

CASE STUDY: HEWLETT-PACKARD (HP)

The Corporate Impact of Human Rights Abuse and Effective Due Diligence



Abstract

Hewlett-Packard have driven industry-wide efforts to promote sustainable and ethical sourcing. The success of their due diligence has resulted from their timely and effective responses to discoveries of human rights abuse. By focusing resources on communities most at risk, HP have developed due diligence that is more impactful. They have however stressed that individual efforts by a select few companies will not drive meaningful change within the electronics industry; rather, across-the-board collaboration is required for elimination of modern slavery and human rights abuse.

Introduction

Few electronics companies have committed more effort and resource to the protection of workers' fundamental rights than HP. The company has been at the forefront of human rights advocacy and the promotion of fair working conditions, impacting labour rights in an industry plagued with malpractice and exploitation of vulnerable workers.

HP has led by example; implementing substantial initiatives targeting workers most at risk and collaborating alongside like-minded organisations to enhance the impact. Responding quickly to discoveries of human rights violations has been a central facet of HP's human rights policy. The effectiveness of their response has been recognised outside the industry; they won the 2016 Stop Slavery Award given by the Thomas Reuters Foundation in the 'Transparency and Response to Challenge' category.

This case study will provide an in-depth analysis of the efforts of HP to develop human rights considerations throughout the electronics industry, drawing upon the effectiveness of implemented initiatives to illustrate ways by which they are positively driving the industry towards a more ethical direction.

Corporate Overview

Since the mid-20th century, HP has been a worldwide leading electronics manufacturer and provider of IT services. In 2015, HP split into two separate companies; HP Inc, the parent company, which deals with electronics manufacturing and sales, while the newly-formed HP Enterprise (HPE) is responsible for software, servers, storage, networking and security services.

HP remains one of the most lucrative brands worldwide. HP Inc and HPE generated revenues of \$52.06 billion and \$28.87 billion, respectively in 2017 alone. HP has sustained a healthy market share for decades, recently returning to their position as the dominant PC vendor with a 21% market share in 2017, shipping over 55 million PCs annually.

HP's headquarters are based in Palo Alto, California. Both companies combined employ more than 115,000 people worldwide.

Due Diligence Processes

To support their global activities HP has over 700 direct manufacturing suppliers, and thousands of indirect suppliers. These suppliers are spread across 39 countries, with over 50% being located in the Asia Pacific region. The large concentration of suppliers in this area prompted serious concern when a 2014 Verité study revealed the long-standing, widespread abuse of electronics factory workers in Malaysia, particularly among migrant communities.



The Verité report was a damning condemnation of the electronics industry's failure to address human rights abuses within their supply chains. Twenty-eight percent of all workers surveyed in the study were found to be in situations of forced labour; this figure rose to 1-in-3 for migrant workers. Abuse of these workers was systematic. Suppliers routinely applied exploitative practices to constrain workers' freedoms and rights. This was facilitated by a lack of interest by companies in ensuring effective oversight of these suppliers, contributing to a culture in which suppliers have little or no accountability for their employment practices.

Forced labour takes many forms. The most prevalent is debt bondage that arises from recruitment fees being charged to employees by recruitment agencies in return for securing employment. Workers in desperate need of employment are charged exorbitant fees with inflated rates of interest. Verité reported that 92% of the foreign workers surveyed paid recruitment fees amounting to roughly a month's salary, of which 77% had to borrow money to pay. This indebtedness laid the foundations for their exploitation. Eighty-five percent of workers felt it was impossible to leave their job until their debt had been paid off, trapping them in employment and making them much more vulnerable to exploitation – almost 50% of indebted workers suffered from forced labour as opposed to a standard rate of 28%.

