

A Case Study in the Mauritian Garment Industry: the Promise and Challenge of Securing Effective Remedy

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Introduction

This article provides a summary of a report issued by Transparentem in December 2023 entitled “‘I Came Here with So Many Dreams’: Labor Rights Abuses and the Need for Change in Mauritius’ Apparel Factories.”¹ Transparentem is a U.S.-based, non-governmental organization whose mission is to transform industries by allying with workers and communities to uncover abuses in global supply chains and drive labor and environmental justice. Transparentem investigates labor and environmental abuses, engages with downstream companies to secure remediation and stronger due diligence systems, and then publishes the results. Transparentem also engages governments to support accountability and sustainability of solutions.

Transparentem undertook an investigation in apparel factories in Mauritius in 2022 after noting numerous reports of exploitation of migrant workers in Mauritius’ manufacturing sector. Local media have reported that migrant workers faced abusive living and working conditions.² A 2019 report of the UN Economic, Social and Cultural Rights Committee expressed concern about forced labor and other labor abuses against migrant workers.³ Manufacturing workers in Mauritius come from Bangladesh and other Asian countries where payment of recruitment fees

¹ Transparentem, “‘I Came Here with So Many Dreams’: Labor Rights Abuses and the Need for Change in Mauritius’ Apparel Factories”, December 2023, https://transparentem.org/wp-content/uploads/2024/01/I-Came-Here-with-So-Many-Dreams_Transparentem-1.pdf.

² Nasseem Ackbarally, “Migrant Labour Fuels Tensions in Mauritius”, *Inter Press Service New Agency*, August 29, 2016, <http://www.ipsnews.net/2016/08/migrant-labour-fuels-tensions-in-mauritius/>; Estelle Bastien, “Trafic humain dans des usines: cas «flagrants» d’exploitation de travailleurs étrangers”, *L’Express*, November 8, 2015, <https://www.lexpress.mu/article/271311/trafic-humain-dans-usines-cas-flagrants-dexploitation-travailleurs-etrangers>; “Maltraitance: Des Bangladais victims de trafic humain”, *Le Mauricien*, February 3, 2019, https://www.lemauricien.com/article/travailleurs-etrangers-maltraitance-des-bangladais-victimes-de-traffic-humain/?fbclid=IwAR0yDAoH-Opw3VbJgAmDZIM1XzW74Se15MhAoEp-m6aid_hj6c22tNrc2IA; “Trafficked to Mauritius, raped: Migrant worker files case against Indian national, 7 Bangladeshis”, *The Daily Star*, July 11, 2021, <https://www.thedailystar.net/news/bangladesh/crime-justice/news/trafficked-mauritius-raped-migrant-worker-files-case-against-indian-national-7-bangladeshis-2126896>.

³ United Nations Committee on Economic, Social and Cultural Rights, “Concluding observations on the fifth periodic report of Mauritius”, April 2019, <https://www.ohchr.org/en/documents/concluding-observations/ec12musco5-committee-economic-social-and-cultural-rights>.

by migrant workers is common – a vulnerability that Transparentem also uncovered in three prior investigations in Malaysia’s apparel sector.⁴

In November 2022, after completing its investigation, Transparentem began engaging with eighteen companies that had purchased products from Mauritian apparel supply groups, in order to address evidence of indicators of forced labor and other labor abuses that were uncovered in our investigation. By December 2023, three of those buyers committed to repaying more than US\$420,000, which represented a portion of the recruitment fees that workers from Bangladesh said they had paid for access to jobs in one of those factories. Fifteen companies, however, have thus far failed to make and implement a similar commitment. Several of those companies pointed to audits that they said failed to uncover significant worker-paid recruitment fees. In this article, we focused on remedy for such fees, which are a major driver of forced labor.

After companies had more than a year to respond to Transparentem’s findings, we published a detailed report of our investigation along with information about buyers’ and their Mauritian suppliers’ responsive actions, or lack thereof. This article first highlights fundamental challenges and promising signs arising from this case example before describing in more detail the findings, the responses of buyers and suppliers when confronted with these findings, and the response of the Mauritian government.

