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Thematic Articles

Short Articles

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The *Anti-Trafficking Review* (ISSN 2286-7511) is published by the Global Alliance Against Traffic in Women (GAATW), a network of over 80 NGOs worldwide focused on advancing the human rights of migrants and trafficked persons.

The *Anti-Trafficking Review* promotes a human rights-based approach to anti-trafficking. It explores trafficking in its broader context including gender analyses and intersections with labour and migration. It offers an outlet and space for dialogue between academics, practitioners, trafficked persons and advocates seeking to communicate new ideas and findings to those working for and with trafficked persons.

The *Review* is primarily an e-journal, published biannually. The journal presents rigorously considered, peer-reviewed material in clear English. Each issue relates to an emerging or overlooked theme in the field of anti-trafficking.

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ANTI-TRAFFICKING REVIEW

Issue 26, April 2026

Editorial: Shifting the Focus: From Corporate-led to Worker-centred Mechanisms for Eliminating Forced Labour in Global Value Chains

Judy Fudge

Abstract

This Editorial introduces a special issue of *Anti-Trafficking Review*, which examines measures to ensure corporate accountability for forced labour in value chains. It begins by explaining why multinational corporations are able to escape liability for business practices that foster labour exploitation in their value chains. It discusses the failure of voluntary attempts to hold lead firms in value chains accountable before examining two types of corporate-led mechanisms that harden voluntary corporate social responsibility techniques (transparency and human rights due diligence laws). It contrasts them with worker-driven mechanisms. After describing the contribution of each article in the Special Issue, it concludes by identifying some of the key challenges to eliminating forced labour and labour exploitation in global value chains.

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Introduction

More than fifteen years ago, academics, labour advocates, the International Labour Organization (ILO), and the United States government under the Obama administration identified forced labour as a core component of human trafficking and elevated it on the global policy agenda.[1] The increased attention on forced

[1] J A Chuang, 'Exploitation Creep and the Unmaking of Human Trafficking Law', *American Journal of International Law*, vol. 108, no. 4, 2014, pp. 609–649, https://doi.org/10.5305/amerjintelaw.108.4.0609; J Fudge, *Constructing Modern Slavery: Law, Capitalism and Unfree Labour*, Cambridge University Press, Cambridge, 2025. See also

labour as a global problem coincided with, and was propelled by, efforts at the United Nations to hold multinational corporations accountable for assessing, minimising, and remedying human rights harms, including forced labour, resulting from their business practices.[2] This Special Issue of *Anti-Trafficking Review* explores different measures for holding multinational corporations accountable for forced labour in labour and supply chains, how different governance mechanisms came to be adopted, their impact on the workers they are supposed to protect, and possible strategies that labour advocates and workers can use to make these measures effective.

This Editorial briefly sets out the broader context in which the articles included in the Special Issue are located. First, it explains the role of multinational corporations in creating and sustaining global value chains, how their contracting practices result in a governance gap, and how this gap contributes to forced labour. Second, it describes the shift from private and voluntary forms of corporate social responsibility to mandatory attempts to make corporations accountable for forced labour in their value chains. Third, it contrasts forms of mandatory corporate-led labour governance with worker-driven initiatives that are designed to amplify workers' voices as a way of tackling forced labour in value chains. After discussing the contributions within the Special Issue, it concludes by highlighting the challenges posed in the current nativist political climate for addressing forced labour in value chains.

Global Value Chains and the Governance Gap

The contemporary global economy is driven by multinational corporations (MNCs), which outsource production to other companies and create long subcontracting chains (called value or supply chains) across national borders.[3]

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an earlier Special Issue of *Anti-Trafficking Review* that charted the expansion of the parameters of anti-trafficking initiatives beyond sex and undocumented migration to include forced labour: N Piper, M Segrave, and R Napier-Moore, 'Editorial: What's in a Name? Distinguishing Forced Labour, Trafficking and Slavery', *Anti-Trafficking Review*, issue 5, 2015, pp. 1–9, https://doi.org/10.14197/atr.20121551. A more recent Special Issue discussed the relationship between forms of exploitation prohibited by international law, such as forced labour, modern slavery, and human trafficking, and 'everyday' forms of labour exploitation: J Quirk, C Robinson, and C Thibos, 'Editorial: From Exceptional Cases to Everyday Abuses: Labour Exploitation in the Global Economy', *Anti-Trafficking Review,* issue 15, 2020, pp. 1–19, https://doi.org/10.14197/atr.201220151.

2 I Landau, *Human Rights Due Diligence and Labour Governance*, Oxford University Press, Oxford, 2023.

3 D Danielsen, 'Situating Human Rights Approaches to Corporate Accountability in the Political Economy of Supply Chain Capitalism', in D Brinks, J Dehm, K Engle,

Companies within these value chains often rely on recruitment and employment agencies to recruit and manage migrant workers 'sourced' from other countries.[4] This process of off-shoring and in-shoring jobs has challenged the capacity of national labour laws and unions to regulate the terms and conditions of labour.[5] Moreover, as several articles in this Special Issue demonstrate, workers in the lower tiers of value chains are often recruited from groups who are marginalised on the basis of gender, race, ethnicity, caste, language, and citizenship, since their lack of social status and networks makes them more vulnerable to exploitation and, thus, easier to control.[6]

Increasingly concentrated in a few firms located in advanced economies, MNCs are typically the key actors in these chains, and they have the power to shape the environment in which they act.[7] Countries in the Global South want to attract orders from MNCs based in more advanced economies. Thus, MNCs can often choose amongst a wide range of suppliers located in a host of lower-cost countries to obtain goods, components, and services, which can lead to regulatory arbitrage. Combined with repressive states and the lack of capacity of local actors, this competition between states for business often means that local labour markets, particularly in the Global South, are poorly regulated.[8] Moreover, MNCs' contracting practices—price strategies, delivery schedules, and penalty clauses, for example—mean that suppliers compete on price and efficiency, which can lead to low wages, unpaid and compulsory overtime, and coercive forms

supply chain capitalism, University of Pennsylvania Press, Philadelphia, 2021, pp. 224–241.

4 S W Barrientos, '"Labour Chains": Analysing the Role of Labour Contractors in Global Production Networks', *The Journal of Development Studies*, vol. 49, no. 8, 2013, pp. 1058–1071, https://doi.org/10.1080/00220388.2013.780040.

5 G LeBaron and N Phillips, 'States and the Political Economy of Unfree Labour', *New Political Economy*, vol. 24, issue 1, 2019, pp. 1–21, https://doi.org/10.1080/13563467.2017.1420642.

6 The articles by Campos-Vásquez *et al.,* Soto Bernal *et al.*, Standow *et al.*, and Bhattacharjee in this Special Issue illustrate how different forms of marginalisation operate in specific locations to make certain kinds of workers more vulnerable to forced labour and forms of coercive labour control like gender-based forms of harassment and violence.

7 U Akcigit *et al.*, *Rising Corporate Market Power: Emerging Policy Issues*, Staff Discussion Notes, International Monetary Fund, 15 March 2021, https://doi.org/10.5089/9781513512082.006; B Selwyn, 'Poverty Chains and Global Capitalism', *Competition & Change*, vol. 23, issue 1, 2018, pp. 71–97, https://doi.org/10.1177/1024529418809067.

8 M Anner, 'Monitoring Workers' Rights: The Limits of Voluntary Social Compliance Initiatives in Labor Repressive Regimes', *Global Policy*, vol. 8, issue S3, 2017, pp. 56–65, https://doi.org/10.1111/1758-5899.12385; J Breman, *At Work in the Informal Economy of India: The Perspective from the Bottom Up*, Oxford University Press, New Delhi, 2013.

of control, such as gender-based violence and harassment, and debt bondage.[9] Instead of value trickling down the chain, huge multinational firms located in advanced economies use their geographic flexibility and market power to extract large mark-ups at the expense of suppliers and workers in the Global South.[10]

Additionally, across sectors as diverse as deep sea fishing and shipping, on the one hand, and construction and agriculture, on the other, suppliers and contractors in global value chains frequently rely on labour recruiters and employment agencies to assemble an obedient and low-wage workforce composed of migrant workers, who often lack political and legal rights, fluency in local languages, and social networks.[11] Recruiters and employment agencies compete for contracts to supply labour, and many of these intermediaries charge migrant workers costly fees to obtain employment in another country. This practice of charging migrant workers for some or all the costs of recruitment, including recruitment fees, can result in large debts owed by migrant workers, who cannot leave exploitative working conditions because their travel documents have been seized or they are threatened with violence and other forms of retaliation.[12] Recruiters often operate in both migrant-sending and migrant-receiving countries, making it is difficult to regulate transnational labour chains.

