

Migrant workers' access to remedy

A briefing paper for business



Contents

Acknowledgements	3
Definitions	3
Introduction	4
Vulnerabilities faced by migrant workers	6
A snapshot of grievance mechanisms	9
Mauritius case study	12
Recommendations to businesses	16



Anti-Slavery International
Thomas Clarkson House
The Stableyard
Broomgrove Road
London SW9 9TL
antislavery.org

UK registered charity 1049160
Company limited by guarantee 3079904
Registered in England and Wales

Cover image photo by Josue Isai Ramos Figueroa on Unsplash

© Anti-Slavery International, December 2021

Acknowledgements

This briefing would not have been possible without the research undertaken to support it and the contributions of numerous individuals and organisations.

First and foremost, Anti-Slavery International would like to thank the migrant workers in Mauritius who shared their experiences of migrating to and working in Mauritius.

We would also like to thank the research teams – [C-lever.org](https://www.c-lever.org) and Global Rights Compliance LLP – for undertaking research in Mauritius and around the world.

Special thanks go to staff at the Migrant Resource Centre and Confédération des Travailleurs des Secteurs Publique et Privé (CTSP). Information they collected played a crucial role in determining the nature of labour abuses and risks of modern slavery that migrant workers are experiencing in Mauritius, as well the effectiveness of existing channels for reporting and seeking remedy for those abuses.

The support they offer migrant workers is invaluable.

Definitions

Country of destination	The country where a migrant works and resides, either temporarily or permanently, which is not their country of origin.
Country of origin	A migrant worker's home country.
Internal migrant	A person who migrates within the borders of their home country.
International migrant	A person who moves to another country for work, crossing an international border.
Migrant worker	A person who migrates to another part of their country or across international borders for work – this can be seasonal, circular, temporary or permanent.
Migration cycle	The process of migration from one country to another for work purposes. It includes multiple stages: recruitment, departure (in some cases transiting through another state), time spent working in the country of destination, return to their country of origin and their reintegration.
Undocumented worker	A person who works in a country of which they are not a national, without having the required employment visa.

Introduction

The United Nations Guiding Principles on Business and Human Rights (UNGPs) state that businesses and governments have a responsibility to respect, prevent and remedy human rights abuses that occur because of business activities.¹ Their three pillars provide guidelines as to how governments and businesses should put the framework into effect.

- The state duty to **protect** human rights.
- The corporate responsibility to **respect** human rights.
- Access to **remedy** for those affected by human rights abuses.

The UNGPs create a clear expectation that states and businesses have a collective responsibility to make sure workers have access to effective remedy in relation to human rights, including labour abuses. They affirm companies' responsibility to establish or participate in effective Operational-level Grievance Mechanisms (OGMs) administered either by themselves, in collaboration with others, or by a third-party.

Ten years since the UNGPs were launched, human rights abuses, including modern slavery, continue to occur as a result of business activities and government failures to put the UNGPs into effect. Efforts are now being undertaken to translate aspects of the UNGPs into binding laws at national, regional and international levels, including through European Union (EU) law and United Nations (UN) treaties.

Access to remedy is the most poorly implemented element of the UNGPs, sometimes described as 'the forgotten pillar'. It is notably absent for migrant workers. Factors that prevent migrant workers from obtaining effective remedy can be practical, institutional or both.

This briefing paper provides recommendations for businesses on how to improve access to remedy for migrant workers vulnerable to modern slavery in their supply chains.

As an integral part of their workforce, in operations and supply chains, companies should take steps to make sure migrant workers' rights are respected and upheld. This must include steps to improve access to effective remedy for migrant workers, including by understanding and addressing the underlying drivers of exploitation and barriers migrant workers face when seeking remedy.

Companies should take these steps to meet their responsibilities under the UNGPs, particularly in consideration of ongoing efforts for the introduction of mandatory human rights and environmental due diligence in many countries and at the EU-level.

¹ [ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf)

Workers should be able to access remedy through the courts (judicial remedy) and non-judicial mechanisms. This briefing focuses on non-state non-judicial remedies. This avenue is often a migrant worker's only line of recourse to labour abuses in contexts where state-based mechanisms do not effectively address their grievances. Non-judicial access to remedy should, however, never exclude the opportunity for migrant workers to be able to claim their rights through court processes. All governments are urged to improve access to judicial remedies for those affected by corporate human rights abuses and environmental harm.