This article does not discuss in detail more formal accountability mechanisms that are or should be available to support effective remedy. Instead, the article is focused on the results of corporate engagement for voluntary provision of remedy. Some may see the limited positive outcome in this case study as an indictment of voluntary steps by the private sector. The writers urge a more nuanced view that allows space for voluntary progress resulting from public exposure and positive social pressure. Holding this space does not require eschewing the need for accountability mechanisms that have the merit of enforcing greater and more widespread compliance while also bearing the cumbersome and costly hallmarks of government process. Indeed, Transparentem is currently bringing its findings to regulators (and others including investors) who can impose greater accountability on the subset of companies that largely failed to take responsive action.

Fundamental challenges and promising signs

The case study highlights three fundamental and interrelated challenges to implementing access to remedy in the globalized apparel sector, in which both workers and goods cross international borders in service of the industry’s drive to increase speed and reduce production costs:

- **Ineffective exercise of migrant workers’ freedom of association.** Without effective representation of migrant workers by a union or other independent worker association, the reality of unfair recruitment practices remained virtually invisible to downstream companies that otherwise might have been more inclined to participate in remediation. During Transparentem’s investigation, workers

⁴ Transparentem, “*Malaysia*,” accessed 4 March 2024, <https://transparentem.org/malaysia/>.

reported intimidation and threats and had little recourse to trusted entities that could represent their interests.

- **The limits of social audits when workers are disempowered.** In Mauritius, buyers and suppliers pointed to the lack of specific information about significant recruitment costs – whether from audits or otherwise – as justification for not repaying workers their estimated recruitment costs. In a context that revealed workers were not consistently treated with dignity – apparent from the condition of dormitories, food and other more visible living and working conditions – there is little reasonable basis for relying on audits to reveal more hidden problems like recruitment fees. Effective social audits fundamentally depend on workers feeling safe and secure in telling the truth – rather than being subject to intimidation and threats. It is sobering that fully two-thirds of all the worksites globally where Transparentem has documented labor abuses within the past decade had been previously certified by an organization that purported to address such issues.⁵
- **Employers’ outsourcing of foreign worker recruitment obscures worker-paid recruitment fees that violate employers’ policies.** The adoption of policies prohibiting the payment of recruitment fees by workers was insufficient to prevent such fees. While Mauritian employers and their buyers had such policies in place, there was no system sufficient to prevent foreign recruiters from charging workers while also “double-dipping” by charging employers. Taking recruitment functions fully in-house may be necessary in the absence of sufficient government oversight of and accountability for overseas recruitment processes. Otherwise, disempowered workers themselves ironically have become subject to pressure to show that employers are complying with buyers’ expectations. Mauritian employers ask their workers to sign documents attesting that they have not paid recruitment fees, and in one especially egregious case workers were told that if they had paid recruitment fees they could face termination of employment – an incentive to hide their own exploitation.

Transparentem’s Mauritius investigation and private sector engagement followed on seven years of engagement and three investigations in Malaysia highlighting unethical recruitment of migrant workers in apparel manufacturing. The 2018 investigation resulted in an industry pledge, the AAFA/FLA Apparel & Footwear Industry Commitment to Responsible Recruitment that today has almost 100 signatories.⁶ Companies signing the pledge commit to working with their supply chain partners “to create conditions so that no workers pay for their jobs [and] workers receive a timely refund of fees and costs paid to obtain or maintain their

⁵ Documents on file with Transparentem, March 2024.

⁶ America Apparel & Footwear Association, “AAFA/FLA Apparel & Footwear Industry Commitment to Responsible Recruitment”, https://www.aafaglobal.org/AAFA/Solutions_Pages/Commitment_to_Responsible_Recruitment.

jobs.”⁷ Suppliers and buyers must address the fundamental challenges described above, otherwise such commitments will remain unrealized.