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9 M Anner, 'Squeezing Workers' Rights in Global Supply Chains: Purchasing Practices in the Bangladesh Garment Export Sector in Comparative Perspective', *Review of International Political Economy*, vol. 27, issue 2, 2020, pp. 320–347, https://doi.org/10.1080/09692290.2019.1625426; M Anner, 'Predatory Purchasing Practices in Global Apparel Supply Chains and the Employment Relations Squeeze in the Indian Garment Export Industry', *International Labour Review*, vol. 158, issue 4, 2019, pp. 705–727, https://doi.org/10.1111/ilr.12149; K Marslev and L Whitfield, 'Labour-Market Dynamics and Worker Power in Apparel Global Value Chains', in J Lay and T Tafese (eds.), *Decent Work In Global Supply Chains*, *Sustainable Global Supply Chains Annual Report*, Research Network Sustainable Global Supply Chains Report, 2024, pp. 74–88, https://www.sustainablesupplychains.org/wp-content/uploads/2025/03/00_SustainableGlobalSupplyChains-Report2024.pdf.

10 World Bank, *Trading for Development in the Age of Global Value Chains*, World Bank Group, 2020, pp. 84–86, https://www.worldbank.org/en/publication/wdr2020.

11 Business and Human Rights Centre, 'Migrant Workers in Global Supply Chains', n.d., https://www.business-humanrights.org/en/big-issues/labour-rights/migrant-workers-in-global-supply-chains.

12 U Kothari, 'Geographies and Histories of Unfreedom: Indentured Labourers and Contract Workers in Mauritius', *The Journal of Development Studies*, vol. 49, issue 8, 2013, pp. 1042–1057, https://doi.org/10.1080/00220388.2013.780039.

Thus, there is a mismatch, known as the 'governance gap', between the scale and impact of MNCs' use of global value and labour chains to disperse production processes and workforces across many different countries and the ability of nation states to manage the adverse consequences of globalisation.[13]

Voluntary Initiatives to Eliminate Forced Labour and Labour Exploitation

For over a quarter century, labour advocates in the Global North and Global South have joined forces to condemn labour exploitation in global supply chains, targeting prominent consumer-facing MNCs with consumer boycotts.[14] In response, MNCs have adopted an array of corporate social responsibility (CSR) initiatives, such as supplier codes of conduct, certification schemes, and social auditing, to address violations of labour rights in their labour and supply chains.[15] These CSR initiatives are often run by for-profit corporations that report directly to the MNCs that engage them, which compromises their independence.[16] In part to address the poor public relations optics resulting from the close commercial relations between MNCs and for-profit social auditors and certifiers, MNCs have increasingly joined industry or issue-specific multi-stakeholder initiatives (MSI). MSIs involve representatives from business, labour, and government in promoting corporate accountability for labour exploitation in global value chains. As Genevieve LeBaron explains in her article in this Special Issue, CSR has grown into a dynamic industry involving a range of private, public, and civil society actors that develop and deploy numerous social performance measurement tools used by non-state actors to codify, monitor, and, in some cases, certify firms' compliance with labour rights.

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13 J Bair, 'Contextualising Compliance: Hybrid Governance in Global Value Chains', *New Political Economy*, vol. 22, issue 2, 2017, pp. 169–185, https://doi.org/10.1080/13563467.2016.1273340.

14 G W Seidman, *Beyond the Boycott: Labor Rights, Human Rights, and Transnational Activism*, Russell Sage Foundation, New York, 2007.

15 J Esbenshade, *Monitoring Sweatshops: Workers, Consumers, and the Global Apparel Industry*, Temple University Press, Philadelphia, 2004.

16 Researchers have discovered several problems that compromise the integrity of social auditing, including confidentiality requirements that prohibit auditors from reporting problems discovered through audits externally and limiting audits to first-tier suppliers instead of extending them down the chains where forced labour and labour exploitation are more likely to be found. G LeBaron, *Combatting Modern Slavery: Why Labour Governance Is Failing and What We Can Do About It*, Polity Press, Cambridge, 2020; M Anner and M Fischer-Daly, *Worker Voice: What It Is, What It Is Not, and Why It Matters*, US Department of Labor, 2023, https://www.dol.gov/sites/dolgov/files/ILAB/Worker-Voice-Report-Final-3-6-24.pdf.

While labour rights activists continued their efforts to challenge and strengthen these forms of private labour governance, they also hoped to achieve corporate accountability standards at the intergovernmental level. They joined with human rights advocates to seek stronger business and human rights standards at the United Nations.[17] Traditionally, human rights obligations set out in international law have only applied to states. An attempt in the early 2000s by a sub-commission of the UN Commission on Human Rights to develop a set of norms placing human rights obligations directly on corporations failed. In 2005, Kofi Annan, the then UN Secretary-General, appointed John Ruggie, Professor of International Affairs at Harvard University, as Special Representative for Business and Human Rights to address businesses' responsibility to respect human rights. In 2011, Ruggie proposed the United Nations *Guiding Principles on Business and Human Rights* (UNGPs) as 'a roadmap for helping to bridge the governance gaps and imbalances that must be addressed for global supply chains and globalization itself to become socially sustainable'.[18]

Composed of thirty-one principles, the UNGPs were Ruggie's attempt to develop authoritative standards of expected behaviour from businesses regarding human rights. A form of 'soft' law since they are voluntary, the UNGPs offered human rights due diligence (HRDD) as a process for businesses to meet their obligation to respect human rights without disrupting any of the legal doctrines (such as limited liability, separate legal personality, and contractual privity) that enable lead corporations in value chains to escape legal responsibility for harms resulting from their business practices.[19] HRDD has three interconnected components:

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17 Landau.

18 J G Ruggie, 'Making Economic Globalization Work for All: Achieving Socially Sustainable Supply Chains', Shift Project, February 2017, https://shiftproject.org/making-economic-globalization-work-for-all-achieving-socially-sustainable-supply-chains. The UNGP set out guidelines for implementing the 'Protect, Respect and Remedy' Framework, which consists of three complementary and interdependent pillars: (1) the state duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication; (2) corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the human rights of others and to address adverse impacts with which they are involved; and (3) greater access by victims to effective remedy, judicial and nonjudicial. See: Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, HR/PUB/11/04, 2011.

19 In an article published in 2014, Ruggie noted that the legal form of the corporation, which was designed to facilitate capital formation for investment when 'only people—natural persons—were owners', today has 'been stretched to apply to multinational corporate groups with subsidiaries, joint ventures, contractors, and other types of affiliates in up to 200 states and territories around the world, each of which is legally

(1) identifying actual or potential adverse human rights impacts; (2) preventing and mitigating those impacts; and (3) accounting for impacts and the responses to them. The UNGPs provide guidance about the scope and complexity of due diligence obligations, how to prioritise redress for adverse human rights impacts, and when and how to disclose information to stakeholders. However, the guidelines are ambiguous about the extent to which states should supervise, or even mandate, corporate HRDD and the extent to which processes and outcomes are mandatory. This 'strategic ambiguity' helps to explain the UNGPs' remarkable success.[20] Adopted unanimously in 2011 by the forty-seven members of the Human Rights Council (selected from member states of the UN General Assembly), the UNGPs have been widely taken up by large MNCs.[21]

About the same time, the United States experimented with mandatory forms of corporate accountability for forced labour in their value chains. Signed into law by President Barack Obama in 2010, the *Dodd–Frank Wall Street Reform and Consumer Protection Act* contained a provision requiring companies to conduct supply chain due diligence and, where necessary, to obtain thirdparty verification to ensure that the 'conflict minerals' used in their products were not sourced through forced labour.[22] The same year the California legislature passed the *California Transparency in Supply Chains Act*, which requires large corporations to disclose the extent of their efforts to eradicate modern slavery, forced labour, and human trafficking from their supply chains in five areas: verification, audits, certification, internal accountability, and training. Its goal is to provide consumers with information

construed as a separate and independent entity'. J G Ruggie, 'Global Governance and New Governance Theory: Lessons from Business and Human Rights', *Global Governance*, vol. 20, 2014, pp. 5–17, p. 13, https://doi.org/10.1163/19426720-02001002. For a discussion of how key aspects of corporate and private law serve to cocoon MNCs from legal accountability for the harms caused by their business practices, see J Fudge and G Mundlak, 'Peeling the Onion: On Choices Judges Make in Transnational Labour Litigation', in B Langille and A Trebilcock (eds.), *Social Justice and the World of Work: Possible Global Futures*, Hart, 2023, pp. 249–260.