This briefing, and recommendations, focuses on the experiences of international migrants, but its findings are also relevant for internal migrants. It has been informed by research undertaken for Anti-Slavery International, within the framework of the organisation's work in Mauritius. Since 2019, Anti-Slavery International has been working with the Mauritian Confederation of Public and Private Sector Workers (CTSP), IndustriALL Global Union, OKUP, ECFORME and the UK retailer ASOS on a project to improve effective access to remedy for migrant workers in Mauritius. This has included setting up and running a Migrant Resource Centre (MRC) to help migrant workers access remedy for grievances and reported labour rights abuses. Primary² and secondary data collection, including interviews with key stakeholders and migrant workers in Mauritius, is referenced throughout this briefing.

² C-Lever.org undertook two focus group discussions with migrant workers in Mauritius and 15 semi-structured interviews with stakeholders. Global Rights LLP undertook 36 semi-structured interviews with stakeholders from a range of businesses, trade associations, civil society organisations and trade unions.



Vulnerabilities faced by migrant workers

Migrant workers' skills and hard work positively benefit countries of destination from an economic^{3,4} and social perspective. Their work also benefits the economy of workers' country of origin, most notably through remittances.

Many things can drive workers to seek employment outside of their country of origin, including poverty, political turmoil, family reunification, climate change, cultural expectations and limited opportunities to find work at home. Workers also decide to migrate to improve their quality of life by seeking higher-paid employment opportunities. Some of the factors that drive migrant workers to seek work abroad can also make them vulnerable to exploitation.

Migrant workers can find themselves in various situations of vulnerability throughout the migration cycle. The numerous risks involved can lead to labour exploitation and, in the worst cases, modern slavery, including forced labour and human trafficking.

Recent studies⁵ indicate that a migrant worker's choice of country of destination is the key factor determining their vulnerability to trafficking, due to the strength or weakness of existing laws relating to migrant worker protections and their implementation in that country.

The sector in which they work also determines vulnerability. Migrant workers are disproportionately represented in 'low to semi-skilled' roles,⁶ particularly in temporary or seasonal jobs.⁷

Sectors such as domestic work (service and care), hospitality, construction and manufacturing, as well as certain agricultural (especially seasonal) and food processing sectors employ high numbers of migrant workers,⁸ particularly in roles deemed undesirable by the local workforce.

Migrant workers are often located in the lower tiers of global supply chains and, therefore, are more remote and/or hidden from end consumers. The risk of labour exploitation and modern slavery is particularly high in these sectors and supply chain tiers.

The legal, cultural and linguistic profiles of migrant workers often expose them to risks not generally experienced by native workers. For example, when their immigration status is dependent on a contract and work visa, it often generates an uneven power dynamic in which the employer holds more power than the migrant worker. A well-known – and extreme – example of this is the kafala sponsorship system in the Gulf states, which gives local employers almost full control over migrant workers' employment and immigration status. As a result of employer control, migrant workers are at increased risk of abuse, exploitation and modern slavery. This vulnerability can be heightened by their individual characteristics,

3 oecd-ilibrary.org/docserver/9789264288737-en.pdf?expires=1635517815&id=id&accname=guest&checksum=EFBFF15F1AF90EC1DC7053AFDED7E258

4 mckinsey.com/~/media/mckinsey/industries/public%20and%20social%20sector/our%20insights/global%20migrations%20impact%20and%20opportunity/mgi-people-on-the-move-full-report.pdf

5 doi.org/10.1007/s42001-020-00067-8

6 ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf, 63

7 ohchr.org/EN/NewsEvents/Pages/Migrantworkerstheirrighttohealthcare.aspx

8 Sally C. Moyce and Marc Schenker, 'Migrant Workers and Their Occupational Health and Safety', Annu. Rev. Public Health 2018, 39:351–65, p.352; European Union Agency for Fundamental Rights, Migrants, Minorities and Employment Exclusion and Discrimination in the 27 Member States of the European Union, update 2003-08.

such as literacy-levels, gender, caste and age, as well as by the nature of a worker's employment (undocumented, informal or temporary).

In particular, undocumented migrant workers' immigration status is frequently leveraged to exploit them and they live under the constant threat of being reported to authorities and deported.

When a migrant worker decides to migrate because of a lack of alternative options, and/or had to make a significant financial investment (as is often the case, for example due to recruitment fees and related loans),⁹ there is immense pressure to accept situations that leave them vulnerable to slavery and forced labour. If they took out a loan to facilitate their migration, they (and their families) are at risk of being forced into bonded labour to repay the money, meaning the option of returning home empty-handed can seem untenable.

