors for feasibility studies and other technicalities depending on the project.
A special form of design and build arrangements are so-called ‘turnkey contracts’. The clients procure the construction as if buying a standard (mass produced) product. It is difficult for the client to influence or control the quality of the works. Other types of model contracts are ‘single-point models’: the client has a contract with one organization. This organization ensures the realisation of the construction and the client delegates a large part of control to this organization. The process of subcontracting is carried out in the different stages of the elaboration of the project and it may require specific labour, for instance, once the main construction site is completed, different tasks such as painting and decorating are carried out by other types of workers (they might even be further subcontracted). This creates a multi-layer system of subcontracting.

The different stages to carry out the projects together with the tendering process – in which, once a project is won by a contractor, the project is ‘fixed’ and determined for the duration of the project – give construction supply chains a particularity not seen in other products’ supply chains.

6.1.2 Main initiatives

In 2013, the UN Special Rapporteur on the Human Rights of Migrants, Francois Crepeau made a set of recommendations after visiting Qatar for eight days. The most salient ones are: to develop the right of association and to self-organisation for all workers’, to allow ‘workers to change jobs without sponsor/employer consent’ and to ‘abolish the exit fee requirement’. (UN Human Rights Council, 2014) The development of a system of labour inspection that will address human rights abuses was also mentioned as well as the call for Qatar to ratify UN conventions on the protection of migrant workers, civil and political rights, and the convention against torture. When it comes to the role of the private sector, the report concludes:

‘The Special Rapporteur was repeatedly told that the most serious abuse of migrants is not committed by large transnational companies, but rather by small companies which act as subcontractors. Transparency in the labour supply chain is crucial in order to prevent abuse: all intermediaries, subcontractors and other partners should therefore be identified and suppliers and other business partners should not engage unauthorized subcontractors. ‘Companies must ensure that workers, including subcontracted labour, are not subjected to exploitative working conditions.’ (UN Human Rights Council, 2014, p.17)

The report suggests that the private sector should take every step to comply with the UN Guiding Principles on Business and Human Rights, and in the recommendations section, there is a long list of what companies should do. These include: provide decent accommodation, not retain passports and issue certifications of ‘no objection’ (NOCs) and exit permits when required by the employees (2014, pp.22-23). Qatar ratified the ILO Convention 29 in 2007, however, the ILO denounced Qatar in 2013 for lack of implementation and criticised the kafala system, which will be explained below (Booth & Gibson, 2013).

In 2013, the Building and Wood Workers International (BWI) mission made up of 9 trade unions from Europe and 2 from Asia began the systematic investigation of labour abuses in construction sites
in Qatar (BWI, 2013). In terms of its relationship with companies, they cited the concept of ‘general responsibility’ in a construction contracting chain, and highlighted the equal responsibility of the client and the government. BWI also indicated to the Qatari government that labour inspections mean full access to the workplaces and that the places should not be prepared in advance. According to BWI, the Mission saw good working conditions in the Sidra Hospital (project of the Spanish firm OHL), and at the Norwegian Project Qatalum with both firms having policies and practices on workers’ protection.26

BWI’s approach lies in organizing along the supply chain. In the industries that BWI cover (construction, wood and forestry) the approach is based on ‘joint liability’ of the company with regard to core labour standards through signing International Framework Agreements (IFAs). When parties share joint liability, each is liable for the full amount of the relevant obligation, that is, if a labour violation is found in a subcontractor linked to the main contractor, the contractor cannot claim that it is not its responsibility.

At the time of conducting this research, out of the 27 European companies that are operating in Qatar, only 7 have signed IFAs with BWI. These companies are: Hochtief, Lafarge, FFC Construcción, Ferrovial, Impregilo Salini, OHL and Sacyr. Multinational companies that sign IFAs with BWI commit to respect workers’ rights based on the core conventions of the ILO. In some cases, the agreements also include a complaint and monitoring system and cover the suppliers and subcontractors. The BWI is of the view that these agreements should not be seen as ‘negotiated CSR with companies’ but as a formal recognition of social partnership at the global level. These agreements provide a global framework for protecting trade union rights and encouraging social dialogue and collective bargaining.

One purpose of the IFAs is to assist union affiliates to obtain recognition as formal unions and to start a social dialogue with the company and at the national level, with companies, suppliers and subcontractors of BWI partner companies. In this way, the IFA should lead to collective bargaining and finally, to improved working conditions and better wages. However, the ultimate success of the agreement will depend on strong unions at the national and subnational levels.27

BWI is also carrying out two global campaigns on the issue of migrant workers in Qatar. The first campaign ‘Global Campaign for Migrants Workers Rights’ calls for the abolition of the kafala system (which will be explained below). Therefore, it targets the Qatari state but also it makes demands to construction companies. The other campaign, ‘Global Fair Play Games Campaign’ aims to address sponsors and FIFA towards both World Cups (Russia in 2018 and Qatar in 2022) so that there are ‘no World Cups without protection of labour rights’. Finally, a new app ‘BWI connect’ is also being developed for workers to be able to report abuses and learn about their legal rights. At the time of

26 Verbal communication with researcher during mission in November 2015.
27 See the section ‘Multinationals’ from the BWI website: http://www.bwint.org/default.asp?Issue=Multinationals (last accessed on 2 December 2015).
writing, this is under construction but as of November 2015 around 60 workers in Doha had downloaded and installed the app on their mobile phones.