20 Landau.

21 Earlier inter-governmental initiatives included the 1976 OECD *Guidelines on Multinational Enterprises*. Annexed to the OECD Declaration on International Investment and Multinational Enterprises, these guidelines set standards for responsible business conduct in a range of domains, from taxation through to science and technology, industrial relations, and employment. In 1977, the ILO adopted its own instrument directed at governments and private actors: The Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. This declaration sought to engage multinational enterprises in the task of compliance with ILO conventions and recommendations. See Landau.

22 *Dodd–Frank Wall Street and Consumer Protection Act of 2010, Pub.* L. No.111–203, 124 Stat. 1376 (2010), 12 USC 53.

regarding companies' efforts to eradicate forced labour so that consumers can make 'more educated purchasing decisions.'[23]

The Shift to Hard Law

These laws anticipated the broader shift from voluntary CSR initiatives to mandatory obligations for MNCs either to report on CSR initiatives or to implement HRDD after the Rana Plaza building collapse in 2013, in which more than 1,100 workers employed in garment factories in the building were killed and more than 2,500 injured. Many of the garment manufacturers in the building supplied prominent brands and retailers, which had codes of conduct requiring suppliers to meet labour standards. Indeed, in the days and weeks preceding the building's collapse, several suppliers had successfully passed social audits.[24] This tragedy clearly demonstrated the failure of voluntary CSR initiatives, and it led to increased public pressure on governments to impose requirements on MNCs designed to address forced labour in their supply chains.

Governments in the Global North responded by introducing two types of laws that impose obligations directly on MNCs: disclosure laws and due diligence laws. The former address either human rights violations in general or forced labour, modern slavery, and human trafficking in particular.[25] They require firms to report on the steps, if any, they have taken to identify and mitigate the problem within their operations and supply chain. Transparency laws do not require these firms to do anything to rid their value chains of forced labour. As Jonelle Humphrey explains in her article in this Special Issue, AngloAmerican jurisdictions, including the United States, the United Kingdom, Australia, and Canada, have favoured laws requiring large corporations to only disclose their efforts to address forced labour, modern slavery, and human trafficking. The problem with transparency laws is that there is no evidence that they are effective in addressing forced labour. Indeed, a parliamentary review of the UK's *Modern Slavery Act 2015* reported in

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23 *California Transparency in Supply Chains Act of 2010, California Civil Code, sec.171443;* State of California Department of Justice, https://oag.ca.gov/SB657.

24 Worker Rights Consortium, 'The Lesson of Rana Plaza: Corporate Self-Regulation Is a Formula for Disaster', 21 April 2023, https://www.workersrights.org/commentary/10-years-after-rana-plaza-collapse-founding-group-behind-the-accord-on-health-and-safety-calls-on-fashion-industry-to-learn-their-lesson.

25 In 2014, the European Union (EU) adopted the Non-Financial Reporting Directive requiring companies to report on matters pertaining to human rights. See European Union, *Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 Amending Directive 2013/34/EU as Regards Disclosure of Non-Financial and Diversity Information by Certain Large Undertakings and Groups.*

2024 that the 'current legislation is too limited to have significant practical impact'.[26]

By contrast, several European countries and the European Union have adopted laws requiring companies to conduct HRDD.[27] These measures cover broader human rights issues (and often environmental harms) and impose affirmative due diligence obligations, penalties for inadequate compliance, and, in some cases, liability where companies contribute to human rights abuses. These laws differ widely in terms of approach and design details.[28] A common limitation of HRDD laws is that they do not require MNCs to involve workers and their representatives at all levels of the value chain in the design, implementation, and operation of grievance and remedial procedures.[29] Moreover, research has revealed that most companies opt for managerialist-oriented approaches to HRDD and try to cascade responsibilities and costs in their supply chain.[30] Still, it remains unclear whether—and under what conditions—such laws can be used to mobilise and empower workers in global supply chains. Marie Diekmann's article in this Special Issue demonstrates that social actors, including vulnerable migrant workers employed in German supply chains, can use such laws in unexpected ways to achieve their goals.

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26 UK House of Lords Select Committee, *The Modern Slavery Act 2015: Becoming World-leading Again*, Report of Session 2024–2025, https://committees.parliament.uk/committee/700/modern-slavery-act-2015-committee/publications.

27 S Deva, 'Mandatory Human Rights Due Diligence Laws in Europe: A Mirage for Rightsholders?', *Leiden Journal of International Law*, vol. 36, issue 2, 2023, pp. 389–414, https://doi.org/10.1017/S0922156522000802; S Velluti, 'Labour Standards in Global Garment Supply Chains and the Proposed EU Corporate Sustainability Due Diligence Directive', *European Labour Law Journal*, vol. 15, issue 4, 2024, pp. 822–850, https://doi.org/10.1177/20319525241239283.

28 G Holly *et al.*, *Mandatory Human Rights Due Diligence Laws: Key Design Features and Practical Considerations*, Danish Institute for Human Rights, September 2025, https://www.humanrights.dk/publications/mandatory-human-rights-due-diligence-laws-key-design-features-practical-considerations. Holly *et al.* have helpfully identified four general approaches to due diligence enacted by these laws—as 1) a process; (2) a standard of care; (3) a standard of outcome; or (4) as a defence—and eleven key design features (pp. 5, 9).

29 I Martin and J Falardeau-Papineau, 'Impact on Remedies of the Use of Corporate Governance Norms to Address Forced Labour', *International Journal of Comparative Labour Law and Industrial Relations*, vol. 40, issue 4, 2024, pp. 403–436, https://doi.org/10.54648/ijcl2024016; I Landau and S Marshall, 'Will Remedy Remain Rare? The Potential of Mandatory Human Rights Due Diligence to Redress Modern Slavery', in H Shamir *et al.* (eds.), *Modern Slavery and the Governance of Global Value Chains*, Cambridge University Press, Cambridge, 2025, pp. 126–158, https://doi.org/10.1017/9781009591102.006.

30 V Dupont, D Pietrzak, and B Verbrugge, 'A Step in the Right Direction, or More of the Same? A Systematic Review of the Impact of Human Rights Due Diligence Legislation', *Human Rights Review*, vol. 25, issue 2, 2024, pp. 131–154, https://doi.org/10.1007/s12142-024-00724-9.

Worker-driven Corporate Accountability

Scepticism in academic, policy, and advocacy circles about the effectiveness of top-down CSR approaches has shifted attention to bottom-up approaches based on worker participation and voice.[31] Worker-driven social responsibility (WSR) initiatives aim to make lead companies liable for working conditions in their supply chains and put workers and their representative organisations, rather than corporations, in the driver's seat. As Anannya Bhattacharjee's article in this Special Issue explains, WSR initiatives involve worker organisations (both trade unions and civil society organisations), suppliers, and MNCs entering into enforceable and legally binding agreements, whereby corporate brands and retailers commit to using their supply chain relationships and leverage to support raising labour standards at certain worksites or sectors. These agreements, which are known as enforceable brand agreements, are the fulcrum of WSR initiatives. They have emerged in diverse geographical contexts and sectors, and originate from different movements (e.g., migrant rights, labour, gender justice) with varying demands (e.g., around wages, health and safety, forced labour, gender-based violence); as such, the specific features, parties, and implementation arrangements of WSR agreements all vary.[32] Key features of WSR models are the involvement of workers and their representatives in determining and monitoring standards, and access by workers to legally binding complaint mechanisms that are enforceable against lead firms. As Mareike Standow, Nandita Shivakumar, and Thivya Rakini suggest in their article in this Special Issue, MNCs could draw on these features of WSR initiatives to provide more effective grievance and remedial mechanisms as part of their HRDD obligations. Their article shows how a WSR initiative designed to eliminate gender-based violence in an Indian garment factory provided grievance and remedial mechanisms that leveraged workers' agency and amplified their voices.