There are many factors that can lead migrant workers into situations where they are vulnerable to labour exploitation, modern slavery, forced labour and human trafficking. These include:

- The absence of safe and legal migration routes.
- Recruitment fees.
- Misinformation and deception, including false promises about wages or employment conditions.
- Weak national legal protections/exclusion of migrant workers from those protections.
- Workers' dependence on employers because of their immigration status.
- Workers' limited understanding of their rights.
- Language barriers and low literacy skills.
- Confiscation of documents such as passports or employment contracts.
- Isolation (including through their job).
- Obstacles to collective bargaining, including being prevented from joining a trade union.

Disruptive world events can add to migrants' vulnerability by triggering or intensifying risks that already exist. During the Covid-19 pandemic, migrant workers were often expected to continue working without adequate protective equipment, in conditions where they couldn't practice social distancing, and without access to Covid-19 relief packages, health care or other social protections.

⁹ In certain regions, it is common for migrant workers to be asked to pay costs connected to their recruitment process. These costs are often higher than the actual employment costs and are presented with a false promise of easy repayments once in employment. In reality, recruitment costs lead migrant workers into situations of debt bondage, exposing them to vulnerability to exploitation and modern slavery from the very start of their migration journey.

The same factors that facilitate exploitation of migrant workers also act as barriers to remedy.

As previously outlined, migrants' legal status in the country of destination can see them stripped of considerable agency in the face of labour rights abuses. **In countries where domestic labour laws and state grievance mechanisms exclude them, migrant workers may only have recourse to non-state grievance mechanisms.**

However, non-state mechanisms are often limited in their ability to be effective for migrant workers. For example, due to exclusion from trade union activities based on immigration status, caste, age, gender or employment sector. This means remedy can be out of reach altogether.

Immigration status can especially impede effective access to remedy. Reporting a grievance can make migrants vulnerable to reprisals from employers, including termination of contract, potentially making them both undocumented workers and destitute. Such situations can deteriorate into broader human rights abuses, such as physical and sexual violence.

This is particularly the case when a migrant's impoverishment and undocumented status reduces their capacity to seek remedy or return home. For those suffering multiple layers of discrimination in a country of destination, such as women and girls, the risk of exploitation and abuse is severe. This highlights the imperative for grievance mechanisms to ensure accessibility for both documented and undocumented migrants.



Photo by Arnie Spratt on Unsplash

A snapshot of non-state grievance mechanisms

Stakeholders from companies, trade unions, civil society and groups of workers can be involved in the design, governance and enforcement of non-state grievance mechanisms.

Generally, the effectiveness of each mechanism is determined by whether workers themselves, including migrant workers, have agency in the entire grievance and remediation process – from design to oversight.

An overview of principal grievance mechanisms, and their effectiveness for migrant workers, follows.

Company-led operational grievance mechanisms

This is the most common non-state grievance mechanism available to workers globally, including migrant workers. However, they tend to perpetuate an existing imbalance of power between employer and worker, as workers tend to be treated as a subject, rather than equal participant, in the process. Although well-designed company led OGMs can sometimes be effective, overall they lack the oversight, independence and accountability needed to secure workers' trust and guarantee effective remedy resolutions.

Research for this briefing confirms that where OGMs are not effective at the first tier of a company's supply chain, later tiers usually suffer a severe lack of oversight. Notably, co-design of OGMs with workers rarely, if ever, happens. Although some companies do currently include a form of consultation with workers in designing OGMs, migrants often feel like they have little genuine influence.

Industry-led grievance mechanisms

These have been developed by groups of companies to improve remedy in their members' supply chains. In some contexts, such as China, industry-led approaches can leverage market power to try to ensure workers' rights are respected where civil society and trade union action is constrained. However, unfortunately, most industry-led mechanisms lack any real engagement or dialogue with beneficiaries.

In addition, they often fail to address the root causes of grievances, including business models and purchasing policies that drive poor labour practices among suppliers. This can mean power imbalances between workers and employers are not addressed and, without independent third-party oversight, those imbalances can be transferred into voluntary-based industry initiatives. As such, the impact of industry-led mechanisms to date has been found to be 'mixed'.