In 2015, the London-based NGO Business and Human Rights Resource Centre (BHRRC) approached the main construction companies operating in Qatar to learn more about their policies in the country and the mechanisms that they were putting in place to avoid labour abuses. A set of questions was sent to construction companies operating in Qatar. The main questions cover: whether the company has any policy to address social responsibility and human rights; the scope and nature of the companies’ operations in Qatar, the role of subcontracting, conditions of payment, freedom of association, etc. BHRRC received eight responses as of November 2015. The companies that publicly responded are: Aktor, Besix, Bouygues, Carillion, Hochtief, Interserve, Yapi Merkezi Inssat and Vinci. The BHRRC website indicates that SNC Lavalin also prepared a response. BHRRC expressed concern that many companies failed to respond indicating that some do not see the need to engage publicly on this issue. Companies that declined to respond include Consolidated Contracting Company, Habtoor Leighton, Midmac, Porr and WCT Holdings. In 2016 the BHRRC website launched a Migrant Workers Gulf Construction Survey with systematised information on construction companies operating in the Gulf region, not only Qatar (BHRRC, 2016).

When looking at the standards on the ground, the Qatar Foundation Standards (QF Standards) are not part of Qatari law but an ethical contractual agreement to be established in the course of businesses tendering for projects and carrying them out. The Qatar Foundation is a private, non-profit organisation that aims to support programmes in education, science and research, and community development. It is aimed at the ‘people of Qatar to nurture the future leaders of the country’ (see mission in its website).

At the same time, the Supreme Committee for Delivery and Legacy (SCDL), set up to manage the construction projects vis-à-vis the World Cup, has established ‘Workers’ Welfare Standards’ that apply to activities directly related to the Committee and cover other activities linked to construction in relation to the World Cup 2022. At the local level, there are particular forms of ‘soft law’ but their enforcement and monitoring are developing as there is a lack of labour inspectors in Qatar (interview with Welfare Officer, Qatar Foundation).

The purpose of the QF Standards is to set forth minimum mandatory requirements with respect to recruitment, living and working conditions and general treatment for workers engaged in construction and other projects at the Qatar Foundation. It covers all construction and other activities under QF Capital Projects, Facilities Management & other QF directorates and centres. The requirements stipulated in these standards are applicable to all workers of QF Contractors and sub-contractors regardless of whether they were recruited for QF projects or not (Qatar Foundation, 2013, para.5.3). These standards shall constitute a part of the main contract and contractors shall ensure adherence to the law and these standards, as well as all its subcontractors.
In 2016, FIFA launched the report *For the Game, for the World* commissioned to Prof. Ruggie from the Harvard Kennedy School. The report aims to develop a set of tools to make FIFA accountable for human rights abuses (Ruggie, 2016). The report was praised by the business community. However, scepticism arose from global unions (in particular BWI) as the report calls for more private forms of self-regulation such as supply chain monitoring and transparency, non-binding mechanisms that are widely recognized as falling short of addressing extreme forms of labour exploitation.

In addition to the specific initiatives that have been identified that link trafficking/forced labour and modern slavery in the context of construction supply chains, there are initiatives that are not specific to Qatar but need to be considered for a fuller picture of what companies might do to address the issue. Among the non-specific ones stand the recent UK Modern Slavery Act for UK companies and its disclosure clause, the US Federal Acquisition for US companies, and in Switzerland, the initiative ‘Multinationale Responsable’ (Responsible multinational).

The Business for Social Responsibility (BSR) report published in 2012 (soon after the publication of the HRW report) a set of guidelines for companies to ‘mitigate the risks of being caught up with slavery in their supply chains’. The ‘Education, Engagement, Expansion’ approach aims to provide information about how companies should plan along the different stages of construction projects to avoid labour abuses (Morgan et al., 2012). The report mentions Ramboll’s CSR policy where it states that as an ‘engineering consultancy’ not directly involved with the suppliers along the project, they should consider the implications of the project in the contracting of workers (Morgan et al., 2012, p.12). In 2011 DanWatch had accused Ramboll of ‘slavery-like’ practices found in some of its partners in Dubai (Kjeldgaard, 2012). One of the key recommendations of BSR to its members is to engage with the Qatari government on the issue of recruitment in order to move towards a system of ‘ethical recruitment’ (Morgan et al., 2012).

Finally, as the state of Qatar is in many cases the main client for construction projects, there are procurement procedures that need to be taken into account. The QF Standards and the SCDL Standards can be considered a form of ‘hybrid’ voluntary regulation as they involve procurement. However it is important to remember that the Qatar Foundation is not set up legally as a government institution.

Table 6. Key TFLS-supply chain nexus initiatives in the construction sector

<table>
<thead>
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<th>Initiative</th>
<th>Initiating actor</th>
<th>Implementing actor</th>
<th>Mechanisms</th>
</tr>
</thead>
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<td>Global Campaign for Migrant Workers Rights*</td>
<td>Global Union - BWI</td>
<td>consumers, retailers, companies</td>
<td>Consumer information, worker organising, supply chain monitoring</td>
</tr>
</tbody>
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6.1.3 Regional focus: Qatar

Qatar has embarked on a very ambitious plan to rise as a centre of cultural and economic development in the Gulf region. Qatar’s rise to a position of international significance is rooted in its possession of the world’s third largest reserves of liquefied natural gas (LNG), and policies put in place to deploy international leverage. Expressions of these are the hosting of Al Jazeera, and more recently, their successful bid in 2010 to hold the World Cup in 2022. Most of the policies for ‘aggressive internationalisation’ have been conceived and implemented during the reign of Emir Sheikh Hamad bin Khalifa Al-Thani (1995-2013) and his foreign minister (and prime minister between 2007 and 2013), Sheik Hamad bin Jassim Al-Thani. These two men emerged as the architects that put Qatar on the global map as a ‘truly dynamic new regional power’ (Coates Ulrichsen, 2014, p.13).