This Special Issue

The articles featured in the Special Issue explore various aspects of the shift from voluntary CSR to legally required or legally enforceable initiatives to address forced labour in global supply chains. They range in geographic context from the Global North, including the European Union, the United States, Canada, and Germany, to countries in the Global South, such as Peru, India, and Indonesia,

[31] O Outhwaite and O Martin-Ortega, 'Worker-driven Monitoring – Redefining Supply Chain Monitoring to Improve Labour Rights in Global Supply Chains', *Competition & Change*, vol. 23, issue 4, 2019, pp. 378–396, https://doi.org/10.1177/1024529419865690.

[32] J Fudge and G LeBaron, 'Regulatory Design and Interactions in Worker-driven Social Responsibility Initiatives: The Dindigul Agreement', *International Labour Review*, vol. 163, issue 4, 2024, pp. 575–598, https://doi.org/10.1111/ilr.12440.

as well as Asian migration corridors. The articles are written by academics, labour activists, and corporate accountability advocates.

The Special Issue opens with **Genevieve LeBaron**'s article, in which she argues that it is time to take stock and consider whether the recent spate of 'hard' law mechanism to hold corporations accountable for forced labour in their supply chains is, in fact, an advance over CSR. Taking a wide-angle lens, she examines what is required of MNCs by transparency laws, due diligence legislation, forced labour import bans, and multilateral trade efforts, and suggests that they reinforce and rely on, rather than replace, CSR tools like social audits. She concludes that these hard laws will likely increase the market for CSR without requiring MNCs to change the business practices that create the conditions in which forced labour and labour exploitation flourish.

Drilling deeper into a how corporate accountability mechanisms work within a specific jurisdiction and industry, the article by **Christian Campos-Vásquez, Jaris Mujica, Ángel Peñaloza González, Nicolás Zevallos Trigoso, and Alonso Flores Macher** examines a set of regulations, managerial instruments, and trade standards (largely influenced by free trade agreements) that appear to ensure strict control of the Amazonian timber supply chain to determine whether this regulatory assemblage has stopped the forced labour associated with illegal logging in Peru. Despite the appearance of strict legal control, their detailed empirical investigation of the traceability scheme reveals that the dense institutional framework is permeable to illegal timber flows and, as a result, has failed to address forced labour in the supply chain.

Jonelle Humphrey's article examines the factors that led to the enactment of either transparency or HRDD legislation in different countries in the Global North. She shows how key features of Canada's political economy—the significance of the oil, gas, and mining sectors to Canada's economy, the role of key corporations, civil society organisations, political parties, trading partners, and institutional heritage—led to the enactment of a transparency law that requires corporations to do nothing more than to report on their efforts to address forced labour in their supply chains. Looking at the experience of other Anglo-American jurisdictions that have enacted transparency laws, she suggests that such laws are a dead end instead of a first step towards making MNCs accountable for the harms their business practices foster.

Treating the implementation of HRDD laws as an opportunity to make corporations accountable for eliminating forced labour in their supply chains, **Jason Judd and Sarosh Kuruvilla** argue that new forms of disclosure by corporations are required. Under voluntary due diligence initiatives, most firms disclose their plans, policies, and processes regarding human rights risks, making it hard for regulators, consumers, and investors to measure either effectiveness or progress. By contrast, Judd and Kuruvilla argue that a risk-based due diligence

process should measure labour outputs and information about sourcing countries. They present twenty-five metrics they developed to measure both lead firm sourcing practices and supplier firm labour rights and working conditions. Not only are these metrics useful for regulators to assess how lead firms covered under due diligence legislation are addressing human rights harms in their supply chains, but they also argue that their metrics can be used by lead firms themselves to assess the level and salience of risks of forced labour and other violations of key labour standards.

The fifth article in the Special Issue discusses a stubborn and widespread problem in labour chains: the imposition of recruitment expenses and fees on workers in the recruitment process and its relationship to debt bondage and other forms of forced labour. Based on in-depth interviews with almost 4,000 foreign migrant workers in Japan, Malaysia, and Thailand conducted between 2020 and 2025, **Ana Maria Soto Bernal, Lisa Rende Taylor, and Mark Taylor**'s article investigates how effectively the 'Employer Pays Principle' (EPP)—which requires all fees and related costs of recruitment of workers in their supply chains to be borne by employers, not jobseekers and workers—is supported by MNCs and implemented across their supply chains. They found that most workers in Southeast Asian labour chains are paying recruitment fees for their jobs, including workers that are supposed to be recruited under the EPP policies of global buyers. The problem, they conclude, is structural and economic, as MNCs have not voluntarily revised their pricing policies to accommodate the costs of ethical recruitment.

The final four articles in the Special Issue concentrate on the agency and efforts of workers and their advocates to develop ways to address forced labour and other forms of labour exploitation in value chains. Noting that it is impossible to appreciate the effects of any law simply from reading the legal text, **Marie Diekmann** presents a case study of a wildcat strike by migrant truck drivers (mostly from Uzbekistan and Georgia) against a Polish trucking firm that was part of an integrated German transport supply chain, and how the truck drivers leveraged the German HRDD law (*German Supply Chain Act* (GSCA)) to achieve payment of their unpaid wages. Taking place in Gräfenhausen, Germany, in 2023, the strike, which lasted over ten weeks and involved hunger strikes, attracted the attention of the Federal Office for Economic Affairs and Export Control (BAFA), which serves as the administrative supervisory authority for compliance with the GSCA. Basing their claim for unpaid wages on the GSCA enabled the drivers to hold German companies at the end of the supply chain accountable, despite lacking direct contractual relationships with them. Diekmann's study demonstrates how cultivating solidarity infrastructures with labour and migrant advocates, churches, and trade unions was critical to bringing the dispute to the attention of the regulator and to successfully using the GSCA to resolve it.

Focusing on a WSR initiative implemented in a garment factory in Dindigul (located in the Indian state of Tamil Nadu), **Mareike Standow, Nandita Shivakumar, and Thivya Rakini**'s article uses participatory action research to examine the role of freedom of association and meaningful stakeholder engagement in enhancing grievance mechanisms.[33] Taking the UNGPs (especially the criteria set out in Principle 31) as the benchmark for effective grievance mechanisms in due-diligence processes, they evaluate the impact of the grievance mechanisms provided in the 2022 Dindigul Agreement, which is the first example of an enforceable brand agreement in India and Asia. Designed to address the widespread and pernicious problem of gender-based violence and harassment (GBVH) in a garment factory that employs mostly women workers, many of whom are Dalits or internal migrants, the Dindigul Agreement put in place a cooperative remediation system involving workers, the local union, and management through structured activities and pre-defined procedural guidelines. After documenting how the grievance mechanisms operated within local realities, the authors conclude that the grievance mechanisms in the Dindigul Agreement meet the requirements set out in Principle 31 of the UNGPs and serve as an example of how to implement meaningful stakeholder engagement in the supply chains as required under HRDD laws.

Broadening her analysis beyond the Dindigul Agreement to include the Central Java Agreement for Gender Justice in Indonesia (2025), **Anannya Bhattacharjee** draws upon her experience in developing and implementing the two WSR initiatives in Asia designed to address gender-based violence and harassment in garment factories. She argues that effective anti-GBVH supply chain agreements in the garment industry must be founded in freedom of association and embedded within appropriate labour movement ecosystems.[34] She introduces the concept of 'labour movement ecosystems' to illustrate the need both to develop an understanding of the labour movement that goes beyond traditional unionism, and to develop and deploy an intersectional perspective needed to address the practices of gender-based violence and harassment that are deeply rooted in garment value chains that source from Asia. Bhattacharjee shows how the agreements were designed to facilitate bargaining across scales (the supplier and the brands), implement an intersectional perspective sensitive to a variety of social relations of power, promote women's trade union leadership, and cultivate equal partnerships between civil society organisations based in the Global North and Global South. She concludes that this type of labour movement ecosystem is critical for developing freedom of association and bargaining structures that

[33] Thivya Rakini is the State President of the women-led Tamil Nadu Textile and Common Labour Union (TTCU).

[34] Anannya Bhattacharjee is a founding member and International Coordinator of Asia Floor Wage Alliance (AFWA), an Asia-based labour alliance across eight production countries and party to the Dindigul and Central Java Agreements.

span the local, national, regional, and global scales that make up garment supply chains.

