



TOP 5 LABOUR ABUSES IN 2019-2020: A FIELD-BASED ANALYSIS OF WORKER REPORTING AND BUSINESS RESPONSES IN THAILAND

JANUARY 2021 REPORT

INTRODUCTION

Issara Institute recognizes **worker voice** as conveying the voices, experiences, and needs of workers, and channeling that voice into clear mechanisms committed to **remediation** and a **rebalancing of power asymmetries between employers and workers**. This definition is consistent with that established at the start of the organized labour movement in the late 1800s, and is not to be confused with worker feedback tools, which do not necessarily have clear mechanisms or commitments to addressing power asymmetries or remediation (and which in many cases only serve to support corporate due diligence)¹.

As a non-profit organization, Issara Institute operates a range of worker voice channels aimed at supporting jobseekers in Cambodia and Myanmar, and migrant workers in Thailand and Malaysia. These channels are run in Burmese, Khmer, Nepalese, and Thai languages, including several ethnic dialects of Myanmar including Kachin, Kayin, Mon, and Shan. The multiple channels to engage directly with workers are comprised of a free, 24-hour helpline, social media platforms and messaging (Facebook, Line, and Viber), the Issara Golden Dreams smartphone application, and direct in-person outreach and empowerment activities. The primary remediation channel used by Issara Institute is with and through business—partnership with global brands and retailers, to drive remediation and improvements in the labour practices of their supplier base and associated recruitment agencies. Issara Institute also refers cases to government departments of the origin and destination countries, and to trade union and civil society partners—in addition to working with these stakeholders on broader systems change.

With this report, Issara aims to contribute empirical evidence to the broader anti-trafficking and business and human rights communities by sharing anonymized, aggregated analyses of grievances and requests for assistance reported by jobseekers and workers through the various Issara worker voice channels. The report provides insights on the quality of business responses to these worker grievances, after grievances are conveyed to business by workers, by Issara, or by both workers and Issara. Comparative analysis of pre- and post-COVID data reveal changes in labour risks and business responses during the pandemic. Recommendations are presented, and ongoing analyses of similar data will be presented throughout 2021.

Issara Institute encourages the shared responsibility held by all human rights duty bearers in this situation—the origin and destination governments, who are responsible for upholding laws to protect workers from labour abuses; the employers of workers who are the suppliers of global brands and retailers; the recruiters of workers going into these workplaces; and, the global brands and retailers that source goods and services from these suppliers. Civil society also plays a vital role in championing rights and standards, and safeguarding vulnerable workers. It is hoped that sharing these reflections helps all of these stakeholders in their roles to drive cleaner supply chains with greater respect for workers' rights and workers' vital contributions to the global economy.

¹ Issara Institute (2017). *What is 'Worker Voice' in the Context of Global Supply Chains? 5 questions that need to be asked, from the perspective of data integrity and worker empowerment*. Bangkok: Issara Institute.

CALL VOLUME, TYPES, AND SEVERITIES: ISSARA WORKER VOICE CHANNELS, 2019-2020

Issara Institute has unique capacity to run Inclusive Labour Monitoring (ILM) and ongoing, high volume worker voice channels serving Burmese, Khmer, and Thai workers in Southeast Asia, due to two key factors:

1. Issara’s staffing, comprised of the nationalities of both workers and businesses in both origin and destination countries; and,
2. a unique online case management system designed for efficient and accurate worker call logging/monitoring; business response logging, monitoring, and assessment; and, detailed categorization, description, and severity grading of 77 different types of labour infractions, violations, and abuses that map to international standards and definitions.

The Issara worker voice channels handled 153,694 calls and messages from 1 January 2019 through 31 December 2020, from jobseekers and workers across a wide range of industries, including agriculture, apparel and footwear, construction, electronics, furniture and wood, plastics, poultry, seafood, and retail/services. Channel traffic by month is summarized in Figure 1, below. Workers call Issara not only to request information and assistance, but also to have follow-up conversations with Issara staff about their issues and how their employers, recruiters, and/or government departments are responding to them. The significantly larger proportion of Myanmar callers versus Cambodian reflects the proportions of those nationalities within Issara Strategic Partner supply chains, and Thailand’s migrant worker population more broadly.



Figure 1. Calls and messages received into the Issara worker voice channels, by month and channel.