Qatar has also established an ambitious development agenda epitomized in the ‘National Vision 2030’. This plan rests on four pillars: economic, social, human and environmental development (Qatar GSDP, 2008). One interesting aspect that stems from the National Vision is the capacity of the Qatari state to achieve modernization while keeping ‘national culture’ as an Arab and Islamic nation. One of the key components of this ‘challenge’ is how to balance the composition of the labour force needed to achieve this vision, as it is clear that both highly skilled and low skilled workers are needed. The vision mentions this:

The composition of a nation’s population will determine the nature of its society. Qatar must determine a suitable size and quality of its expatriate labour force. It must weigh the consequences of recruiting expatriate workers in terms of their cultural rights, housing and public service needs, as well as the potential negative impact on national identity, against the anticipated economic benefits that accrue from an increase in the numbers of foreign workers in the total labour force. (Qatar GSDP, 2008, p.7)
Bidding for the World Cup slotted Qatar into the Qatari record of seeking to bring large and high-profile sporting events to the country, as Qatar hosted the FIFA Under-20 Football World Championship as far back as April 1995. Also, its association with major sporting events took off in December 2006 when it hosted the 15th Asian Games. In 2011, Doha hosted the football Asian Cup in January and the multi-sport Arab Games in December. Although both events suffered from relatively low attendances and a lack of local interest, they boosted Qatar’s credentials as an effective host nation of international sporting events (Coates Ulrichsen, 2014, p.58).

Qatar has also been embarking in ‘state branding’ to place itself on the map, a project that not only rests on the development as a centre for international sport, but also expanding the Al Jazeera brand to the world, as a means to bridge the West with the Arab world, placing itself as a centre for education and culture (shown in the development of Education City), and little by little trying to develop international travel and tourism. This latter began to take shape with the creation of Qatar Airways and the building of the new international airport that connects directly to many cities in Europe and Asia. Finally, Qatar also aims to be a leader in the development of new clean forms of energy.

In the context of rapid internationalization and towards the World Cup in 2022, the construction sector became a key pillar in Qatar’s development. The construction of important stadiums for the World Cup is carried out by major European construction companies. For example, the Khalifa International Stadium is a joint venture between Midmac Contracting and Six Construct (part of the Besix Group). It is expected that this stadium will be completed by 2016. The Al-Rayyan Stadium is being constructed by a joint venture between Manco (US) and the Buckingham Group Contract (UK).

Qatar’s construction industry remains one of the most vibrant and fast expanding in the Middle East with major infrastructure projects including the Doha Metro, Long Distance Rail, Hamad Port, and a network of new roads and drainage systems. It is estimated that USD 220 billion is invested in the development of these major projects (Project Qatar, 2016). Many of these benefit from enhanced government spending aimed at delivering these projects for the 2022 FIFA World Cup (Oxford Business Group, 2016). According to some sector estimates, that is 50 times what South Africa spent in preparing to host the 2010 tournament, and 10 times what Russia has earmarked for 2018 (Flanagan, 2014). Qatar has to build not only stadiums but the whole infrastructure of the country to support such a world event.

6.2 Localising initiatives

6.2.1 Construction in Qatar: Constant challenges for labour rights of migrant workers

6.2.1.1 Research Overview

The research in Qatar was conducted in two phases. Phase I included a visit to Doha with a BWI mission to Qatar in November 2015. The mission lasted 4 days and data was gathered through: visits
to the Indian and Philippines Embassy, where conversations were held with ambassadors and labour attaches on the situation of migrant workers from those sending countries. Conversations with trade union representatives from Europe (some attended a meeting with the Supreme Committee for Delivery and Legacy but the researcher was not allowed to take part). Interviews were conducted to BWI representatives on their work in Qatar and Campaigns. In addition, the researcher attended a migrant workers' training and the launch of the Filipino Group in Doha. In addition, two labour camps were visited.

The second phase of the field research involved a three-week visit in February 2016. The researcher secured a sponsorship scheme by the Bin Khalifa University in Education City and managed to secure 7 interviews and 4 informal conversations with different stakeholders. Another interview was conducted from the UK.

**Table 7. Qatar Case-study**

<table>
<thead>
<tr>
<th>Data collection techniques</th>
<th>Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semi-structured interviews</td>
<td>Census information</td>
</tr>
<tr>
<td>Elite-interviews</td>
<td>Government documents</td>
</tr>
<tr>
<td>Critical textual analysis</td>
<td>Newspaper reports</td>
</tr>
<tr>
<td>Participant observation</td>
<td>NGO publications</td>
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<td></td>
<td>Think-tanks reports</td>
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<tr>
<td></td>
<td>Project reports</td>
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<td></td>
<td>Secondary literature</td>
</tr>
<tr>
<td><strong>Informants</strong></td>
<td></td>
</tr>
<tr>
<td>- Policy makers (1)</td>
<td></td>
</tr>
<tr>
<td>- NGOs (1)</td>
<td></td>
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<tr>
<td>- Trade unions (5)</td>
<td></td>
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<tr>
<td>- Workers (informal – labour camps visits)</td>
<td></td>
</tr>
<tr>
<td>- Industry (3)</td>
<td></td>
</tr>
<tr>
<td>- Events: a) Migrants’ Rights Trainings; b) Seminar on Islamic law at the University of Qatar.</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** Authors’ elaboration

### 6.2.2 Qatar: Notes from the field

The case of Qatar highlights the importance of political regimes in relation to (global) supply chains. Qatar also complicates the division between 'developed' countries understood as characterised by both high income and stronger protection of rights in contrast to ‘developing’ countries. Qatar should be understood as a Gulf economy in transition in terms of ‘politics’, yet with high levels of FDI and an aggressive strategy of internationalisation. Despite the economic profits that many companies have been able to benefit from as well as the Qatari population, key major challenges arise in regards to the respect of migrants' human rights.