In a comment rounding out the contributions to the Special Issue that are about worker-centred approaches to identifying and responding to labour violations in MNCs, **Sandar Linn** draws on examples from Southeast Asia to argue that MNCs should move beyond traditional audit-based models and adopt strategies that prioritise worker involvement, transparency, and long-term accountability.

The Special Issue concludes with **Ayushman Bhagat**'s review of Stephanie Limoncelli's recently released book *Advocacy, Inc.: INGOs and the Business of "Modern Slavery"*.[35] Bhaghat explains that the book provides a much-needed critique of anti-slavery international non-governmental organisations (INGOs) for their entanglement with corporate interests that reproduce the very inequalities and exploitative systems they purportedly aim to dismantle. He further points out how, in her engaging and thoroughly researched book, Limoncelli demonstrates how the framing of 'modern slavery' as a business concern casts MNCs as both the victims of modern slavery, through their exposure to reputational risks, and as major actors in eliminating modern slavery.

Conclusion

Mandatory initiatives requiring MNCs to address forced labour, human trafficking, and modern slavery are an attempt to 'shore up the fading legitimacy of global neoliberal capitalism—an economic, political, and social project that promotes profitability and accumulation as the measures of economic and social activities, which are encouraged through a core set of policies, including liberalisation, deregulation, privatisation, recommodification, and globalisation'.[36] However, the current attack on multilateral institutions such as the World Trade Organization, United Nations, and International Labour Organization, which was initiated by the first Trump administration and is currently deepening under his second administration, has not disrupted corporate concentration or neoliberalism but simply turned it in a nationalist and nativist direction. Key states in the European Union have taken a step back from HRDD legislation, and the European Union has watered down the Corporate Sustainability Due Diligence Directive to make it less onerous for businesses.[37] While the existing crop of HRDD laws does not

35 S A Limoncelli, *Advocacy, Inc.: INGOs and the Business of "Modern Slavery"*, Stanford University Press, Stanford, 2026.

36 Fudge, pp. 204–5.

37 G Leali *et al.*, 'Macron and Merz Call to Abolish EU Law on Ethical Supply Chains', *Politico*, 20 May 2025, https://www.politico.eu/article/macron-merz-supply-chain-green-ethical.

require worker-centred grievance mechanisms or worker-centred remedies, it is still possible that in certain contexts workers and advocates may be able to use them in innovative ways to bring pressure upon MNCs to address forced labour and other forms of labour exploitation in their supply chains.

Bans prohibiting the importation of goods made in whole or in part with forced labour have become an increasingly popular tool for addressing forced labour in global value chains. Developed and implemented first by the United States, forced labour import bans are unilateral trade restrictions that prohibit the importation of goods made in whole or in part with forced labour into domestic markets.[38] As part of trade agreements with the United States, the following countries—Canada, Mexico, Cambodia, and Malaysia—have either implemented or agreed to introduce forced labour import bans, and more countries are expected to follow.[39] On 19 November 2024, the European Union formally adopted a regulation prohibiting products made with forced labour. But unlike the US forced labour ban that only applies to imported goods, the EU also bans the exportation of goods made with forced labour from the EU.[40]

Despite their common label, forced labour import bans differ widely in key design features: whether a ban is directed at, for example, a shipment, workplace, supplier, importer, or industry; the legal framework and institutional context, including aspects such as the burden of proof, or processes available to contest a decision to ban; and the administrative culture and practices in which they are inserted. While there is evidence that importers against whom a preliminary ban has been issued have compensated workers who were reasonably suspected of being in situations of forced labour, there is nothing in any of the existing forced labour import bans that requires the officials administering the bans to consult with

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38 J Fudge and G Mundlak, 'Transnational Labour Law and Governance: Advancing Workers' Rights in Global Value Chains', *Comparative Labor Law and Policy Journal*, forthcoming.

39 *Tariff Act of 1930*, s 307; *Uyghur Forced Labor Prevention Act*, Pub. L. No. 117-78, 135 Stat. 1525; *Canada-United States-Mexico Agreement Implementation Act*, SC 2020, c. 1 and Customs Tariff, S.C. 1997, c. 36, Ch. 98, Item No. 9897.00.00; *Acuerdo que establece las mercancías cuya importación está sujeta a regulación a cargo de la Secretaría del Trabajo y Previsión Social* (Agreement Establishing the Goods Whose Importation Is Subject to Regulation by the Ministry of Labor and Social Welfare) of 17 March 2023; M E Newton, 'New Trade Deals Offer Real Hope on Combatting Forced Labor', *Diplomatic Courier*, 3 November 2025, https://www.diplomaticourier.com/posts/new-trade-deals-offer-real-hope-on-combatting-forced-labor.

40 Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on Prohibiting Products Made With Forced Labour on the Union Market and Amending Directive (EU) 2019/1937. The Regulation will apply as of 14 December 2027. The regulation applies within the EU and to exports out of the EU.

the workers affected by them or to require the importers subject to the bans to compensate the affected workers.[41]

Led either by MNCs domiciled in countries in the Global North or powerful states, primarily the United States, neither HRDD laws nor forced labour import bans, as currently designed, amplify the voices of workers in the Global South as part of the solution to eliminating forced labour in value chains. By contrast, WSR initiatives are specifically designed to do this by involving different forms of workers' representation, promoting freedom of association, and providing a meaningful role to local unions.[42] The challenge is to devise ways to scale WSR initiatives beyond specific factories and suppliers to cover sectors, such as garment, that cover a number of different countries.[43] WSR initiatives, like CSR and HRDD measures, rely on the market power of MNCs to ensure that suppliers respect labour rights.

None of the current tools for eliminating forced labour in value chains directly address the central problem: the concentrated power of MNCs within the global economy and the contracting practices that result in forced labour. Much needs to be done to level the playing field between MNCs and the countries in the Global North in which they primarily reside, on the one hand, and workers, suppliers, and states in the Global South, on the other. The enforcement of robust antitrust and competition laws, equitable taxation regimes that capture and distribute the profits that MNCs siphon off value chains, and changes to elements of corporate law are needed to prevent corporate behemoths from exploiting workers and degrading the planet in pursuit of unsustainable profits.

Judy Fudge is Professor Emeritus in Labour Studies at McMaster University. She takes a socio-legal approach to understanding how to resist labour exploitation. Her most recent project, Governing Forced Labour in Supply Chains (www.gflc.ca), of which this Special Issue is part, is supported by the Social Sciences Research Council of Canada (Grant 435-2021-0034). Email: fudgej@mcmaster.ca

41 J Gordon, 'The U.S. Forced Labor Import Ban: A Tool for Raising Labor Standards in Supply Chains?', *University of California Law Journal*, vol. 76, issue 4, 2025, pp. 1025–1095.

42 Fudge and LeBaron.

43 Fudge and Mundlak.

Thematic Articles: Corporate Accountability and Forced Labour in Value Chains

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Twenty-Five More Years of CSR? How states are reinforcing private governance in the anti-forced labour governance arena

Genevieve LeBaron

Abstract

Within anti-forced labour circles, there has been considerable excitement lately about governments taking on a more active role in tackling forced labour in supply chains. A common perspective is that after over 25 years of failed corporate social responsibility (CSR) efforts, governments have re-entered the arena; states' enactment of responsive legislation (e.g. due diligence legislation or transparency legislation), import bans, and multi-lateral efforts, including through the G7, are often heralded as evidence of their stepping up. However, the extent to which this wave of government initiatives reinforces and relies upon, rather than replaces, CSR is frequently overlooked. In this article, I consider the ways in which recent government initiatives to tackle forced labour in supply chains expand the market, role, and governance power of unaccountable private actors, including auditing firms, data analytics and Artificial Intelligence companies, and certification bodies. I argue that unless governments enact far more ambitious regulation and restrictions on multinational enterprises, we are heading for another 25 years of deficient and inadequate private-led governance to address forced labour in supply chains.