Table 6.4 Workers who paid recruitment fees, and who had to borrow to pay recruitment fees, by country of origin

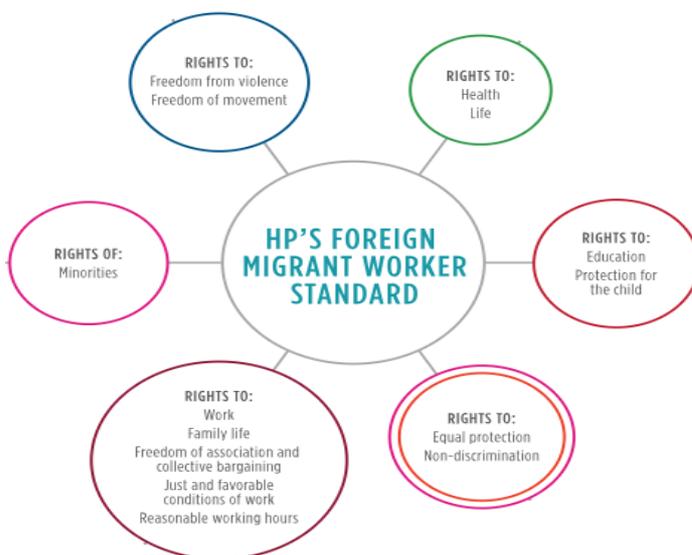
Country of Origin	Workers who paid recruitment/ placement fees to get their first electronics industry job in Malaysia			Workers who borrowed money in order to pay the fees necessary to get their first electronics industry job in Malaysia		
	Percentage*	No. of Respondents	Total No. of Respondents**	Percentage*	No. of Respondents	Total No. of Respondents**
Bangladesh	56%	20	36	70%	14	20
Burma	94%	89	95	55%	48	88
India	100%	2	2	50%	1	2
Indonesia	92%	99	108	80%	78	98
Malaysia	3%	2	62	0%	0	2
Nepal	99%	97	98	98%	94	96
Philippines	100%	9	9	75%	6	8
Vietnam	94%	84	89	77%	65	84
All foreign workers	92%	400	437	77%	306	398**

^ Table above illustrates debt bondage disproportionately affecting migrant workers in Malaysia

Debt bondage paves the way for additional abuse; 1 in 5 are misled about their terms of employment and their pay, with no legal recourse nor complaints mechanism in place to challenge this abuse. Passport retention is commonplace; 94% of workers reported their passports were held by their supplier, with 74% claiming they would be unable to retrieve them if required. This restricts workers' freedom of movement and effectively holds the employee to ransom.

Despite recruitment fees being prohibited under Malaysian law, lack of enforcement means suppliers have wide discretion over what practices they employ – which is mostly driven by the bottom line. It is therefore within the corporate social responsibility of companies to engage in effective due diligence, and to protect workers by monitoring the employment practices of their suppliers, and through applying pressure on the suppliers.

HP recognises the importance of their role in safeguarding the rights of their factory workers. The release of the report coincided with HP’s own research into vulnerable worker groups in their supply chain. HP’s response to the report was swift – implementing the Foreign Migrant Worker Standard later that year to strengthen security and protections offered to migrant workers. HP regarded industry minimum standards as insufficient to protect workers adequately. While industry-wide requirements prohibit recruitment fees, forced labour extends well beyond the debt bondage arising from this. HP forwarded the view that this must be implemented in conjunction with other protective measures that address wider issues surrounding sub-contracting and outsourcing to third-party suppliers, where direct oversight is non-existent. This outsourcing arrangement erodes worker protection and the accountability inherent in employer-employee relationships. Liability for human rights abuses becomes unclear, with workers’ access to legal remedies and grievance mechanisms curtailed.



The Foreign Migrant Worker Standard developed by HP mandates that a supplier must directly employ any migrant workers in their workforce. Use of recruiters is still permitted, but once an individual joins the labour force they become a formal employee of the supplier. Suppliers are then prohibited from outsourcing migrant workers to third parties. This allows employees to access grievance mechanisms and ensures direct accountability for human rights abuses. Moreover, the standard requires that all employment contracts are written in the employee’s native language to avoid any misunderstandings or underhand moves by the supplier.