The first set of challenges stems from the *kafala* system. In Qatar as well as the other Gulf States that make up the Gulf Cooperation Council (GCC), namely Saudi Arabia, Kuwait, Oman, UAE and Bahrain,
the main mechanisms to bring foreign migrant workers into the country is through a sponsorship system. This system is widely known as the ‘kafala’ which in Arabic means ‘to welcome and to take care’. It has its roots in the old tradition of hospitality in bringing foreigners into towns and homes, and the person who brings them (called the ‘kafeel’) is in charge of the wellbeing of the guest. With time, the kafala system has been equated with the migration regime but it encompasses a wider set of practices and policies. Despite the fact that all GCC countries share a ‘kafala’ system, in practice, the ways in which each country operationalises it differ, and some countries have been making reforms to particular aspects of kafala (in particular Kuwait and Bahrain). For the purpose of this report, the focus will be on Qatar as it is the country selected for the case study. At the heart of the kafala system (in all GCC) countries lies the notion that ‘foreign workers are not to be treated as migrant workers’ (Zahra, 2015, p.4), they are considered to be ‘temporary contract workers’ and this conceptualisation makes it difficult for authorities to extend the international framework on migration to the migrant workers in Qatar as it implies that most ‘foreign workers’ constitute a separate category. Thus, there are on-going campaigns by a myriad of international actors (mainly international non-governmental organizations) to abolish the kafala system completely, not only in Qatar but widely in the GCC states.

The key elements of the kafala in Qatar can be summarized as follows:

1. The system of sponsorship is administered by the Ministry of Interior. This institution is in charge of authorizing the residency permits to the workers.
2. It is based on employer sponsorship. In Qatar, the law requires all foreigners who want to visit to be granted a visa by a sponsor (Art. 18 of Law 4, 2009).
   a. A sponsor must: be a Qatari national or an expatriate residing in the state and it must be qualified to bear the obligations of the sponsorship as imposed by law (Art.19 Law No.4 of 2009).
3. In order for workers to leave the country, they need an exit visa granted by the employer, and approved by the Ministry of Interior.
4. In order to change employers, workers need a ‘release’ known as the ‘No Objection Certificate’ (NOC) approved by the employer. The capacity of the employer to issue the NOC also grants the employer further power in banning the entrance of the migrant worker for two years after leaving the country for the first time.

These are the key features of the kafala system in Qatar which needs to be understood not as a single law, but as previously mentioned, as “a suite of laws, policies, practices, and customs that characterize the governance and accommodation” of migrant workers in Qatar (Gardner et al., 2014, p.10).

One important element is the ‘legal contract’ that migrant workers sign for their employment in Qatar. In the contract the kafala takes shape as it stipulates the salary, the time and links the obligations of the worker to the employer (Gardner et al., 2014). What has been documented is that migrant workers
typically sign a contract in their sending countries and upon arrival in Qatar, those contracts are replaced with new ones (mainly in Arabic) and not all conditions are kept or met.

The kafala is an important aspect that creates the space for labour abuses; however, to fully comprehend the picture, we need to incorporate actors in the ‘migration industry’ that contribute to the problem. The migration industry in this context involves a variety of actors from recruitment and placement agencies in sending countries, labour brokers and sub-agents, manpower and placement agencies in Qatar, to foreign embassies of sending countries which seek to protect their nationals within Qatar.

Qatar has the largest proportion of foreigners in its population in the world, with nationals representing no more than 12% of its population and even less (6.2% in 2012) of its workforce of approximately 1.8 million. Qatari males constitute only 4.7% of the total male workforce and only 1 per cent in the private sector (Jureidini, 2014, p.1). It has been estimated that as of 2011, around 450,000 blue-collar workers were employed in the construction industry in Qatar, with around 64,000 employed in Qatar Foundation’s various capital projects. Although the Qatar government does not issue a breakdown of the population by nationality, these numbers have been gathered by Jureidini (2014) as provided by the embassies of labour sending countries. The three main sending countries are India, Nepal and the Philippines.

For migrant workers, the migration cycle begins when potential migrant contacts a labour broker in his/her home country either directly or through a sub-agent/middleman to learn about possibilities of work in the GCC. Despite the fact that the Qatari Law of 2004 stipulates that no fee should be paid by migrant workers, it only applies to Qatar, so prior to departure, Gardner et al. (2014) estimate that migrant workers pay around USD2,000 to get employment even though figures vary according to sending countries. The other way that potential migrants have to come to Qatar is through social networks, workers who are already in Qatar, and know of job opportunities so they liaise with the companies.

Manpower agencies in Qatar are not really recruitment agencies but placement agencies. They are mainly in the business of placing workers into jobs required by contractors and subcontractors in Qatar. Increasingly, they are ‘labour supply companies’ that recruit workers and subcontract them on short-term bases to construction companies. Recruitment agencies are those who recruit in the sending countries and deploy them to Qatar to be placed in jobs (Jureidini, 2014, p.5). Recruitment of migrant workers must go through an individual or corporate agents licensed by the Qatari Ministry of Labour (see Labour Law 2004, Articles 27-32). This law only applies to Qatari manpower/placement agencies and not to recruitment agents and agencies in sending countries. Manpower agencies in Qatar have the role of providing workers to the construction companies and they are banned from charging fees to migrant workers once they have arrived (Labour Law 2004 prohibits them from doing so, art. 33). However, our fieldwork data confirms that they may ‘partner’ with recruitment agencies in
sending countries; these recruitment agencies charge ‘extra fees’ to workers, with those fees are passed on to the manpower agents in Qatar.

Gardner et al. (2014, p.13) report that some manpower agencies act as sponsors of workers and then they ‘lease them’ to companies. This constitutes ‘labour arbitrage’ in the sense that they are placed short-term according to companies’ needs. In addition, when companies apply for visas to host workers, they normally do it in chunks when they plan the projects, but some companies are found to ‘trade’ these visas with other companies, an illegal practice under Qatari law.