Grievance mechanisms through agreements with trade unions

Global framework agreements (GFAs) are non-binding agreements between global trade unions and companies. Grievance mechanisms embedded in GFAs can provide migrant workers with a more equitable grievance process by offering more external oversight, as well as engagement and dialogue, over dispute resolution. Working with trade unions helps to guarantee labour rights, including the right to freedom of association, which is often limited for migrants.

When GFAs ensure that grievance mechanisms are co-designed, they also have a greater ability to ensure that workers are placed at the centre of the process, making company strategy meaningful and capable of building capacity long-term through continuous learning.

Brand accountability and mechanism legitimacy are further enhanced by the third-party scrutiny offered by a union. This can enhance transparency and predictability where an effort is made to offer complainants assistance, explain the grievance process step-by-step and keep workers updated about their case.

However, the effectiveness of trade unions can be undermined if they fail to benefit certain classes of worker, including migrants, for example due to exclusion based on immigration status, caste, age (in situations of child labour, for example), gender or employment sector.

Further, although GFAs, when they can be fully implemented, clearly offer a best practice model, their ability to achieve that in practice, remains largely dependent on the leverage of the union in question and the exact arrangements put in place by a GFA. In practice, the success of any GFA remains contingent on a company's willingness to engage with it and uphold workers' rights to unionise.

Worker-driven grievance mechanisms/monitoring

These involve legally binding and enforceable agreements between worker groups/trade unions and brands. They help workers to safeguard their own interests, particularly when trade union involvement has not been possible. For example, some countries prohibit trade union activities, others restrict their operations and, in other cases as described above, trade unions themselves can struggle to accommodate the needs of certain workers for practical or political reasons. These scenarios are often experienced by migrant workers, particularly undocumented workers.

Worker-driven models have been particularly effective in overcoming such obstacles and protecting migrant workers' rights. They are generally worker-centred, transparent and can help to win workers' trust. To date, they have been used in the US fruit and dairy sectors, and garment manufacturers in countries such as Lesotho and Bangladesh¹⁰. There are cases too where workers in the construction, poultry and entertainment sectors are seeking to establish similar structures. More research and piloting are needed to explore at what scale these mechanisms can be expanded and how to transfer them to other sectors, especially beyond consumer goods.

¹⁰ [wsr-network.org/success-stories/](https://www.wsr-network.org/success-stories/)

Civil-society-led/supported grievance mechanisms

There is considerable trust and legitimacy among migrant workers for this mechanism, as they can offer a higher degree of accountability when civil society organisations (CSOs) play an independent oversight role over the grievance process. They can also support holistic sector-wide solutions. However, the success of this approach relies on the presence, capacity and leverage of independent third-party CSOs in the relevant context. In some jurisdictions, the ability of CSOs to hold businesses to account is highly restricted.

Here, again, the effectiveness of CSO-led schemes can be contingent on a company's willingness to engage with an effective remedy process. These contingencies can limit the predictability of employer responses and rights-compliant outcomes. While CSOs have proved to be a vital lifeline for thousands of migrant workers, who might otherwise have been left without redress, they cannot substitute worker/trade union-led models for legitimacy and expertise.

Overall, any grievance mechanism must be capable of addressing the power imbalance between a migrant worker and their employer. This has not been achieved by the most common OGM approach. Companies should take credible steps to engage with migrant workers and trade unions on access to remedy. This requires a shift away from a corporate-led approach, and instead a scale-up of approaches where workers, including migrant workers, or their credible representatives are engaged and have agency in the grievance mechanism process – from design to oversight.

Mauritius is an excellent example of how a non-state-based grievance mechanism that enables migrant workers to access effective remedy can be set up. A case study outlining the approach, as well as its effectiveness and challenges, follows.





Mauritius case study

This case study has been informed by primary research undertaken between December 2020 and January 2021 by [C-Lever.org](https://www.c-lever.org/).¹¹

It is estimated more than 50,000 migrant workers work in Mauritius.¹² Most come from Bangladesh, India and Madagascar, smaller numbers from Nepal and Sri Lanka. Labour exploitation and the risk of modern slavery are serious problems in Mauritius, despite there being state protections in place to ensure the protection of migrants' rights and to safeguard conditions of decent work. This is especially so in the construction, seafood, textile and garment industries, which are heavily reliant on migrant workers. Mauritius offers an excellent example of the need for a non-state grievance mechanism for migrant workers to access effective remedy.