Despite the difficulties described above, the story in Mauritius is also one of promise. Transparentem’s work in Mauritius revealed opportunities for workers and their advocates who push for change and await concrete action from a sector that has voiced its commitment to human rights year after year. Several Mauritian factories, under pressure from their buyers, made important improvements or commitments to improve workers’ living and working conditions and to reform their recruitment processes. Exceptionally, three buyers stepped up to commit to repay recruitment fees – with or without participation from their manufacturing partners. Their commitment reflects two fundamental truths:

- **Buyers are responsible.** Instead of seeing this collective problem as diffusing their individual responsibility, these three companies squarely understood that the collective problem required shouldering the solution together. Brands and retailers, who generally enjoy the highest profit margins in supply chains, rarely draw from those profits to remedy problems in upstream suppliers, who generally operate on much tighter margins. As such, the actions of those three buyers is notable, and should provide a model for other buyers in similar situations.
- **Lack of certain factual evidence is not proof of the counterfactual.** While repayment of recruitment fees is sadly not sufficiently widespread to allow one truly to speak of “best practice,” companies may reasonably hope to repay workers on the basis of documents listing workers’ names and exact or estimated amounts. This case admittedly posed an additional hurdle because social audits reportedly failed to confirm Transparentem’s findings of significant recruitment fees paid by workers. (Transparentem was not provided access to all audit reports.) Additionally, due to its methodology respecting confidentiality and consent, Transparentem itself was unable to disclose specific information about individual workers’ fees. The companies who repaid workers understood that this lack of confirmation was insufficient to overcome several inconvenient truths. First, at the time of Transparentem’s investigation, Bangladeshi workers were widely known by experts to pay significant recruitment fees when migrating to Mauritius. Second, even manufacturers that had policies forbidding worker-paid recruitment fees did not have significant systems in place to prevent that common practice. Third, Transparentem was not made aware of any other plausible explanation for why workers consistently would tell Transparentem investigators – who have no connection to their employers – that they had paid significant recruitment fees if in fact they had not. Reports of intimidation and threats at these factories provided even more support for the conclusion that audits could not be depended on for complete information.

⁷ “*Id*”

Transparentem's findings in four Mauritian apparel manufacturers

Transparentem interviewed a total of 104 migrant workers employed at four manufacturers over the course of its initial and follow-up investigations in 2022 and 2023. The investigation uncovered evidence of worker-paid recruitment fees and evidence of other labor abuses, including evidence of indicators of forced labor according to the International Labor Organization.⁸ These violations included:

- **Worker-paid recruitment fees.** Workers at three of the four manufacturers reported that they had paid high recruitment fees ranging from US\$1,160 to US\$3,100⁹. These payments resulted in pressure on workers to stay in their jobs in order to make enough money to pay off their debts. As one worker stated: "I have come here by spending so much money. How can I go back?" Another worker reported: "My mental state was severely bad. I just had the tension about when am I going to be free of this debt and go back to my family." Some workers at the fourth manufacturer reported paying slightly lower fees ranging from US\$230 to US\$1,920. Some workers at three of the manufacturers (those with higher recruitment fees) said that recruiters told them to lie if they were asked about paying the recruitment fees, and two workers at one factory said the recruiter even pressured them to produce videos falsely stating they paid no such fees.

At those three manufacturers, Transparentem also found evidence of the following problems:

- **Deception.** Most interviewed workers said recruiting agencies had deceived them about wages and other contractual terms and conditions. One worker reported earning less than half of what he had been promised, in addition to being charged for food and lodging he had been told would be free. "Our life is such that it is so hard that I don't know how to put this in words," he said. "It's extremely painful."
- **Abusive working and/or living conditions.** Most workers reported abusive living conditions. Reported problems included overcrowded hostels, insect infestations, substandard food, and excessive heat.
- **Intimidation and threats.** Some workers at all three factories said that workers faced intimidation and threats including the threat of repatriation. In particular, workers said they faced intimidation and threats for complaining about their conditions and speaking openly to auditors.
- **Inadequate response to grievances.** Most workers said that their employers did not respond to worker complaints or responded slowly or ineffectively. While the factories had worker leaders that were purportedly meant to represent workers' interests, some workers said those worker leaders were selected by factory management.

⁸ International Labour Organization, "ILO Indicators of Forced Labour", October 1, 2012, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf.

⁹ For currency conversions, Transparentem used the US Treasury Department exchange rates.

- **Audit deception and deficiencies.** Several workers reported issues with audits in general, including company representatives controlling which workers spoke to auditors, remaining present during worker interviews, or coaching workers on what to say.