Migrant labour recruitment has been viewed by Qatari authorities as a foreign labour market process of supply and demand and thus largely outside their purview and responsibility (Jureidini, 2014, p.5). This is a natural consequence of the conceptualisation within kafala of migrant workers as ‘temporary contract workers’, so it is not up to the Qatari government to regulate the transnational labour chains but only to provide legislation to the employment agencies operating in Qatar. The kalafa then becomes this ‘umbrella’ as a container of migration flows at the expense of the human rights of migrant workers while construction companies and recruitment agencies benefit along the way.

When it comes to wages, there is no minimum wage in Qatar and rates are established by embassies in negotiation with the Qatari government and/or companies. Embassies establish an estimated minimum wage based on cost of living of the sending country and not on Qatari living standards. Sending countries are caught up in a regulatory conundrum as on one hand they want to protect their workers and guarantee decent wages, but at the same time they do not want to lose quotas granted by the Qatari government as they want opportunities for their nationals to work in Qatar and send remittances back to their home countries. Therefore, the setting of wages does not operate as a ‘labour market issue’, traditionally understood through supply and demand, but an outcome of foreign policy and negotiation with companies. The relationship between labour attaches, embassies, the Qatari government and construction companies determine the salaries of migrant workers. In Qatar, the architecture of foreign policy of sending countries assumes many roles not only in setting the salaries but also monitoring labour conditions in Qatar (within the restrictions of the Qatari law). Table 8 shows the nature of the services provided by embassies of main sending countries in Qatar.

**Table 8. Services provided to migrant workers by embassies in Qatar**

<table>
<thead>
<tr>
<th>Services</th>
<th>Bangladesh</th>
<th>India</th>
<th>Nepal</th>
<th>Philippines</th>
<th>Sri Lanka</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consular grievances</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Grievance redress, conciliation</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Distressed worker’s' resource</td>
<td></td>
<td></td>
<td>✔</td>
<td></td>
<td></td>
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</tbody>
</table>


BWI is involved in some of the training on the ground to migrant workers. Embassies of sending countries are partners' in the campaigns that BWI is pushing forward (despite the limitations of foreign relations and Qatari law).

In late October 2015, the Qatari government announced changes to the sponsorship system (and curiously they stopped using the word ‘kafala’). Law No. 21 (2015) entered into effect in 2016. The key two features of the new law are:

1) Change in procedure of applying for an exit permit. Workers can now request them directly from the Ministry of Interior at least three days before travel.

2) Workers can now change employers, after the end of the contract, with the approval of the Ministry of Interior and Ministry of Labour and Social Affairs (MOLSA); if this is before the contract ends, the consent of the employer is also needed along with the approval of the two ministries.

Human Rights Watch and Amnesty International have dismissed these changes as ‘cosmetic’ since they still require the permission of the employer to either issue the exit visa or change of employer (Gibson, 2015).

In addition to the challenges presented by the kafala system, the absence of a developed civil society as understood in the West adds to the problem. Transnational advocacy networks of all sorts (Global Unions, International NGOs, etc.) attempt to fill the gap, putting pressure both on the Qatari government and Western companies that have operations in Qatar.

In turn, responses from companies have been varied and not unified. Construction companies do not show collaborative efforts (in contrast to the EICC, for example). One example of a response that has been taken is adopting policies on international recruitment by visiting sending countries such as Bangladesh, Nepal, etc. and establishing links with what they consider ‘ethical recruitment agencies’. Motivations for this appear to be both economic (efficiency in terms of training workers) and social (respect human rights and respond to pressures).

The construction sector operates according to ‘project’ time spans. From the bidding process to completion, different numbers of workers with different skills are required. Therefore, in the bidding process, budgeting for labour (and migration related costs) is currently unrealistic, leading to the sort of problems described previously (trading of visas, labour arbitrage, etc). Changing this appears to be
a low priority. Also, the government is the main client, therefore, procurement policies are potentially of critical importance.

The legal framework in Qatar provides limited scope for companies to work on a system of industrial relations as understood in Europe. For example: trade unions are allowed only for some sectors and are prohibited from representing migrant workers who are not allowed to be members. In some cases, companies reported setting up ‘worker’s committees’. The Solidarity Center is doing work in the region but with limitations due to the constraints, not only in terms of law but also in terms of what they are allowed to do as a registered ‘NGO’. Civil society registration in Qatar involves strict oversight from the government; therefore, there is constrained space for (critical) action.

Qatar lacks a systematic system of labour inspectors. Labour inspectors may need to be ‘insourced’ – i.e., initially recruited from abroad in order to kick-start the development of a labour inspection model if this is to be taken seriously. On 15 November 2016, BWI and the Supreme Committee for Delivery and Legacy (SCDL) in Qatar signed a Memorandum of Understanding in which a system of joint-inspections will be put in place from January 2017. The SCDL is in charge of overseeing the construction projects linked to the World Cup 2020, and it has agreed to allow inspections in worksites and accommodations.

Finally, the issue of corruption also came up from informants, in particular at the bidding stage before projects are agreed. This is important because once projects are signed, they become independent units of operation, with their own timeframes of development and completion. Different numbers of workers with different skills are needed at the different stages, and the range of subcontractors who are involved also varies and becomes harder to monitor, leaving monitoring to companies themselves, with no external checks.