Vulnerabilities

Workers migrating to Mauritius typically gain employment through remote recruitment processes. They are not always fully aware of, or given accurate information about, their employment conditions and rights, or how to access those rights in Mauritius if they are withheld.

Most migrant workers arrive in Mauritius through regular channels. However, many of them end up facing work and residency visa issues as a result of employers' malpractices, which can lead to migrant workers' undocumented status and put them in situations of greater vulnerability to modern slavery. These malpractices include employers retaining migrant workers' identification documents, and not providing information (or giving false information) about the visa renewal process. There is no official figure for the number of undocumented migrants in Mauritius, however key stakeholders have described the issue as being common. Undocumented employment is therefore a critical issue in the country.

¹¹ The case study included two focus group discussions with migrant workers in Mauritius (one group of Bangladeshi and one group of Indian workers) and 15 semi-structured interviews with stakeholders (officials, civil society, international community). It has also been informed by records and information from the Migrant Resource Centre.

¹² industrial-union.org/migrant-resource-centre-protects-migrant-workers-in-mauritius-against-exploitation

State-based remedies

Migrant workers in Mauritius can access remedy through the Special Migrant Workers Unit (SMWU), which sits under the Ministry of Labour, Industrial Relations, Employment and Training. Some migrant workers say the SMWU is effective, but many report that it has not resolved their grievances. Criticisms include: accessing remedy is slow and difficult, bias towards employers and a lack of commitment to ending grievances – a perception that undermines workers' trust in the SMWU.

Many migrant workers struggle to access remedy because they do not know how and where to get help. Even when workers are aware of how to access remedy, they can be deterred from seeking support due to:

- Lack of trust in state led remedy mechanisms.
- Language barriers.
- Personal situations that leave them feeling vulnerable.
- Limited access to written documents or poor awareness of their significance.
- Lack of protections for migrant worker leaders and delegates, and fear of reprisals by employers for raising grievances.
- Immigration status.

All stakeholders interviewed for this briefing agreed that disputes between migrant workers and their employers rarely reach formal resolution. This can be because of the associated expense of pursuing state-based remedies, limited funds (including legal aid), and the slowness and complexity of judicial processes compared to migrant workers' urgent needs. To make sure that remedy is accessible and effective, grievances must be addressed in a timely manner.

Migrant Resource Centre

The Migrant Resource Centre (MRC) in Mauritius was launched in late 2019. It was built as part of a collaboration between Anti-Slavery International and a Mauritian trade union, Confédération des Travailleurs des Secteurs Publique et Privé (CTSP), and supported by ASOS and IndustriALL Global Union. The MRC is located at CTSP's office.

The MRC supports migrant workers, individually and collectively, by:

- Providing information and advice.
- Facilitating access to remedy for labour grievances.
- Providing a safe space for migrant workers to interact freely and openly with one another.

Where possible, the MRC offers support to migrant workers in Creole, English, French, Bangla and Hindi. Migrant workers can contact the MRC through a dedicated hotline or walk-in visits during opening hours. MRC staff are also available to meet migrant workers at their dormitories, but this requires the employers' permission.

Violations of migrant workers' rights are common in Mauritius and some workers experience issues that are indicative of modern slavery. When workers challenge these conditions, some employers terminate or threaten to terminate their contracts and report them to the Ministry of Labour in order to force them out of the country. Those suffering abuse, exploitation or slavery-like practices put themselves at risk of deportation if they leave their employer and do not notify the Ministry of Labour as, by doing so, they become undocumented, lose all legal protections and are considered 'missing' by the authorities. Moreover, the Covid-19 pandemic increased: restrictions on migrant workers' freedom of movement, isolation, non-payment of salaries and other employment dues, deportations and unilateral contract terminations.

To achieve effective case resolution, the MRC works to generate better relations between employers and trade unions. However, cases are referred to the Mauritian government when collaboration with employers is weak. The MRC's efforts to date have secured the payment of unpaid remuneration, facilitated improved living conditions and the purchase of return flights from formerly uncooperative employers. They have also provided direct practical assistance (food and essential goods) and relocation support. Although only some migrants have opted to provide feedback on the grievance support received by the MRC, those who did noted 100% satisfaction and said they would likely recommend the service to a friend.

The nature of grievances reported to the MRC

In Mauritius, the most common grievance reported by migrant workers is:

- Payment abuse, including non-payment of wages and other employment related dues.