The first three problems are International Labor Organization (ILO) Indicators of Forced Labor.

The response of buyers and suppliers

While all buyers we approached received full accounts of the problems at Mauritian factories, as reported by workers, not all chose to act in response. Some buyers reported improvements, including to working and living conditions. Three buyers committed to repaying migrant workers for significant recruitment fees and related costs they reported paying. Yet, the promised repayments would only benefit workers at one of the factories investigated, and would not cover the full costs that some workers reported paying for employment. Buyers and suppliers reported that commissioned audits were unable to detect and detail the scope of the problem regarding recruitment fees and related costs. Some migrant workers reported they did not feel safe speaking out to auditors about the truth of their conditions, for fear of reprisals. One factory sent a notice to all workers (and posted it publicly in the factory) that warned them: “If at any stage it is discovered that you have paid any money to the agent or a third party or other persons to secure a job at [this factory], your selection will be disqualified.”

There is both a moral and a business imperative for buyers to act in response to the types of problems that workers reported to Transparentem. The principle of corporate respect for human rights, including processes to remediate adverse human rights impact, is well established.¹⁰ The 18 brands that engaged with Transparentem generally recognized their responsibility to address labor issues at their first-tier suppliers in Mauritius. Labor activists have, on occasion, labeled brands in similar contexts as “principal employers¹¹” – inferring a responsibility to the entire work force involved in producing the goods they market and sell, just as they hold certain legal responsibilities to direct employees. Companies also have a business imperative to protect their brands’ reputation with a public that is increasingly socially conscious and sensitive to the realities facing garment workers.

Transparentem engages primarily with consumer-facing brands for whom this business imperative plays a prominent role. Several positive developments took place due to Transparentem’s engagement with these brands:

Three buyers collectively committed over US\$420,000 to repay workers for recruitment fees and related costs. These three buyers chose to acknowledge that workers had paid significant recruitment fees even though social audits commissioned by buyers reportedly were unable to confirm exact amounts of recruitment fees paid by workers. The buyers based the repayment amount on an estimate that was within the range that Transparentem found.

¹⁰ *UN Guiding Principles on Business and Human Rights*, 2011, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

¹¹ Clean Clothes Campaign, “*Europe Floor Wage: A living wage benchmark for European garment workers*”, <https://cleanclothes.org/campaigns/europe-floor-wage>.

Eleven of the companies engaged in some form of remediation. Buyers came together to form “buyer groups” at each of the factories investigated. They subsequently reported many improvements at the factories, including a new dormitory built at one factory; trainings for workers on the role of the factory workers’ council; ensuring election of members to factory workers’ councils is “formal and democratic;” and trainings on workers’ rights to freedom of association and collective bargaining. Buyer groups also reported policy improvements, such as new factory commitments to better recruitment procedures and training of all supervisors and workers on human rights. Buyers also stated that grievance mechanisms would be improved. Transparentem has not yet been able to verify these improvements.

Suppliers strengthening voluntary commitments to ethical recruitment. The Mauritius Export Association (MEXA) finalized a voluntary code of conduct on the recruitment and employment of migrant workers for employers in export-oriented industries. MEXA is currently developing standards to support the code as well as a certification process, which they expect will be completed this year. All four suppliers investigated by Transparentem committed to adopting the code once the certification process is finalized.

Unfortunately, remediation in Mauritius was not informed by a root cause analysis that would enable all actors to collaboratively sustain improvements, including effective mechanisms for workers to report grievances, transparent and fair recruitment processes, and high standards for working and living conditions for all workers, including migrant workers. While companies may be applauded for making voluntary commitments, the sustainability of remedy requires active, ongoing scrutiny and accountability. In the Mauritius case, remediation has remained incomplete:

Workers report facing intimidation, impeding auditors’ efforts to discover the nature and extent of problems. As one worker reported, “There is always that fear and panic we live with.” Several buyers used audits’ reported lack of findings on significant recruitment fees as their rationale not to repay reported recruitment fees. MEXA has also informed Transparentem that they expect layoffs in the future and they “are telling all the workers that it is because of the Transparentem [sic] report.”¹² (Neither MEXA, Mauritian suppliers nor their buyers have provided any information to support MEXA’s claim that buyers are reducing orders from Mauritius as a result of issues related to Transparentem’s report.) This kind of pushback to worker voice discourages migrant workers from speaking out about problems they are facing, instead of encouraging the suppliers with positive incentives to improve conditions.