Calls and messages in Issara’s ILM system are categorized according to 77 types within the 5 categories illustrated in the larger pie chart in Figure 2, and assigned levels from 1-4 to denote the severity of the situation. All information queries and communications around coordination are categorized as Level 1, the least severe level. Level 2 cases are reported labour violations that do not violate national law but violate most ethical sourcing standards. Level 3 cases are serious labour violations that are violations of labour and/or criminal law. Level 4 cases are emergency threat-to-life cases. Each level has its own response protocol.

In past years, the percentage of calls relating to labour trafficking and labour exploitation-related issues have typically hovered around 35%; thus, 43% of all calls being labour trafficking and labour exploitation-related calls is a relative increase during this reporting period.

The proportion of labour exploitation-related calls to the Issara worker voice channels that are Level 4 has always been very low against total calls. However, during this reporting period and particularly in 2020 the proportion of more serious Level 3 calls versus less serious Level 2 reported labour violations has increased.

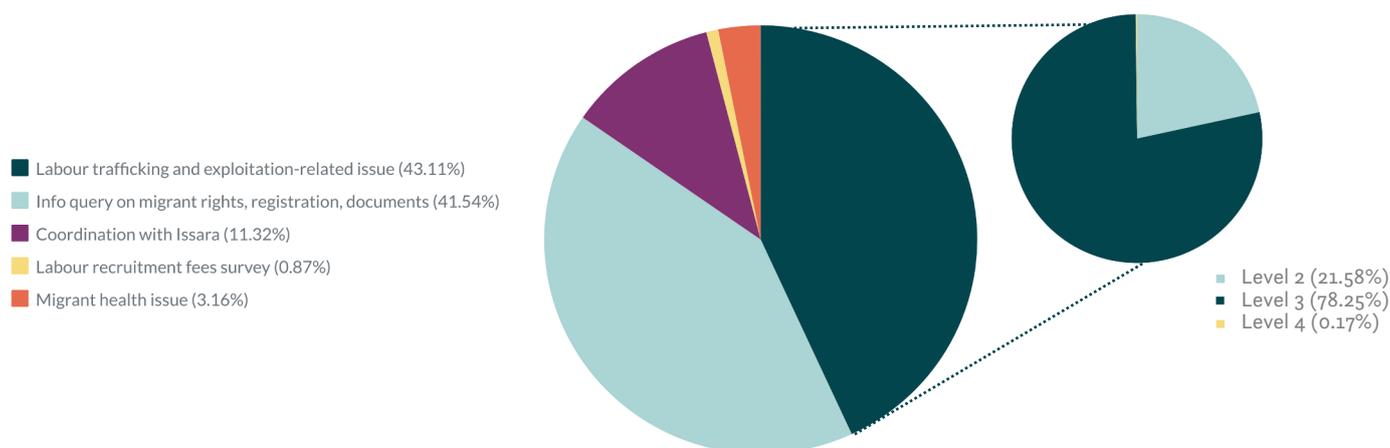


Figure 2. Types of calls received in 2019-2020, and the level of severity of labour exploitation-related calls.

HOW THE COVID-19 PANDEMIC IMPACTED WORKERS, AS REFLECTED IN WORKER VOICE DATA

The precarious situation for foreign migrant workers created by COVID likely contributes to both the increased proportion of Level 3 vs. Levels 1 and 2 calls later in 2020 (i.e., increase in worker reporting of serious labour issues), as well as the decline in number of calls per month. The first COVID case was identified in Thailand in January 2020, with curfews and lockdowns instituted in March 2020; thus, dividing the dataset from this reporting period into pre-COVID (January 2019—March 2020) and post-COVID (April-December 2020) allows for comparative analysis of changing needs of workers, and the nature of reported labour abuses, through the pandemic.

Decline in call volume. When comparing call volume in 2020 pre-COVID vs. post-COVID, we see a 23% decline in calls, due primarily to 3 key factors:

- Cross-border labour recruitment was shut down as national borders closed, which eliminated the origin-side pre-departure trainings of the Issara team as well as Issara civil society partners, an activity that generated a high volume of of Burmese Viber exchanges (reference the light teal bar in Figure 1);
- The Issara team and most civil society partners were themselves on lockdown and thus cancelling field outreach activities in migrant worker communities, which for the Issara team had been occurring at least once a week, and similarly for civil society partners; and,
- Some workers may have felt less secure in reporting grievances and seeking support, fearing retaliation and/or retrenchment during the period when national borders were closed and repatriation was blocked.