Keywords: transparency law, HRDD, ethical certification, corporate governance, ethical auditing, data analytics and AI, forced labour, due diligence

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Introduction

The failures of voluntary corporate social responsibility (CSR) to detect, address, and remediate forced labour in global supply chains are at this point well known. Since the early 2000s, private governance efforts led by multinational enterprises (MNEs) and other private actors have been championed as a key solution to forced labour and overlapping forms of labour exploitation in supply chains.[1] These include: corporate codes of conduct through which MNEs dictate standards for all of their suppliers to follow; ethical certification schemes like Fairtrade and Rainforest Alliance which purport to deliver higher labour and other 'ethical' standards to consumers; ethical auditing, which involves MNEs hiring private third-party businesses to visit supplier firms and evaluate conformity to their codes of conduct or various other private standards; multi-stakeholder initiatives, through which MNEs partner with each other and non-governmental organisations (NGOs) towards certain goals (e.g. addressing illegal activity in fishing); and the deployment of technology (e.g. mobile phone surveys or hotlines) to enable workers in supply chains to bring issues directly to the attention of MNEs.

There is ample evidence of the shortcomings of CSR to address forced labour. Studies have revealed, for instance, that: forced labour and overlapping forms of exploitation continue to be widespread in supply chains that are covered by multiple CSR initiatives, including codes of conduct, ethical certification, and auditing;[2] multiple multi-stakeholder initiatives related to forced labour have fallen short of meeting their aims;[3] workers 'liberated' from oppressive and exploitative worksites end up in abusive working conditions;[4] suppliers face

1 G LeBaron, *Combatting Modern Slavery: Why Labour Governance is Failing and What We Can Do About It*, Polity Press, 2020.

2 C Oya, F Schaefer, and D Skalidou, 'The Effectiveness of Agricultural Certification in Developing Countries: A Systematic Review', *World Development*, vol. 112, 2018, pp. 282–312, https://doi.org/10.1016/j.worlddev.2018.08.001; L Rende Taylor and E Shih, 'Worker Feedback Technologies and Combatting Modern Slavery in Global Supply Chains: Examining the Effectiveness of Remediation-Oriented and Due-Diligence-Oriented Technologies in Identifying and Addressing Forced Labour and Human Trafficking', *Journal of the British Academy*, vol. 7, issue s1, 2019, pp. 131–165, https://doi.org/10.5871/jba/007s1.131; C Stringer, D H Whittaker, and G Simmons, 'New Zealand's Turbulent Waters: The Use of Forced Labour in the Fishing Industry', *Global Networks*, vol. 16, issue 1, 2016, pp 3–24, https://doi.org/10.1111/glob.12077.

3 G LeBaron *et al.*, 'The Ineffectiveness of CSR: Understanding Garment Company Commitments to Living Wages in Global Supply Chains', *New Political Economy*, vol. 27, issue 1, 2021, pp. 99–115, https://doi.org/10.1080/13563467.2021.1926954.

4 E Shih, *Manufacturing Freedom: Sex Work, Anti-Trafficking Rehab, and the Racial Wages of Rescue*, University of California Press, Oakland, 2023.

significant challenges meeting the standards set in codes of conduct and ethical certification schemes, including due to the lack of economic capacity to comply;[5] and there is widespread cheating within auditing which casts considerable doubt onto the credibility of many auditing reports.[6]

As the evidence of CSR's failures has piled up, civil society, academics, and at times even companies themselves have pressured states to take on a more active role in addressing the problem of forced labour in supply chains. This is not to suggest that states have been absent entirely from the governance arena; of course, there is a long history of state action to address slavery and overlapping forms of exploitation following the legal abolition of slavery in the early twentieth century.[7] This includes landmark conventions such as the International Labour Organization *Abolition of Forced Labour Convention* (C105) (1957) and United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (2000) (the 'Trafficking Protocol'). However, as processes of globalisation—and especially, the growth and complexity of supply chains—created new obstacles for states within the governance arena, the anti-forced labour movement pushed states to create and enforce mechanisms of corporate accountability fit for the modern era to prevent and address forced labour in supply chains. At the same time, the business and human rights movement fought to establish international norms requiring MNEs to take responsibility for ensuring fair labour conditions within their global supply chains.

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5 R M Locke, F Qin, and A Brause, 'Does Monitoring Improve Labor Standards? Lessons from Nike', *Industrial and Labour Relations Review*, vol. 61, issue 1, 2007, pp. 3–31, https://doi.org/10.1177/001979390706100101; S Barrientos and S Smith, 'Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems', *Third World Quarterly*, vol. 28, issue 4, 2007, pp. 713–729, https://doi.org/10.1080/01436590701336580.

6 J Ford and J Nolan, 'Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy Between Human Rights Due Diligence and the Social Audit', *Australian Journal of Human Rights*, vol. 26, issue 1, 2020, pp. 27–45, https://doi.org/10.1080/1323238X.2020.1761633; L Lee, M M Chu, and A Ananthalakshmi, 'Malaysia's Labour Abuse Allegations a Risk to Export Growth Model', *Reuters*, 22 December 2021, retrieved 1 June 2025, https://www.reuters.com/world/asia-pacific/malaysias-labour-abuse-allegations-risk-export-growth-model-2021-12-21.

7 J Fudge, *Constructing Modern Slavery: Law, Capitalism, and Unfree Labour*, Cambridge University Press, 2025; G LeBaron, J R Pliley, and D W Blight (eds.), *Fighting Modern Slavery and Human Trafficking: History and Contemporary Policy*, Cambridge University Press, 2021.

Government responses have been multi-faceted. One cornerstone has been the passage of 'home state regulation',[8] including transparency and due diligence legislation, sometimes also referred to as 'modern slavery laws'.[9] The United States (US) State of California was the first to pioneer and enact a type of law that became known as 'transparency regulation',[10] with its *Transparency in Supply Chains Act* (2010).[11] This Act required large companies undertaking business in the state to publish an annual statement disclosing what efforts, if any, they were taking to address modern slavery in supply chains. Similar laws were passed in the United Kingdom (*Modern Slavery Act 2015*) and then countries across Europe and elsewhere. Some pieces of legislation combine features of both transparency and human rights due diligence (HRDD) (e.g. the Norwegian *Transparency Act*—Forbrukertilsynet, 2022), as will be discussed below. Overlapping with these efforts, governments used other levers to address forced labour in supply chains, including integrating labour standards into trade deals, enacting and enforcing import bans on goods made with forced labour, and advancing international cooperation, such as through the International Labour Organization or G7.

These developments are often heralded as a turning point, and there is optimism that governments' use of their power to address forced labour in global trade will replace ineffective voluntary CSR with more effective forms of public governance. However, I caution in this article that state-led anti-forced labour and human trafficking governance is not a straightforward replacement of CSR; rather, many recent government efforts have reinforced CSR and expanded the market, role, and governance power of unaccountable private actors, including auditing firms, data analytics and artificial intelligence (AI) companies, and certification bodies.

Similar themes are explored elsewhere in the scholarly literature. For instance, studies have shed light on the power and profits of the enforcement industry that has emerged in the wake of MNE CSR commitments,[12] the ways that industry-led technocratic tools are being mobilised to foster an 'ethics of detachment' wherein MNEs push due diligence responsibilities downwards within the

8 G LeBaron and A Rühmkorf, 'Steering CSR Through Home State Regulation: A Comparison of the Impact of the UK Bribery Act and Modern Slavery Act on Global Supply Chain Governance', *Global Policy*, vol. 8, issue S3, 2017, pp. 15–28, https://doi.org/10.1111/1758-5899.12398.

9 Fudge.

10 LeBaron and Rühmkorf, 2017.

11 N Phillips, G LeBaron, and S Wallin, *Mapping and Measuring the Effectiveness of Labour-Related Disclosure Requirements for Global Supply Chains*, International Labour Office, Geneva, 2018.

12 LeBaron, 2020.

supply chain,[13] how marketised logics and discourses have come to shape anti-trafficking work,[14] and, as Judy Fudge has adeptly argued, how modern slavery laws 'divert attention from the underlying structures and processes that generate exploitation'[15] instead of tackling corporate power and business models. This article builds on these insights, sharply emphasising the often overlooked reality that government regulations around forced labour and human trafficking reinforce CSR and expand the power of private actors. Given that 2025 marked the twenty-fifth anniversary of the Trafficking Protocol—a key launching point for global anti-forced labour and trafficking governance efforts—it is an opportune moment to holistically take stock of governance trends and to consider the strongest route forward.