Most workers will not receive repayments, and few will receive 100 percent of the recruitment fees and related costs they reported they had paid. Brand commitments to repayment were only from three buyers, who elected to cover a portion of the recruitment fees at one of the four investigated suppliers. The repayment amounts do not take into consideration inflation, interest, currency exchange rates, and opportunity cost, as recommended by guidance from Impactt, a business consultancy that specializes in ethical trade.¹³

¹² Correspondence on file with Transparentem, Feb. 9, 2024.

¹³ Impactt, “Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees and Related Costs”, <https://www.impacttlimited.com/principles-for-repayment-of-recruitment-fees/>.

Issues persist related to working and living conditions. Workers reported persistent issues in their dormitories during follow up interviews in 2023.

Several brands reported that, as of February 2024, they continued to meet regularly in buyer groups and with their suppliers to continue to improve policies and conditions. There are ongoing efforts—and resources expended—to verify Transparentem’s findings on significant worker-paid recruitment fees. Meanwhile, workers have not yet been reimbursed for the significant recruitment fees and related costs that they reported paying. The three buyers that have already committed to repayment should implement that commitment without delay. Transparentem continues to encourage the remaining fifteen buyers to provide repayment on the basis of information provided by Transparentem and corroborated by general information about worker-paid recruitment costs on certain migratory routes. It remains of concern that effort is going toward verifying findings rather than focusing on making Mauritius an ethical production destination.

The response of government

The government of Mauritius has an important role to play in holding Mauritian-based manufacturers accountable for their treatment of workers. The government of Mauritius made important progress in enacting the Private Recruitment Agencies Act in October 2023. The new law recognizes the principle that workers should never pay for their jobs. Unfortunately, the new law fails to clarify that foreign agents cannot charge fees to workers. The law also failed to prohibit deductions from wages for housing and accommodation. In a more positive development though, the government increased the minimum wage for migrant workers in the export industry in January 2024 from 11,575 rupees to 16,500 rupees -- a 42 percent increase.

Still, the lack of oversight of foreign labor recruitment agents in worker “sending” countries leaves workers vulnerable to exploitation. Transparentem and others have recommended concluding binding agreements between Mauritius and the countries where migrant workers originate.¹⁴ The gap in accountability of foreign labor recruitment agents must be addressed urgently by Mauritius and by those sending countries.

Conclusion

Until migrant workers have legitimate, independent bodies to represent their interests and support them when they have grievances, we must expect the problems that occurred in the Mauritius case example to persist in the global apparel sector. And as long as buyers rely on conventional audits in such contexts, significant labor abuses will remain hidden and workers will lack access to full remedy. According to the 2023 KnowTheChain Apparel and Footwear Benchmark Findings Report, companies scored lowest (an average of 7 out of 100) on the theme

¹⁴ See, for example, United Nations Network on Migration, “Guidance on Bilateral Labor Migration Agreements”, February 2022, https://migrationnetwork.un.org/sites/g/files/tmzbd1416/files/resources_files/blma_guidance_final.pdf.

of remedy, with an average of only 14 out of 100 on the theme of recruitment.¹⁵ The prospect of new legislation in important markets requiring human rights due diligence and prohibiting the importation of goods produced with forced labor may motivate continued improvement in these areas. Meanwhile, companies' commitments to remedy require other forms of scrutiny and accountability to ensure the commitments are met.

Success in Mauritius would entail important benefits for manufacturers and for the Mauritian export sector. If Mauritius became a model sourcing destination for companies, through responsible recruitment and consistent protection of migrant workers' rights, it would become more attractive to foreign buyers. Most importantly, successful efforts would improve the lives of workers – protecting them from exploitation and offering better opportunities for them and their families.

¹⁵ Know the Chain, “2023 Apparel and Footwear Benchmark Findings Report”, <https://knowthechain.org/wp-content/uploads/KTC-2023-AF-Benchmark-Report-1.pdf>.