Increasing severity and changing types of abuses and violations faced by workers. Analysis of the content of worker voice calls and messages confirms that the COVID-19 pandemic created a new set of vulnerabilities for foreign migrant workers.

The two most vulnerable groups identified by this analysis, and reported on in previous analyses,² include unemployed and underemployed workers who were essentially stranded overseas with no livelihood due to the closed borders; and, overworked workers bearing the brunt of reduced workforces, and/or being inadequately paid or cheated on wages or benefits by cost-cutting management under financial pressure.

The labour violations and abuses that these two vulnerable groups confronted due to the pandemic's impacts on border control and the economy are clearly reflected when comparing the top five labour abuses reported in the pre-COVID phase versus the post-COVID phase as summarized in Figure 3.

2 Issara Institute (2020). *Responsible Management of Workforce Reduction in Thailand in the COVID-19 Environment*. Bangkok: Issara Institute. Downloaded at: <https://bit.ly/ResponsibleReductionReport>

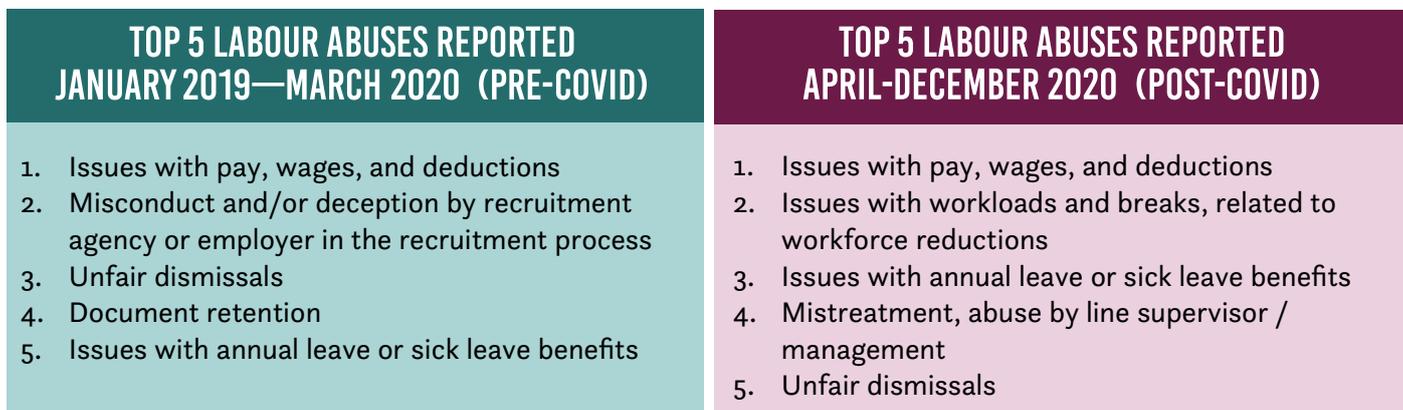


Figure 3. Top five labour abuses reported by workers into the Issara worker voice channels during the pre-COVID and post-COVID phases, in rank order.

COMPARING PRE-COVID AND POST-COVID WORKER ISSUES & BUSINESS RESPONSES

In addition to running the multi-lingual worker voice channels for jobseekers and workers, Issara Institute also works directly with the suppliers and recruitment agencies in the supply chains of its global brand and retailer Strategic Partners. The main purposes are to drive and support remediation of labour issues and abuses, and to support systems strengthening and institutional improvements over time. Thus, Issara has unique insights into not only what workers are experiencing in the recruitment process and the workplace, but also how businesses are responding to worker grievances and needs.

As presented on a 1 July 2020 webinar,³ the quality of business responses to the top 5 labour abuses in 2019-2020 (prior to the COVID pandemic) varied substantially, as summarized in Figure 4. Scores are based on an aggregate of measures around three axes: **quality of response by business, timeliness of response by business, and openness to reform by business.**

Analysis of the 48,394 worker voice calls and messages between 1 April and 31 December 2020 reveals a total of 294 major labour issues, impacting thousands of workers, as reported from workers in Thailand across a wide range of industries. Figure 5 details business responsiveness to the top 5 labour abuse categories reported by workers during this post-COVID period. From comparing Figures 4 and 5, it can be seen that three of the most common issues reported by workers pre-COVID continued to be faced in the post-COVID period as well—notably, issues with pay, wages, and deductions; issues with annual and sick leave; and, unfair dismissals—though presenting in some novel forms post-COVID. In addition, Figure 5 details two other pandemic-specific issue categories: issues with workloads and overwork due to workforce reductions; and, mistreatment and abuse by line supervisors and/or management.

