

# Access to Remedy

A migrant worker's right



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## Why are migrant workers so vulnerable

Many workers around the world are vulnerable to being exploited in the workplace.

They are vulnerable for different reasons and in different ways. These Principles are applicable to any vulnerable workers, but they are aimed specifically at the case of migrant workers, who often face particular vulnerabilities in the workplace.

Many are in debt bondage due to high recruitment fees paid to secure their jobs; they may have had their passports or identity documents confiscated; they may be unable to resign from their work without penalty or payment; and they often have a heightened vulnerability to more general forms of exploitation (such as long working hours, poor health and safety or low pay).

## Appropriate grievance mechanisms

Issues can arise in any workplace. Workers need the ability to confidently raise a grievance where an issue has occurred, without fear of suffering any negative consequences.

To accomplish this, companies should 'establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted' (UN Guiding Principles on Business and Human Rights, Principle 29). Operational-level grievance mechanisms (OGMs) can take many forms – but they need to be carefully designed and implemented if they are to be effective for migrant workers. Migrant workers often do not raise grievances at work, whether because they do not speak the local language, do not know their rights, or are too fearful of losing their job or being repatriated.



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## Why are these principles important

These Principles were developed in consultation with business, NGOs, trade unions and others. They set out how businesses and other stakeholders can, collaboratively, establish OGMs that provide meaningful access to remedy for migrant workers.

The Principles are not just a reiteration of workers' rights. They are an explicit acknowledgement that recognising rights is not enough – businesses and other stakeholders must actively work to enable workers in their operations and supply chains to meaningfully access those rights.

The Principles are particularly aimed at retail businesses, but they are also relevant for supplier businesses, governments, NGOs, trade unions and multi-stakeholder initiatives.

We hope the Principles help in that work and we encourage all interested stakeholders to support them.

# Principles

# Foundation Principles



# 1

All **[migrant]** workers have rights at work.<sup>1</sup>

# 3

All workers should be supported and encouraged to **raise grievances**. Special consideration should be given to intersectional vulnerabilities, such as women migrant workers who have enhanced vulnerability to sexual abuse and can be subject to gender-based discrimination which may discourage them from raising a grievance.

# 5

**Grievance policies and mechanisms** should be in place in every workplace.

# 2

**Vulnerable workers (including migrants)** should be protected from abuse or exploitation regardless of their contract or immigration status.

# 4

Workers whose rights have been violated should receive **appropriate remedy**.

# 6

The **resolution** of individual and collective grievances and the provision of remedy are best when timely and direct between workers and their employers.

# Principles

# Company Roles and Responsibilities



## 7

Companies should take action to prevent violations of workers' rights (such as restricting freedom of movement through the retention of passports).

## 9

Employers should have transparent employment policies and procedures that enshrine basic rights for workers. All workers should be trained to understand their rights.

## 11

Business customers (buyers) should ensure that their suppliers have robust grievance and remedy policies and mechanisms in place, in line with international best practice. Buyers should avoid imposing their own grievance mechanisms to avoid confusion and duplication.

## 14

Company grievance management systems should be developed in consultation with workers, where possible through dialogue with trade union representatives.

## 8

Safeguarding of workers who are victims of rights violations should be the first consideration in any remediation process. Safeguarding of women who have suffered sexual harassment and abuse in the workplace, often by their superiors, requires particular attention in order to protect them from potential reprisals.

## 10

Employment policies and procedures should include robust grievance and remedy mechanisms. These should be communicated to all workers in a language they understand and in a medium they can access.

## 12

Mediation between democratically elected workers' representatives (ideally trade unions) and employers is the most effective way to resolve grievances. If that is not feasible, support from authorities, multi-stakeholder or other trusted organisations should be sought.

## 15

Companies should encourage workers to report issues and protect workers from suffering negative consequences as a result of raising a grievance or whistleblowing.

## 13

Company grievance management systems should complement, not replace or undermine, state responsibilities.

## 16

Companies and workers should seek mutually trusted independent third parties to help resolve grievances and agree acceptable remediation, where direct negotiation between trade unions and employers is not feasible.

# Government Roles and Responsibilities



## 17

Governments have a responsibility to **enact labour laws and ensure appropriate regulations exist**, in line with international standards.

## 19

Governments should **enforce appropriate penalties** against companies that break the law.

## 21a

Every government that sends or hosts migrant workers should establish a **bilateral Memorandum of Understanding (MOU)** between the relevant sending and host country that includes the protection of the rights of migrant workers and prevents debt bondage through the payment of recruitment fees by migrants.

## 18

Governments have a responsibility to **monitor business compliance** with labour laws that protect the rights of workers.

## 20

Governments should **encourage businesses to have functioning grievance management systems** that are effective, accessible and transparent.

## 21b

Bilateral MOUs between migrant host and sending countries should be **communicated to employers and workers**. Governments should be held accountable for implementing and monitoring these agreements.

# Principles

# Workers' Rights and Responsibilities



## 22

All workers have the right to organise and be represented collectively by independent democratically elected trade unions or workers' organisations to raise grievances in negotiations with their employer.

## 24

Workers should be consulted (ideally through trade union representatives) on the design and ongoing monitoring of grievance systems.

## 25

Affected workers should be consulted on the effectiveness and suitability of remediation outcomes.

## 23

Workers should be informed about their rights and options for raising a grievance and accessing remedy, communicated in a language they understand and in a medium they can access.



## 26

All workers should be encouraged to raise their concerns at work and should be protected from any negative consequences when they raise grievances or whistle' blow.

# Principles

## Third Parties



### 27

Companies and workers should seek mutually trusted independent third parties to help resolve grievances and agree acceptable remediation, where direct negotiation between trade unions and employers is not feasible.

### 28

Third parties can increase trust between stakeholders by playing an impartial role in facilitating negotiation between key parties, while respecting confidentiality, to achieve mutually satisfactory outcomes.



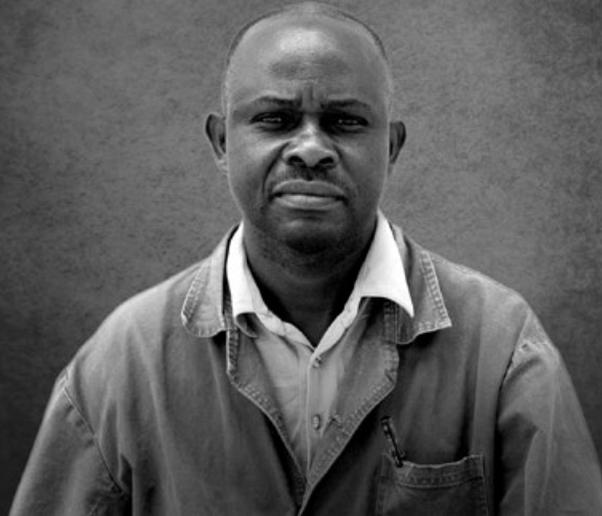
### 29

Multi-stakeholder engagement can improve the efficiency and effectiveness of remedy systems. By facilitating collaboration it can increase trust.

### 30

Third parties processing grievances should be trained in how to sensitively and appropriately handle complaints of sexual harassment and abuse.





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