7 Case Study III: Agriculture in Florida, the United States

7.1 Overview of the sector

7.1.1 Global trends

The United States is one of the world’s key producers of tomatoes, second to China, and tomatoes are the second most consumed vegetable in the US (20.6 pound per capita) behind potatoes (67.2 pounds per capita). According to the Florida Department of Agriculture and Consumer Services, in 2014, for all crops, Florida had 47,600 commercial farms using a total of 9.50 million acres. Florida ranked second in the United States for value of vegetable production, first in production value for oranges, fresh market tomatoes, watermelons, grapefruit, fresh market snap beans, fresh market cucumbers and squash; second in the production of greenhouse and nursery products, bell peppers, strawberries, fresh market sweet corn, spring potatoes, peanuts, tangerines and avocados (Florida

The tomato industry in the US is divided into fresh and processed, targeting different markets. Tomato varieties are bred specifically to meet market requirements: processing tomatoes are machine-harvested while fresh-market tomatoes are hand-picked. The latter is the focus of our study in Florida agriculture as the workers hired to pick the tomatoes are predominantly migrant workers from Mexico, Guatemala, Haiti and other Latin American and Caribbean countries.

The market structure for fresh tomatoes shows that supermarkets demand many varieties of fresh tomatoes, not only round tomatoes, but also plum (Roma), grape and cherry tomatoes, and an array of greenhouse and hydroponic tomatoes are marketed on ‘vine’ (in clusters). Also, another relevant variety is the Heirloom known as ´ugly ripe´ which is marketed by some of the participating growers in the Fair Food Programme (FFP) (Santa Sweets). In terms of total consumption, about 70 percent is consumed at home with 30 percent outside, according to a mid-1990s USDA food intake survey (USDA ERS 2016).

The structure of the supply chain in the tomato industry is shown in Figure 8. Workers harvest the tomatoes during the season and these activities can be conducted either in open field or greenhouse production. In Florida, the vast majority is done in open field production. Growers present a variety of business activities ranging from repacking, field packing and/or fresh-cut value added processing. These products are then sold to ‘buyers’ who are retail and foodservice companies associated with well-known brands such as WholeFoods, Walmart, McDonalds, among others. Figure 8 shows the structure of the supply chain in the tomato industry.

Figure 8. Tomato industry supply chain
7.1.2 Main initiatives

The agriculture sector in the US is characterised by a myriad of initiatives which have varying reach depending on the federal or state level of development. For the purpose of this research project, the main focus was placed on the Fair Food Programme (FFP) and its Anti-Slavery Campaign as run by the Coalition of Immokalee Workers (CIW). 29

7.1.3 Regional focus: Florida

Historically, farm workers in the United States have been subject to difficult working conditions, including ‘slavery-like’ practices (Griffith & Kissam, 1995; Martin & Taylor, 2003; Martin, 2009). In Florida, the issue of forced labour has taken many forms over the past four centuries, and according to Sellers and Asbed (2011, p.31) ‘agriculture has never been entirely free of the scourge of slavery’ even though the extent has diminished over the centuries. In fact, in the decade and a half before the Fair Food Program, cases that met the legal definition of slavery in the U.S. were uncovered and investigated by the Coalition of Immokalee Workers. The resulting prosecutions, which freed over 1,200 workers, had caused federal prosecutors to call the area ‘ground zero for modern day slavery.’ Farm workers have always been among the poorest and least powerful workers in the United States. The degraded working conditions in which they traditionally labored provided fertile soil in which the

29 Readers interested in other forms of initiatives in the realm of certification schemes in the context of agriculture in the US are invited to read ‘Justice in the Fields’ available at: https://fairworldproject.org/resources/certifier-analysis/farmworker-certification-analysis/
worst abuses, ranging from wage theft, unsafe conditions and sexual harassment to physical abuse and forced labor.

In 1993 the Coalition of Immokalee Workers (CIW) was formed in the rural town of Immokalee, Florida (see map 1). The CIW is a worker-based human rights organisation made up mainly of migrants from Guatemala, Haiti and Mexico. The organization is rooted in the tradition of peasant movements in Latin America and the Caribbean with notions of popular education (inspired by the work of Paulo Freire), leadership development (todos somos lideres = we are all leaders) and horizontal structures in which everyone has input and decisions are made collectively. In 2001, CIW launched the Campaign for Fair Food, and in 2005 the prominent Taco Bell boycott ended when the company’s corporate parent, YUM Brands!, signed the first Fair Food Agreement. Since winning the contract with Taco Bell, a series of campaigns followed resulting in legally binding bi-lateral agreements with fast food chains such as McDonald’s (2007), Burger King (2008), Subway (2008) and Chipotle (2012), US supermarkets such as Whole Foods (2008) and Trader Joe’s (2012), institutional food service providers such as Compass (2009), Bon Appetit (2009), Aramark (2010) and Sodexo (2010), and recently with Walmart (2014), Fresh Market (2015) and Ahold (2015). At the time of conducting the research, there was an ongoing campaign targeting Wendy’s. The FFP was launched in 2011. It is based in a legally binding agreement in which participating buyers commit to purchasing Florida tomatoes only from suppliers who respect the Fair Food Code of Conduct and to pay a premium for their produce while the growers who supply them agree to pass along the premium to their workers in their regular paychecks and to implement the Fair Food Code of Conduct on their farms.
7.2 Localising initiatives

7.2.1 Tomato industry in Florida

7.2.2 Introduction and research

The research in Florida was conducted between May and April 2016 for four weeks. The time was divided between Sarasota, where the office of the Fair Food Standards Council (FFSC) is based and Immokalee, where the Coalition of Immokalee Workers (CIW) has its main office. Two weeks at each location provided the opportunity to interview staff in both organisations, conduct participant observation, take part in an audit at one of the grower’s farms, and observe an educational session with workers on their rights at a grower’s farm. The researcher had support from a local research assistant, Melissa Gouge. Melissa is a PhD Candidate at the University of George Mason who has been studying the CIW for a few years. Table 9 describes the number of participants in the FFP case study. A total of 16 interviews were conducted alongside informal conversations held with founding members of the CIW who are part of the IAB.
Table 9. US-case study

<table>
<thead>
<tr>
<th>Data collection techniques</th>
<th>Data Sources</th>
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<tbody>
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<td></td>
<td>Project reports</td>
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<tr>
<td></td>
<td>Secondary literature</td>
</tr>
</tbody>
</table>

Informants
- Buyers (2)
- Growers (4)
- FFSC staff (5)
- CIW staff (4)
- Policy Official (1)
- Events: a) Audit visit to grower’s field with FFSC staff; b) Worker education session at grower’s farm; c) Visit to truck functioning as moving Slavery Museum.