Worker-reported issues and business responses prevalent both pre-COVID and post-COVID.

1. **Issues with pay, wages, and deductions.** Overall, pay issues that were blatant violations of national law, such as illegal and excessive deductions, were responded to by business more effectively than issues that were not illegal but were (or should have been seen as) serious from a corporate responsibility standpoint, for example unreasonable targets or coercive incentive systems. Global brands and retailers were generally more willing to apply supply chain leverage when national laws were being violated (noting that, at times, applicable national and regional laws and policies could be considered to set a low bar for corporate responsibility). Situations where their own code of conduct was being violated were often communicated as needing to be addressed, but with less clear parameters and timelines, leading to suppliers not being sufficiently compelled to take the worker-reported issue seriously in these cases.

During COVID, the main pay-related issue reported was illegally low remuneration when hours were cut back, due to reduced orders from global brand and retailer customers. This was a particular challenge for foreign migrant workers, since the bilateral government-to-government labour recruitment channels require that foreign workers be provided with a minimum number of paid working hours and days per week, and, since these workers made the decision to migrate internationally to begin with based on certain promises and expectations with regard to the terms and conditions of employment.

3 View the webinar recording at <https://www.youtube.com/watch?v=YmGANPqMEbo>.

Global brands and retailers generally demonstrated more concern about overtaxing stressed suppliers facing serious financial challenges as a result of the pandemic than about workers facing the same.

2. **Unfair dismissals.** Thai, Myanmar, and Cambodian law allow costs of labour recruitment to be charged to workers, resulting in low replacement costs and creating serious issues for workers. During both pre-COVID and post-COVID time periods, the response to unfair dismissals and churn of foreign workers was generally poor or below average, particularly in situations where human resource staff received financial incentives for churn, and when workers were dismissed for refusing to perform work that was different from their contract. However, the consequences for foreign workers retrenched during COVID were much more dire, since these workers were essentially left stranded in a foreign country with no livelihood or income, due to national borders being closed. Related to this, a particularly challenging issue occurring pre-COVID but increasing post-COVID was the issuance of improper job cancellation letters by employers when firing workers. These improper letters essentially prevented workers from finding a new job, often forcing unemployed and stranded foreign workers into very desperate situations.
3. **Issues with annual leave or sick leave benefits.** Despite Thai law being very clear about annual leave and sick leave benefits, which apply to Thai nationals and foreign workers equally, it has been very common to find factory and farm workers cheated on these basic benefits. This happened fairly consistently both before and after COVID. With these issues, global brands and retailers have typically demonstrated more willingness to call for policy and systems changes to address these risks and abuses (for example, communicating company policy to workers), than to push for remediation and payback of lost benefits to affected workers.

Worker-reported issues and business responses prevalent pre-COVID.

1. **Misconduct and/or deception by recruitment agency or employer in the recruitment process.** As with the issue above, it was much easier to get both suppliers and global brands and retailers to respond swiftly to situations where workers were not being provided with proper legal documents—a clear violation of labour law and immigration law—whereas it was harder to drive responsiveness to issues that were essentially around accountability in the initial stages of the recruitment process on the origin country side. Although many global businesses either have or are moving towards policies and commitments on ethical recruitment, the full implementation of these were often not in place. This ceased being an issue once national borders and the formal MOU recruitment process were shut down due to the pandemic.
2. **Document retention.** Root causes of document retention were found to range from negligence to incompetence to overt corruption. With document retention being a legal violation, reports of such a serious situation have declined in recent years—but when they occur, they are serious issues. As such, many global partners respond swiftly to such violations. However, in this case, a number of business responses were surprisingly poor, in large part owing to poor responses on the part of a former Issara Strategic Partner that essentially accepted the excuses of their suppliers for holding on to documents for unreasonably protracted periods, over the testimonies of exploited workers.

Worker-reported issues and business responses arising post-COVID.