To develop this argument and synthesis, I marshal evidence on the failures of CSR that I have collected (at times in collaboration with colleagues); the full methodologies for these studies are published elsewhere. I also draw on exploratory desk-based research conducted in 2025 around the expanding role and power of private actors in supply chain governance. This has been gathered through publicly available information, including from records related to United Kingdom parliamentary and other public policy proceedings, as well as websites of supply chain verification companies; audit, assurance, and advisory firms; investor initiatives; risk assessment technology firms; and other private actors relevant to forced labour in supply chains. I also mobilise research by other scholars in the field.

The Return of the State

In the 2010s, amidst growing disillusionment with lacking progress in relation to MNE commitments to address modern slavery in supply chains, activists within the overlapping anti-slavery/forced labour/human trafficking arenas stepped up pressures on governments to enforce labour standards in global supply chains; this echoed calls from the 'anti-sweatshop' movement in the late 1990s. Much of the energy focused on lobbying the 'home states' of MNEs—in other words, the countries in which large corporations leading global supply chains are incorporated—to create and enforce requirements on MNEs. The hope for 'home state' regulation was that if the governments of Global North countries in which MNEs were based imposed new requirements on corporations to be transparent about their global supply chains, consumers in those countries would make more ethical purchasing decisions.

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13 G A Sarfaty and R Deberdt, 'Supply Chain Governance at a Distance', *Law & Social Inquiry*, vol. 49, issue 2, 2023, pp. 1036–1059, https://doi.org/10.1017/lsi.2023.17.

14 Shih.

15 Fudge.

There are two distinct types of home state regulation relevant to addressing forced labour and human trafficking in supply chains, though as mentioned above, occasionally, legislation has adopted features of both. The first is transparency legislation, which, generally speaking, requires companies to publicly disclose any efforts to identify or address forced labour and human trafficking in their supply chains. This style of legislation does not generally require companies to undertake action towards detecting, preventing, addressing, or remediating forced labour or human trafficking; rather, transparency legislation requires disclosure—or transparency—about the efforts in which companies choose to engage. For instance, the United Kingdom's *Modern Slavery Act 2015* simply requires companies to report on any effort they make to detect and address modern slavery and to post this information on their website.

The second type of regulation is human rights due diligence legislation. Partially as a response to the widespread perception that transparency legislation has been of limited effectiveness in spurring change in relation to forced labour in supply chains, another form of legislation has emerged to require action by companies. Broadly speaking, according to the United Nations *Guiding Principles on Business and Human Rights*, often referred to as the 'Ruggie Principles', human rights due diligence is defined as involving four duties for companies. 1) They should assess and identify actual or potential adverse human rights impacts; 2) They should form and implement a plan of action to address these; 3) They should effectively monitor measures taken; and 4) They should issue reports on actions taken and their outcomes. Due diligence approaches are seen as more stringent than transparency alone, since they generally require corporations to identify and assess human rights risks and prevent and remedy abuses. However, the degree to which these principles have been reflected in legislation has largely been a matter of political contestation, with industry lobbying influencing regulatory efforts.[16] As noted, some pieces of legislation combine features of transparency and human rights due diligence.

Governments passed a wave of home state regulation, which included California's *Transparency in Supply Chains Act* (2012), the US *Dodd–Frank Wall Street Reform and Consumer Protection Act* (2010) (which regulates, among other things, conflict minerals), the UK *Modern Slavery Act 2015* (which includes a transparency in supply chains clause), and France's *Corporate Duty of Vigilance Law* (2017). These laws varied by stringency, with the least stringent iterations (e.g. UK or California) being pure transparency laws; in general, this type of legislation encourages companies to report on efforts to address and prevent modern slavery, but it does not have standardised or required indicators for their reporting or enforce

[16] P Schleifer and L Fransen, 'Smart Mix Politics: Business Actors in the Formulation of Global Supply Chain Regulation', *Review of International Political Economy*, vol. 31, issue 6, 2024, pp. 1710–1734, https://doi.org/10.1080/09692290.2024.2367582.

penalties for non-compliance, nor does it require actual improvements in labour standards. The justification for this approach has generally been that governments are encouraging companies to share information to guide purchasing decisions, so that consumers could 'vote with their dollar'. In other words, this legislation largely focuses on disclosure around any voluntary efforts taken to address the problem, rather than placing new requirements on companies to do so.

Another way that governments have stepped up their anti-forced labour efforts is through import bans on goods made with forced labour. Anti-slavery organisations, including Walk Free, have celebrated import bans as a way for states to punish companies or countries heavily reliant on forced labour by halting their access to key consumer markets, such as in the US, Canada, and Europe.[17] For instance, the US was first to prohibit the import of goods made with forced labour by amending section 307 of its *Tariff Act* of 1930, and the EU Parliament adopted a proposal to ban all products made with forced labour in 2022. Further initiatives seek to ban the import of forced labour-made goods in certain sectors (e.g. EU regulation 2017/821 focuses on minerals and metals) or from specific countries or regions (e.g. the US *Uyghur Forced Labor Prevention Act* in 2021). Table 1 provides an indicative list of some key policy developments to help illustrate the types of action states and international organisations like the United Nations have recently taken.

Table 1: Indicative Key Policy Developments Since 2010

2011	United Nations Guiding Principles on Business and Human Rights
2012	United States State of California, *Transparency in Supply Chains Act*
2014	European Union, CSR Reporting Directive; Singapore *Prevention of Human Trafficking Act*
2015	United Kingdom, *Modern Slavery Act 2015*; United States Federal Acquisition Regulation Rule on Combatting Trafficking in Persons
2016	Global *Magnitsky Act*; United Nations, Sustainable Development Goals
2017	France, *Corporate Duty of Vigilance Law*
2018	Australia, *Modern Slavery Act*
2019	Netherlands, *Child Labor Due Diligence Law*; European Union, Regulation on Sustainability-Related Disclosure in the Financial Sector
2021	Germany, *Supply Chain Act*; Norway *Transparency Act*
2022	Japan, Guidelines on Respecting Human Rights in Responsible Supply Chains
2023	Canada, *Fighting Against Forced Labor and Child Labor in Supply Chains Act*
2022	European Union, Corporate Sustainability Reporting Directive

[17] See, for instance: Walk Free, 'Importing Risk', n.d., retrieved 30 May 2025, https://www.walkfree.org/global-slavery-index/findings/importing-risk.

In addition to transparency and due diligence legislation as well as import bans, there are several other ways in which governments have recently taken on more active roles to combat forced labour in supply chains. These include: public procurement systems designed to ensure forced labour is not entering into government supply chains and government due diligence systems;[18] 'name and shame' lists of countries and entities who use forced labour (e.g. Brazil's 'Dirty List' or the annual US Department of Labor's List of Goods Produced by Child Labor or Forced Labor); the integration of labour provisions into trade agreements;[19] the establishment of anti-slavery commissioners (e.g. Australia or UK) or similar roles (e.g. US Ambassador-at-Large to Combat Trafficking in Persons); and international and multi-lateral cooperation, such as around legal frameworks and conventions.

But for all the excitement about governments taking on a more active role in tackling forced labour in supply chains, the evidence that these state initiatives are leading to meaningful improvements in working conditions, reduced prevalence or severity of forced labour, or even stronger corporate accountability is thin. At a general level, while there is some variation across different models of transparency and due diligence legislation, academics and corporate accountability organisations have documented that these laws have done relatively little so far to spur significant changes in corporate behaviour or business models.[20] One issue is that they have largely failed to reach the segments of supply chains where the worst human rights violations are occurring, and there is a serious lack of evidence demonstrating reduced occurrence of forced labour on the ground.[21] Another issue is that legislation can carry hidden costs, perverse effects, and unintended consequences. For instance, some scholars have argued that transparency and due diligence legislation simply shifts responsibility and potentially also liability for forced labour deeper into the supply chain where industry actors are less well-

[18] See, for instance: UK Parliament, 'UK Parliament's Modern Slavery Programme', n.d., retrieved 6 February 2025, https://www.parliament.uk/about/modernslavery.

[19] See, for instance: I Damjanovic and N de Sadeleer, 'Labour Standards in International Trade Agreements: A Rule of Law Perspective', *European Journal of Risk Regulation*, vol. 15, issue 3, 2024, pp. 551–571, https://doi.org/10.1017/err.2024.82.