The Foreign Migrant Worker Standard facilitates open dialogue with suppliers and their engagement in responsible employment practices. Feedback from suppliers has shown the initiative to be of great utility. It operates as an educational tool by increasing awareness of the unethical activities of recruitment agencies and the standards expected of them as suppliers. HP have ensured the effective implementation of the Standard through training programs designed to provide employees access to direct mechanisms to raise issues with suppliers. They have conducted workshops in Thailand and Malaysia, training 118 supplier factory managers and 36 labour agents on the requirements expected of them. HP use their own independent auditors to assess supplier compliance with the Foreign Migrant Worker Standard. Non-compliant suppliers are treated on a no-blame basis, promoting a transparent relationship between HP and the supplier. Further non-compliance may however result in discontinuation of business.



HP have become a vanguard driving ethical action across the industry. However, they have been keen to stress that meaningful change in employment practices cannot be achieved solely through the efforts of a handful of corporations. In order to achieve lasting change, the industry must come together collaboratively to address human rights issues across their supplier-base. To this effect, HP have donated its supplier guidance to the Responsible Business Association (RBA), whereby other companies may use and learn from HP's ethical policy to demand better practices from their suppliers.

Additionally, HP chairs the Steering Committee of the Leadership Group for Responsible Recruitment, a collaborative effort between electronics companies to drive industry-wide change by restricting third party outsourcing and application of uniform ethical standards by suppliers. Guiding principles on forced labour are well established, however solutions tend to be fragmented across industries and may only address specific aspects of employment.

In light of this, HP chairs the Responsible Labour Initiative, a cross-industry collaboration of the Responsible Business Alliance whose objective is to use their collective influence and application of due diligence to drive transformation of recruitment markets and reduce the incidence of forced labour across a diverse range of industries.



HP responded to an investigation undertaken by DanWatch in 2013 into supply chain practices that revealed large-scale exploitation of Chinese students and interns in the manufacture of electronics products. These students aged 16-17 were subject to unscrupulous treatment by their schools, whereby agreements were made with suppliers to send the students to electronics assembly lines overseas. These were dressed up as internship opportunities yet served no educational purpose. This alarming report uncovered young Chinese workers being made to work 10-12 hour shifts for up to 5 months; this labour was achieved under duress by threatening students who failed to comply with failure to graduate. Suppliers also achieved huge savings by negotiating agreements with schools rather than with the interns themselves. This allowed them to pay a nominal wage of £159 a month, as required by law, yet circumvented requirements to pay social benefits or insurance for the young workers.

This was a clear infraction of the HP Code of Conduct and, once again, HP's response was immediate. Along with independent auditors being quickly mobilised to engage in unannounced audits of the responsible factories, HP announced that same year their Student and Dispatch Worker Standard, setting out strict requirements for the use of students and interns in their manufacturing workforce. The Standard mandates that no more than 20% of the workforce of any supplier factory can consist of students. A 2017 auditing showed 100% compliance. All student work must be entirely voluntary, and must be subject to no repercussions if they decided to discontinue work. Employment of students must adhere to local laws concerning working hours, working age and contractual limits; any work undertaken should legitimately compliment the primary degree the student is seeking to obtain.



Unscrupulous manufacturing practices are undoubtedly a key area of ethical concern for HP. However, a more sinister form of human rights abuse is occurring within a separate supply chain – the extraction of minerals used in electrical components. Minerals such as tin, tungsten, tantalum and gold are prevalent in the Democratic Republic of Congo (DRC) and its neighbours. Operations for mineral extractions were largely run by militant groups, using the revenue generated from the sale of these conflict minerals to support armed conflicts and wanton violence as a means of controlling the population. These groups show no regard for worker rights. Use of child labourers was commonplace, workers were subject to extortion and coercion to ensure their compliance, working up to 48-hour shifts and operating in dangerous working environments where mudslides and tunnel collapses were frequent.