1. **Issues with workloads and breaks, related to workforce reductions.** COVID-related cost-cutting measures clearly led to overwork of remaining workers in factories across a range of industries. Workers reported a number of issues within this category, including forced overtime, heavy workloads, an increase in coercive incentives to compel faster work toward higher production from a reduced workforce, and reductions in lunches and bathroom breaks. It is important to recognize that these abuses led to financial consequences to workers, as well as negative consequences to physical and mental well-being.
2. **Mistreatment and abuse by line supervisors and/or management.** Threats, mistreatment, and abuse by line supervisors and/or management is consistently reported by workers across all major industries in Thailand, but it rose to a Top 5 issue during the COVID period likely due to how the seriousness of such issues was exacerbated by closed national borders and workers having no place to go. Responsiveness on the part of employers was most prompt with issues of physical abuse or other persistent, degrading abuse, and also discrimination by gender, nationality, and/or ethnicity—as these are issues that global brands and retailers typically take seriously. Less severe (but sometimes equally persistent) verbal abuse and suppression of worker voice was more poorly and inconsistently responded to by business.

BUSINESS RESPONSES TO THE TOP 5 WORKER –REPORTED LABOUR ABUSES JANUARY 2019—MARCH 2020 (PRE-COVID)

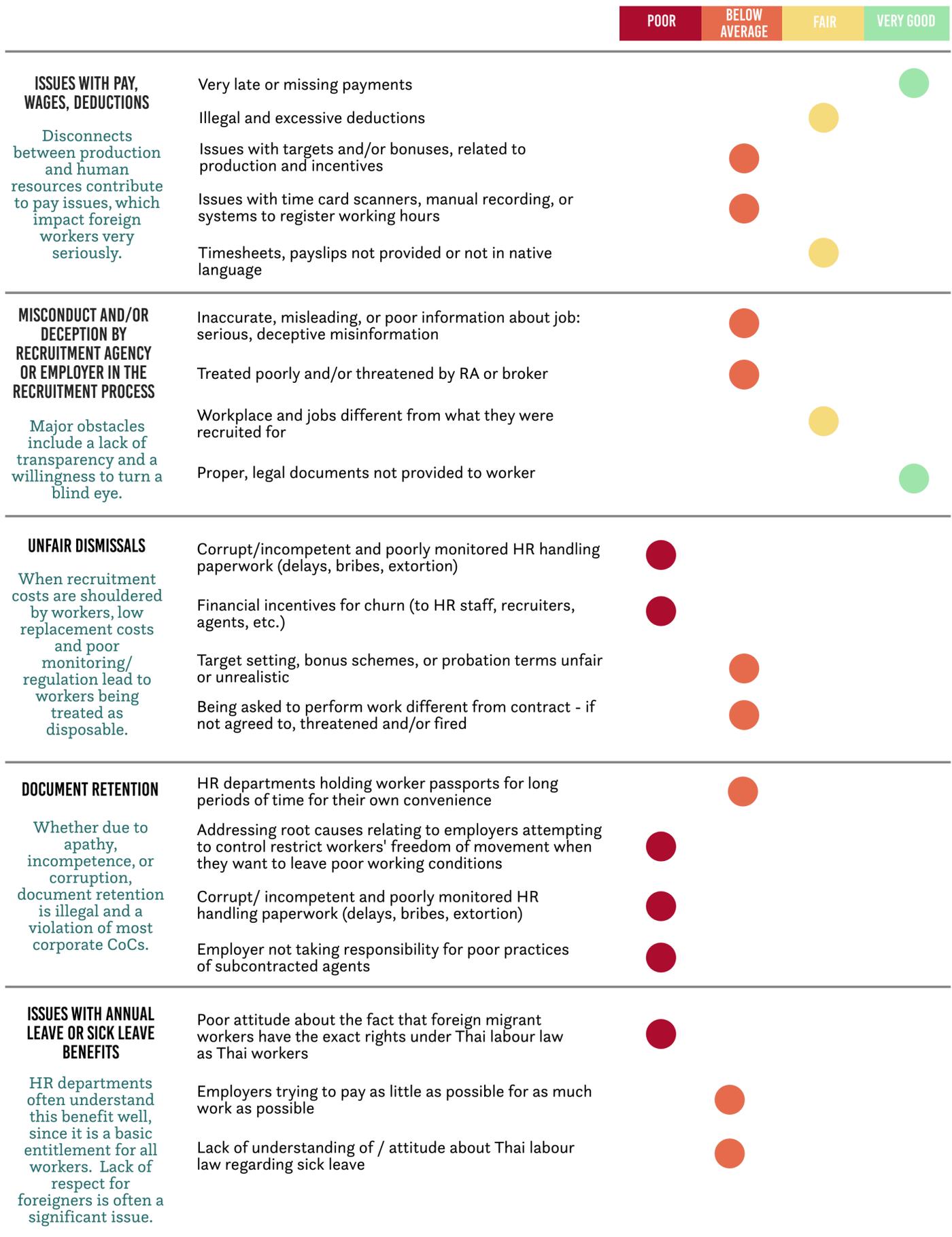


Figure 4. Business responses to the top five worker-reported labour issues pre-COVID (January 2019— March 2020).

BUSINESS RESPONSES TO THE TOP 5 WORKER –REPORTED LABOUR ABUSES APRIL—DECEMBER 2020 (POST-COVID)

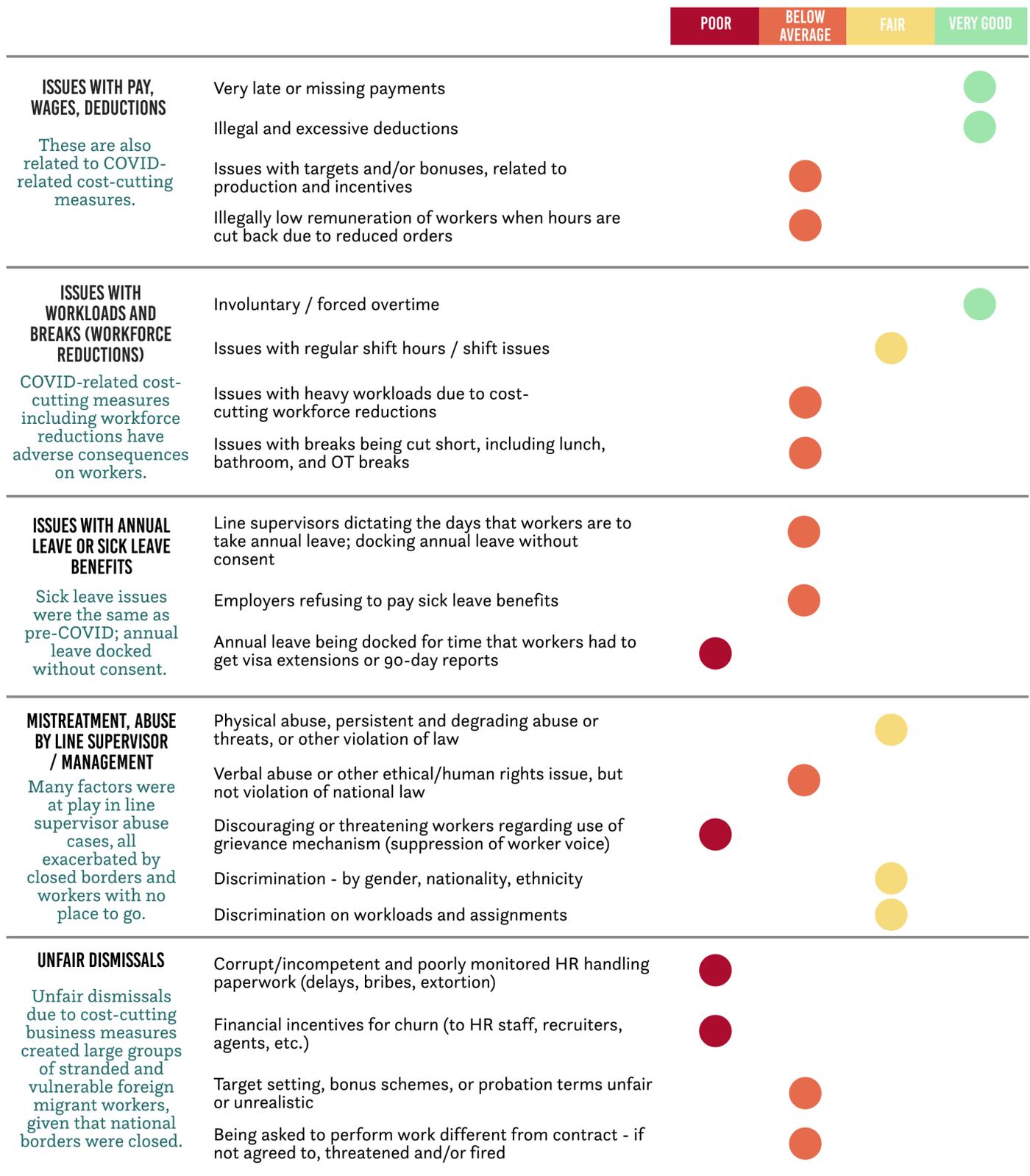


Figure 5. Business responses to the top five worker-reported labour issues post-COVID (April—December 2020).