This is followed by:

- Contractual issues, including early termination and repatriation issues.
- Poor living conditions in factory-owned accommodation, commonly reported as cramped, unsanitary and unhygienic.
- Insufficient food.

Some migrant workers also report issues that are indicators of forced labour, including:

- Confiscation and retention of documents, including passports and employment contracts.
- Deception about employment conditions.
- Threats and intimidation.
- Charging of recruitment fees, averaging around three to six months' pay, and debt bondage.
- Restrictions on their freedom of movement.



After the Bangladeshi [workers] contacted the MRC, we saw the positive outcome they had, and then we were brave enough to handle the problem and contacted the MRC [too].

Participant, FGD with Indian workers



Advantages of a trade-union based grievance mechanism/ multi-stakeholder approach

The creation of the MRC in Mauritius marked the first time a brand, an NGO and a trade union had worked together to support and enhance the rights and protections of migrant workers by providing effective remedy through a trade union-based mechanism. The MRC is one of the only mechanisms in Mauritius with the leverage, capacity and will to challenge the current power imbalance between migrant workers and their employers.

The MRC demonstrates a meaningful non-state approach for providing effective and accessible remedy to migrant workers. Despite its short operating period (launched in late 2019, with partial operations at times due to the Covid-19 pandemic), early outcomes show the relevance and importance for migrant worker protection in Mauritius.

For the MRC to be as effective and accessible as possible, existing barriers to its operation must be addressed. However, key stakeholders in Mauritius lack consensus on the reality of migrant worker conditions that heighten the risk of abuse, exploitation and slavery-like practices. This creates a challenge for agreement on key priorities. Therefore, data and information gathered by the MRC is of primary importance as it can inform stakeholders about the conditions and risks faced by migrant workers. It highlights the key role the MRC has to play in reducing the risk of exploitation and forced labour among migrant workers, and helping to coordinate actors involved in labour migration management in Mauritius.

Industrial relations and work promoting migrant worker protections to reduce the risk of exploitive working conditions and modern slavery in Mauritius is at its infancy. For the MRC – a trade union-based mechanism – to operate effectively, industrial relations in Mauritius must be improved, which would benefit both employers and trade unions by facilitating the development of direct relations and negotiations between them in the long term. Such bilateral communication on grievance cases would allow the MRC to resolve issues and provide effective remedy for migrant workers more quickly.

International companies sourcing from Mauritius have an important role to play by using their leverage with suppliers to strengthen respect of migrant workers' rights and access to remedy. International companies can and should, work with their suppliers to promote freedom of association and workers' access to the MRC. All companies operating in or sourcing from Mauritius should be taking these steps to meet their responsibilities under the UNGPs, and emerging mandatory human rights and environment due diligence laws.

“

My employer has my passport, my visa and my contract. When I go to the bank to transfer money to my family, my boss lends me my passport. I return it afterwards. I would rather keep it, but he refuses.

**Participant, FGD with
Bangladeshi workers**

”

Recommendations to businesses

Non-state grievance mechanisms must be capable of addressing the power imbalance that typically exists between a migrant worker and their employer.

As an overarching principle, Anti-Slavery International believes there is a need to move away from corporate-led approaches to OGMs and, instead, to strengthen work to support worker, trade union or (where not impeding the role of proper industrial relations) CSO-led approaches to OGMs and other non-state mechanisms.

Crucially, no grievance mechanism should inhibit access to judicial or other non-judicial mechanisms or collective bargaining, nor undermine state responsibilities to migrant workers in their territory.

Accordingly, drawing on Anti-Slavery International's work in Mauritius and the research behind this briefing, the following recommendations are put forward to businesses:

- 1. Access to remedy, including for migrant workers, should be approached as a priority as part of responsible business conduct.** Ensuring access to remedy is not a matter of 'best practice', but a basic principle in respect of labour and human rights, and the prevention of modern slavery. Accordingly, businesses should approach access to remedy pre-competitively, working together with other companies and stakeholders.
- 2. Businesses should actively promote and enable freedom of association across the supply chain.** This includes using GFAs with joint commitments to promote the establishment of democratic trade unions throughout the company's supply chain. Businesses should seek to understand any barriers facing migrant workers to join unions and take this into account when considering paths to ensure migrant workers' access to remedy.
- 3. As a priority, in considering grievance mechanism approaches, businesses should explore and support all possibilities for legally binding and enforceable worker-driven social responsibility agreements** that are inclusive of migrant workers and guarantee the effective and meaningful provision of remedy without fear of reprisal.
- 4. Businesses should make sure that grievance mechanisms are available below tier one of supply chains.** This is where migrant workers are often most vulnerable to exploitation, and where remedy routes are generally extremely limited. This will require companies to map their supply chains and prioritise working with suppliers when there is a high risk of exploitation and limited routes to remedy.
- 5. In any non-state grievance mechanism approach, migrant worker representatives must be part of the co-design and implementation.** Specific issues should be considered, including:
 - Both documented and undocumented migrant workers have access to remedy.
 - The risk of reprisals to migrant workers raising grievances in countries with a hostile environment for migrants is taken into account. Businesses should consult with experts on migrant rights in relation to each context to understand the appropriate response to such risks.

- An independent third party trusted by migrant workers oversees the grievance mechanism, to ensure that migrant workers can access independent advice and expertise as part of the process, enjoy equitable standing with their employer, and make sure there is third party monitoring on the realisation of the remedy.
- The grievance mechanism is fully accessible to all migrant workers. Considering issues such as the languages the mechanism is available in and means of access – for example, if platforms/applications are equally accessible to all migrant workers, including those of different genders, age etc.
- Local stakeholders claiming to represent migrant workers do so credibly and efficiently. This should involve undertaking consultations to identify democratically representative groups, and conversely, how to mitigate the risks of vested interests.
- Remedy can be provided quickly. Speed is key to enabling the adequate resolution of migrant worker grievances, given their high level of dependence on their employer and general lack of support networks or protections outside of employment. Slow remedial processes can force migrants to decide between enduring abuse, behaving unlawfully or returning home worse off than when they left. This is a particular risk where abusive employers can leverage immigration vulnerability to avoid accountability.
- Non-judicial mechanisms should offer redress that is both fast and available from outside the country where the harm took place. The multiple barriers faced by migrants to accessing remedy means that many only feel able to do so upon or after departure from their country of destination.

6. To ensure the effectiveness of remedy for migrant workers, the following must be considered:

- Making relatively simple solutions available. For most migrant workers, the urgency of their situation and need for relief means remedy like repayment of wages or the restoration of a job are generally preferred to more formal or legalistic remedy, such as damages payments.
- Including support for maintaining or applying for appropriate residence and work authorisation, where necessary, in any remedy approach offered to migrant workers.
- Even when some form of remedy is provided, enabling migrant workers to escalate their grievance through state-based/judicial grievance mechanisms. Migrant workers should be provided with information and support to do so.
- Ensuring that remedy benefits not just the individual grievance holder but migrant workers more broadly. Businesses should undertake relevant structural changes to address the root causes of grievances and prevent future repetition. The Employer Pays Principle (EPP)¹³ is one notable example of a systemic change designed to directly remedy a key migrant worker grievance.

13 ihrb.org/employerpays/the-employer-pays-principle

- 7. Cross-industry and cross-sector grievance mechanism approaches can be considered where these are meaningful.** This can avoid duplication of approaches but, as above, they must be co-designed with workers, including migrant workers, and be overseen by an independent and trusted third-party.
- 8. Grievance mechanisms should be accompanied by intensive multilingual rights education and awareness-raising campaigns for migrant workers, which are led by trusted groups** (trade unions, migrant representative groups). These should take place in both migrant workers' country of origin and country of destination.
- 9. Businesses should actively support and incentivise suppliers to prevent and remediate harm.** For example, by adjusting purchasing practices, ensuring that the supplier has enough financial capacity to adequately resource an HR team to manage recruitment risks, and including provisions to end contracts when corrective actions have failed to be introduced.
- 10. Businesses should exert leverage, ideally in collaboration with peers and suppliers, to:**
 - Call upon governments to strengthen domestic labour protections and enforcement, for migrant as well as native workers, to ensure separation of powers between labour law enforcement and immigration enforcement, and support meaningful grievance mechanism models with worker participation.
 - Denounce reprisals against trade unions and migrant worker representatives, and restrictions on collective bargaining.



antislavery.org



Anti-Slavery International
Thomas Clarkson House
The Stableyard
Broomgrove Road
London SW9 9TL
United Kingdom

tel: +44 (0)20 7501 8920

email: supporter@antislavery.org

website: www.antislavery.org

UK Registered Charity 1049160

Company limited by guarantee 3079904

Registered in England and Wales