Source: Authors’ elaboration

7.2.3 Florida: Notes from the field

The Fair Food Program began as a pilot program in 2009 and consolidated as a comprehensive program over the following years, receiving substantial attention and praise from policy makers, the media, and academics (see Brudney, 2016). The programme has received many prizes and it has recently been considered the best programme out of seven certification schemes studied by the Fair World Project (see Fair World Project, 2016).

It has been in full operation since 2011 covering the 35,000 acres of the USD 650 million Florida tomato industry (Fair Food Standards Council, 2015, p.2). It is characterised by distinct elements that together constitute the ‘worker-driven social responsibility’ (WSR) model (CIW 2014). The key underlying assumption of the model of WSR which sustains the FFP is that if a human rights programme is to be effective, the humans whose rights are in question must be key players in the design and implementation of the program (CIW 2014). Workers are an integral part of the FFP and have key roles in: the drafting of the code of conduct which specifies the realities of the work on the ground, monitoring the code, and educating fellow workers when they join the farms. Through successive education sessions, workers become ‘auditors’ themselves as they have better tools to denounce abuses even at farms outside Florida that are not participating in the programme. The
worker-led drafting of the code of conduct that guides workplace practices is demonstrated in Figure 9 as a good example of WSR. Over many years, workers were required to overfill their buckets, causing workers a loss in salary as they are paid by the piece, but also creating a flashpoint for violent disputes over whether a bucket was sufficiently overfilled. The elimination of the overfilling of buckets through the provisions in the Code that were suggested by experienced tomato workers, but may never have occurred to outside ‘experts’ has brought change to the fields in terms of monetary compensation for workers and better workplace practices.

Other critically important provisions of the Code include zero-tolerance for forced labor, child labor, violence, including sexual assault and weapons. Strong prohibitions are also in place against discrimination, sexual harassment, endangerment of others, wage theft, retaliations and failure to cooperate with Fair Food Program monitoring.

**Figure 9. Example of overfilling of buckets**

![Figure 9. Example of overfilling of buckets](image)

Source: CIW

In the field, we identified elements that make the FFP distinctive from other initiatives, and we believe, present an important case-study to rethink private/public regulation in order to bring substantive change to workers. Together with workers’ input in the drafting of the code of conduct, the programme is made up of legally binding agreements between the CIW and 14 buyers and 20 growers representing at least 90 percent of Florida tomato production, who all contribute to a functioning program.

The agreements are legally binding with regards to private law in the US, and this is a natural development as historically farm workers have been excluded from regulations such as the National Labor Relations Act (NLRA). Therefore, upon signature of the agreements, buyers and growers make
a legal commitment to: respect workers’ rights as established in the code; pay the premium which is agreed with the buyers and passed on to growers and ultimately workers; and allow the FFSC team of auditors access the farms for comprehensive monitoring.

The programme rests on monitoring and effective complaint resolution mechanisms. The worker-to-worker education is a fundamental aspect which is complemented by a 24-hour complaint line in which a member of the FFSC is available to receive the calls. Over the years, the programme has achieved zero retaliation to workers. It is not only that the tool to place complaints exists but that there is a real capacity of workers to exercise that right.

The auditing scheme set up by the FFSC is comprehensive. The team is made up of 13 auditors and a former judge who oversees the reports produced by the auditors as well as the complaint resolution process. Growers agree to be monitored by a team of the FFSC which visits the farms at least once a year and at a minimum interviews 50% of the labour force in the fields. They also interview crewleaders and managers. Another set of audits includes the financial auditing of proper compensation to workers including payment of the premium. The premium appears as a separately identified bonus in workers’ payslips.

The program rests on a sanctioning mechanism of potential suspension of non-compliant growers from the program. This aspect is fundamental as it entails market consequences which affect the business of growers. This is because participation in the program has reportedly led to lower worker turnover of a highly seasonal farm workforce and productivity gains, benefits which were confirmed in interviews.

Another important element of the programme relates to the role of labour contractors. Farm labour contractors traditionally have recruited and managed crews of workers, including responsibility for their compensation and provision of tools necessary for work in the fields. On the whole, farm labour contractors have a long history of abusive practices (Griffith, 2007; Mieres, 2014). The FFP has re-introduced direct hiring so that workers are employees of the growers, provided with employee ID cards (used to record their compensable hours). Additionally, crewleaders, whether or not they are treated as employees by the grower, are equally bound by the code of conduct – changing an historic power imbalance in the history of US agriculture. Thus, a crucial element introduced by the FFP is that growers are directly responsible for the treatment of farmworkers and for the conduct (and treatment) of intermediaries such as farm labour contractors.

Overall, the FFP has proved to be both effective and efficient in achieving its goal of guaranteeing humane conditions for farm workers in the tomato industry. In recent years, the programme has seen expansion to states such as Georgia, North and South Carolina, Virginia, Maryland and New Jersey. During the 2015-2016 season, the Programme is also expanding to other crops such as bell peppers and strawberries in Florida.
At the time of conducting the fieldwork, a Fair Food label was being launched in for fair food products; some participating buyers are now displaying the label on tomatoes and strawberries purchased from participating growers. The label was a product of consumer demand for ethical production as well as growers and retailers seeking recognition being part of the FFP. Unlike other certification schemes, however, the label was not launched until concrete results in protecting the human rights of farm workers could be evidenced. The label therefore certifies the overarching change that the Programme has already brought to the fields rather than representing an aspiration for the future. For this reason, the programme waited a few years to launch the label.