ACTIONS & RECOMMENDATIONS

ACTIONS. Issara Institute uses these types of empirical analyses to steer our own approaches and strategies in an iterative manner. In 2020, Issara Institute undertook a review of the Issara Strategic Partners Program, which is how Issara engages with global brands and retailers to improve labour recruitment and workplace conditions within partner supply chains, through on-the-ground worker voice-driven remediation and systems

strengthening and technical support to suppliers and recruiters. The key findings from this report will be:

- Prioritized in our ongoing ethical supply chains programming and conversations with Issara Strategic Partners, and the suppliers and recruiters in their supply chains that Issara works with;
- integrated into ongoing multi-stakeholder dialogues with workers, job seekers, civil society organizations, the private sector (global brands and retailers, local industries, employers, and recruiters), government, and donors, to help influence and shift the ecosystem; and
- incorporated into our regularly evolving training materials and webinars, to help build capacity of Asia suppliers, recruiters, government, and civil society in a way that is current and empirically based.

In 2021, Issara is launching an update of the Issara Strategic Partners program, including a renewed focus on foundational work with global brand and retailer partners to ensure clear policies and procedures in place to best drive systems change across supply chains, and end labour exploitation. Issara Institute will be publicly sharing more aggregate analyses from this work in the coming years, including case studies, benchmarking, and lessons learned, to help strengthen the worker-informed empirical base for anti-trafficking and business and human rights advocacy and programming partners to engage with.

RECOMMENDATIONS. Labour rights practitioners and advocates, global brands and retailers, and donors are urged to:

1. **Integrate learning from worker voice into your programming and advocacy.** Recognize and understand more deeply the types and severity of labour violations continually recurring and being reported and verified by workers throughout global supply chains. Join or support worker efforts to getting these issues resolved. Notice what is being resolved at the root cause level, and what is not.
2. **Require / demand credible worker verification of labour risks and abuses, and how suppliers and recruiters respond.** Recognize that the wide array of due diligence efforts and audit-plus style tools are inadequately detecting and resolving labour risks and abuses because they are based on suppliers verifying issues and the quality of their own responses to those issues, without seeking verification from impacted workers. This distinction is important to understand, as there have been many documented cases where suppliers may have conducted management meetings, communication sessions, or trainings with workers and/or human resource teams, and reported the labour issues as acted upon and resolved to their customers—when in fact these actions may not have made any material improvement in working conditions. Worker voice and worker verification is critical for this reason—because whereas the great majority of audit-compliance mechanisms give suppliers the power and authority to confirm and provide proof that a labour issue has been resolved (if the audit was even able to detect it), worker voice provides insight into whether the actions and outcomes reported by the supplier actually occurred and resulted in positive change.

Global brands and retailers are additionally urged to:

1. **Clearly communicate and uphold their policies.** Clearly outline company positions to uphold international standards on illegal and excessive deductions, pay cuts, recruitment fees, and denial of benefits such as sick leave and annual leave. Global businesses should consistently stand behind their codes of conduct, including when they provide a higher rights threshold than national laws.
2. **Incentivize compliance and disincentivize non-compliance.** Inaction on the part of global brands and retailers, when confronted with worker-reported labour violations in the supply chain, is akin to endorsement of labour violations. If labour violations are reported but suppliers do not respond in an ethical manner in a reasonable amount of time, there should be appropriate consequences from the global brand/retailer, such as suspension of sourcing until compliance is achieved and verified by workers.
3. **Reward suppliers that adopt worker voice systems** compared to those that do not, and provide space to allow improvements with new worker-reported data. Remedial actions nonetheless must be timely, fair, and with a view to addressing root causes, which as the analysis above shows may require different interventions for different issues, especially when issues repeat or there is lack of willingness to change.