Supply chains for minerals are notoriously complex. Tracking minerals to an individual mine is hugely challenging. An important reason is that these mines and smelters are 3-4 chain actors removed from any businesses HP had direct relationships with. Moreover, shortly after being mined conflict minerals are taken to diverse global deposits where tracking their origins is exceptionally difficult, especially where they are mixed with other metal alloys of different origin.

Companies should not be afforded the luxury of being able to shirk responsibility, allowing the continuation of these abuses. They have a social responsibility and moral imperative to act upon human rights violations in any way they can.



There are effective tools available to companies to prevent the sourcing of conflict minerals. Effective due diligence relies on a holistic approach – the whole supply chain must be considered and the role of each actor assessed, from the auditing of mines and smelters, to the evaluation of supplier procurement policies and the tracking of minerals as they travel up the supply chain.

In 2017, Amnesty International reported on the extensive use of child labourers in the extraction of cobalt in the DRC. Following the requirements of the OECD Due Diligence Guideline for Responsible Supply Chains, HP informed their suppliers of the strict Code of Conduct requirements that prohibited child labour. Additionally, they undertook independent procurement audits of every relevant supplier and reviewed purchase orders by manufacturing operations to build a better picture of the cobalt supply chain.

Through their membership of the Responsible Minerals Initiative, HP could interact with other industry players to conduct comprehensive audits of all cobalt mines and smelters identified through the suppliers' reporting of their cobalt refiners using the HP Responsible Minerals Reporting Template. Given the sheer number of actors involved in the cobalt process, collective responsibility along the supply chain and across the industry are pivotal to evoke meaningful change.

It is however important for companies to recognise the limitations of audit, and to not treat inspection reports as gospel. While independent third-party auditing is an indicator of ethical standing, to rely solely on these reports as evidence that minerals are conflict-free undermines due diligence efforts.

As the NGO Global Witness maintains, mineral supply chains are continually conflict-affected and ever-changing. Even the most well managed supply chains are not immune to contributing to human rights violations. Supply chain due diligence is an iterative process driven by continuous improvement. Due diligence focuses on transparency as an end in itself; companies should use auditing reports as a guide to direct future due diligence. HP should perhaps consider this point when they profile their supplier smelters and mines on their website. While providing a comprehensive list of their known suppliers is useful in the pursuit of transparency, detailing whether they are conflict-free is counter-productive. Instead, they should demonstrate how they carry out risk assessments at these facilities and explain what risk management processes they have in place.

HP's efforts have undoubtedly been positive in mitigating abuse in their supply chains. However, their work is largely reactive; an immediate response following the release of a report or investigation into their supply chains. While HP must be commended for acting effectively and with urgency, their reactive approach in seeking out and remedying abuse ultimately leads to many areas still to be uncovered. HP should be more proactive in finding areas for concern, and not rely on the work of NGOs to alert them before action is taken.



Corporate and Social Benefits

Subverting proper due diligence and supply chain checks may lead to time-intensive and costly problems to fix. There is a considerable business risk carried with not properly conducting investigations into the practices of third-parties involved in the supply chain. Particularly in the extraction of conflict minerals, failure to properly check the conflict status of mines and smelting supports the militant groups' belligerent activities. Global Witness research has shown that revenue generated from conflict minerals have directly financed the Taliban, who presently take a 20% cut of all conflict minerals mined in Afghanistan. In Zimbabwe, the illegal diamond sector has contributed to corruption and vote-rigging, undermining democratic election processes.

Due diligence offers companies a flexible and workable approach to responsible sourcing. A key principle outlined in the OECD is that a company's due diligence efforts can be scaled up or down depending on the level of risk. If no red flags arise, no further investigation is necessary.

The nature of due diligence requires companies to develop knowledge and oversight of their supply chains. While this may incur additional costs, knowingly contributing to the maltreatment, and even deaths, of workers is unacceptable. Greater insights into the details of a supply chain will provide better security and assurance of quality control for their products. By undertaking due diligence, companies can show they are conscious of human rights and the impact of their business on global communities. This also enhances brand reputation and increases consumer confidence. Consumers appreciate transparency and accountability; ignorance or indirect involvement can be no excuse.