8 Conclusions

We believe that the TFLS-supply chain nexus is here to stay and there will be new initiatives put in place in the following years. The mapping of this emergent field has shown the variegated and complex landscape of the initiatives. Future research should focus on effectiveness and whether the stated aims are fulfilled. By providing a mapping of initiatives, we aimed to contribute to debates on governance of labour standards more broadly, and begin to think about the role that corporations and the EU might play in this dynamic area of activity.

The cases of labour exploitation and abuse which initiatives at the TFLS-supply chain nexus (purportedly) respond to emerge within the intersections of industrial dynamics (including those of supply chain governance), national development strategies, and migration regimes. Responses therefore face a challenge in terms of which factors can and should be prioritised. In the case of Qatar, there is a growing consensus that the kafala system is at the root of the problem and needs to be comprehensively transformed if not abolished. Corporations nonetheless bear responsibility for enrolling in this system and profiting from it. In the case of Malaysia, on the other hand, responses have largely focused on the issue of migrant labour. But while there are some attempts to create space for ‘workers’ voice’ the context is one in which it is difficult for workers to exercise their freedom of association and to participate in collective bargaining. Meanwhile the dynamics of the global industry serve as powerful limits on the effectiveness of any localised response that rely solely on workers’ voice. None of the initiatives put in place by the industry address the pace at which consumer electronics are being launched into the market, and speed of production represents a key challenge for workers’ rights. On the demand-side of consumers, advocating for ‘slow consumption’ and other recent alternatives such as the Fair Phone seem to be a nascent area of activity which also deserves further research. In construction, there is no obvious product being exported to consumers. However, campaigns against FIFA vis-à-vis the organisation of world sporting events are putting pressure on Qatar, and the recently signed memorandum of understating between the SCDL and BWI is the beginning for the creation of an industrial system where labour inspectors can be trained, but it is only the beginning as migrant workers are still not allowed to join unions.
The case of the FFP which has eliminated the role of farm labour contractors as employers is successful in guaranteeing that both workers and crewleaders are the responsibility of growers, therefore changing the power dynamic between them, which has historically been abused by farm labour contractors. The case of the FFP also shows that direct employment matters in relation to labour standards. The FFP has also proved to be an efficient initiative as workers are educated on their rights but also feel safe to speak up when they need to. Education of workers in a vacuum is not helpful. In contrast, workers in this case are linked to a collective organization and have enforceable, industry wide standards to rely on.

Though we are only beginning to analyse the data in relation to policy lessons, one of the key insights emerging seems to be that greater efforts should be made by a range of actors in addressing labour recruitment. Cross-border and internal recruitment cannot be solely addressed by the government and national legislation. Companies resort to migration industry actors (in particular private recruitment agencies), but findings of TFLS in their own supply chains have begun to change brands attitudes towards recruitment. The argument that it was not their responsibility as workers were outsourced is proving not to hold anymore. Through different schemes some companies are now beginning to understand ‘labour chains’ that are also part of their global supply chains. However, these recruitment practices put in place by companies need to be aligned with a human rights perspective that makes them binding. While new initiatives at the global level are being put in place, for example, the Fair Recruitment Initiative supported by the ILO, the absence of a ‘global compact’ on ethical recruitment (let alone an international binding instrument) is a challenge here.

Finally, Table 10 shows a summary of the studied initiatives. We find that part of the recognised success of the FFP is its higher ‘industry penetration.’ It has managed to implement the premium, bringing concrete material change to workers in terms of higher salaries, it has made buyers and growers accountable through legal binding agreements, and it has socialised them into accepting the audits by the FFSC and putting in place corrective action plans when needed. All of this works under a robust worker-driven initiative that puts workers at the core of its development. The FFP alerts us to distinguish between initiatives that try to fill a ‘governance deficit’ from those that try to change the power structure within the supply chain.
Table 10. Initiatives on the ground. Key features on three sectors

<table>
<thead>
<tr>
<th></th>
<th>Electronics</th>
<th>Construction</th>
<th>Agriculture</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fieldwork location</strong></td>
<td>Malaysia</td>
<td>Qatar</td>
<td>US - Florida</td>
</tr>
<tr>
<td><strong>Products</strong></td>
<td>computer, mobile phones, etc</td>
<td>hotels, stadiums, metro, roads, major construction projects</td>
<td>tomatoes, bell peppers, strawberries</td>
</tr>
<tr>
<td><strong>Initiatives</strong></td>
<td>EICC, HP Migrant Workers Standard</td>
<td>BWI (Global Campaign for Migrant Workers' Rights, Global Fair Play Games Campaign, QF Migrant Workers Standards, MOU with SCDL)</td>
<td>Fair Food Programme and its Anti-Slavery Campaign</td>
</tr>
<tr>
<td><strong>Initiating actors</strong></td>
<td>Business Coalition</td>
<td>GUF</td>
<td>CIW</td>
</tr>
<tr>
<td><strong>Implementing actors</strong></td>
<td>Business Coalition</td>
<td>GUF</td>
<td>CIW, Buyers, Growers, Workers</td>
</tr>
<tr>
<td><strong>Remit of initiatives</strong></td>
<td>Forced labour</td>
<td>Forced labour/Contemporary Slavery</td>
<td>Contemporary Slavery</td>
</tr>
<tr>
<td><strong>Main mechanism of initiatives</strong></td>
<td>SCM, RI</td>
<td>CI, WO, SCM</td>
<td>WO, SCM, CI, BO</td>
</tr>
<tr>
<td><strong>Product label?</strong></td>
<td>No</td>
<td>No</td>
<td>Yes - strawberries</td>
</tr>
</tbody>
</table>

Source: Authors’ elaboration
9 References


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Addressing demand in anti-trafficking efforts and policies (DemandAT)

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