[20] See, for instance: L K E Hsin *et al.*, *Effectiveness of Section 54 of the Modern Slavery Act: Evidence and Comparative Analysis,* Modern Slavery & Human Rights Policy & Evidence Centre, February 2021; S New and L K E Hsin, 'Deconstructing Modern Slavery Statements: A Detailed Analysis of Arcadia Group and Babcock International', *SSRN*, 2021, https://doi.org/10.2139/ssrn.3768495; N Ahmad, S Haque, and M A Islam, 'Modern Slavery Disclosure Regulations in the Global Supply Chain: A World-Systems Perspective', *Critical Perspectives on Accounting*, vol. 99, 2024, pp. 102677, https://doi.org/10.1016/j.cpa.2023.102677.

[21] LeBaron, 2020.

equipped to address and remediate it.[22] No doubt, the original policy proposals put forward—informed by civil society, activists, experts, and others—may have been more effective than the final enacted versions have ended up being, as is the case for the UK *Modern Slavery Act 2015*.[23] But that does not change the limited impacts that have been documented in the wake of the legislation.

At this point, there has been extensive analysis of the challenges related to the design and implementation of state legislation and initiatives when it comes to creating on-the-ground change for those experiencing forced labour and human trafficking in supply chains and the business models that perpetuate it. However, there has been much less analysis of the role of CSR in contributing to policy ineffectiveness. A significant obstacle is the extent to which this wave of government initiatives reinforces CSR and expands the power of private actors within anti-slavery governance.

Reinforcing CSR and the Power of Private Actors

Many imagine a strict separation between public (e.g. state-based) regulation and private governance (e.g. CSR). However, most state initiatives have a high degree of hybridity, with public initiatives reinforcing private governance and CSR. This is concerning insofar as it is fuelling the profits and growth of MNEs as well as the market, role, and governance power of unaccountable private actors, including auditing firms, data analytics and AI companies, and certification bodies. Individual private actors cannot be assumed *a priori* to limit governance efforts around forced labour, and there is certainly a high degree of variation in the role played by these actors (for instance, amongst assurance and advisory firms, in the quality of service provided). However, taken together, the degree to which government legislation and initiatives rely on private actors and action is concerning.

There are several different types of private actors involved in the delivery of anti-slavery governance. These include: standard setters (including MNEs), ethical certification organisations and standardisation organisations; verification and assurance organisations, including social auditors and civil society organisations;

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22 See, for instance: T Barkay *et al*., 'Anti-Trafficking Chains: Analyzing the Impact of Transparency Legislation in the UK Construction Sector', *Law & Social Inquiry*, vol. 49, issue 4, 2024, pp. 2152–2183, https://doi.org/10.1017/lsi.2024.6; Sarfaty and Deberdt; R Vijeyarasa, 'A Missed Opportunity: How Australia Failed to Make its Modern Slavery Act a Global Example of Good Practice', *Adelaide Law Review*, vol. 40, issue 3, 2019, pp. 857–866.

23 G LeBaron and A Rühmkorf, 'The Domestic Politics of Corporate Accountability Legislation: Struggles Over the 2015 UK Modern Slavery Act', *Socio-Economic Review*, vol. 17, issue 3, 2019, pp. 709–743, https://doi.org/10.1093/ser/mwx047.

consulting and advisory organisations, including large companies offering consulting and advisory services across a range of issues as well as smaller more specialised companies focused specifically on labour and human rights issues and risks; and risk assessment organisations, including commercial data platforms, worker hotline and 'voice' technology, and shared traceability platforms.

The commercial nature of these firms and the proprietary nature of their data and customer bases make it hard to gather comprehensive data on the scale of the industry and the evolution of this over time. But a quick glance at MNE reporting under transparency and due diligence legislation reveals that they are deepening their reliance on private governance actors in response to new state anti-slavery legislation and other initiatives. Companies covered under transparency and due diligence legislation are turning to social auditing, certifying, consulting, risk assessment, and ethical certification. For instance, Amazon's 2024 statement under the UK *Modern Slavery Act 2015* stated, 'We expanded our supplier audit program to reach more of Amazon's global logistics network, conducting audits across third-party labour, service, and not-for-resale goods providers',[24] while Kingfisher's 2024 statement under the same Act says, 'In 2024, we increased the number of audits conducted at high-risk production sites'.[25]

Guidance issued by the United States Office of Trade instructs that to identify and correct problems to respond to or prevent application of the import ban of goods made with forced labour, companies should conduct audits, noting 'audits are useful tools to help companies identify forced labor risks' and that corrective action plans where the import ban has been applied should include audit findings.[26]

In addition to reinforcing the market for CSR, recent state initiatives have also contributed to an evolution of the role that these firms play within the global economy. Risk mapping technologies, including those reliant on AI, data from audit firms, and audit platforms, have become pivotal in determinations and decision making around risk and the changing geography of sourcing. Some of these tools cross-reference sources to build layered pictures of risk, which has allowed them to detect problems deeper in the supply chain. Furthermore,

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[24] Amazon, *Modern Slavery Statement 2024*, n.d., retrieved 2 November 2025, https://sustainability.aboutamazon.com/modern-slavery-statement.pdf.

[25] Kingfisher, *Modern Slavery Act Transparency Statement 2024/25*, June 2025, https://www.kingfisher.com/~/media/Files/K/Kingfisher-Plc/Universal/documents/responsible-business/RB-Report/2025/Kingfisher-plc-Modern-Slavery-Act-Statement-2024-25.pdf.

[26] United States Customs and Border Protection Office of Trade Forced Labor Division, *Withhold Release Order (WRO) and Finding Modification Guide: CBP Publication No. 5040-0525*, https://www.cbp.gov/sites/default/files/2025-05/FLD_Withhold_Release_Order_and_Finding_Modifications_Guide.pdf.

as MNEs divest or exit from regions or relationships, they rely heavily on these firms to redesign supply chains.

In this context, anti-slavery private governance tools and firms are evolving. They are no longer simply about assisting MNEs and suppliers to achieve compliance. While this may on the face of it seem like a positive phenomenon, there are several drawbacks that need to be considered. First, many of these tools over-rely on inaccurate or highly partial data. Unfortunately, the underpinning data on forced labour that feeds risk maps and AI models is patchy, often misleading (e.g. when entire countries are identified as 'high risk' on the basis of poor quality data[27]), compromised by fraud and fabrication (e.g. in the case of audits), and tainted by geopolitics.

Second, on the basis of this highly inaccurate data, private governance firms are driving decision making in supply chains that heavily impacts workers' lives. For instance, when MNEs disengage from suppliers based on audits or data provided by anti-slavery private governance firms, vulnerable workers can be made worse off, including by losing their jobs, incomes, and employment-linked benefits and social protection (e.g. meals provided in the company canteen).

Third, while anti-slavery private governance tools and firms are driving considerable activity—such as exiting regions and divesting from supplier relationships—none of this addresses the actual problem. MNEs are investing large amounts of money in anti-slavery private governance in response to new state activity, but they are leaving entirely intact the business models that lead to forced labour in supply chains in the first place.[28] While MNEs shift around the geography of their supply chains using increasingly elaborate (and expensive) service firms and information, they continue to use the purchasing practices, contract systems, and financial systems that drive the business demand for forced labour within their supply chains. Meanwhile, workers suffer.

The governance power of these assurance, advisory, risk mapping, and standard-setting firms is accelerating. Not only are they increasingly driving supply chain sourcing decisions in response to government legislation and import ban activity, but they are also influencing corporate strategy in ways that ultimately serve to maintain the status quo of their business models and heighten profitability. Anti-slavery private governance industry actors are entirely unaccountable for the decisions and perceptions they inform, such as amongst MNEs or public

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27 A T Gallagher, 'What's Wrong with the Global Slavery Index?', *Anti-Trafficking Review*, issue 8, 2017, pp. 90–112, https://doi.org/10.14197/atr.20121786.

28 G LeBaron, 'The Role of Supply Chains in the Global Business of Forced Labour', *Journal of Supply Chain Management*, vol. 57, issue 2, 2021, pp. 29–42, https://doi.org/10.1111/jscm.12258.

policymakers, or the consequences of those decisions.

For instance, multiple lawsuits have been filed against social audit firms who have failed to detect major problems at worksites and rubber-stamped their labour conditions, only for disasters to take place or forced labour to be discovered shortly afterwards. At the time of writing, none of the claims filed have yet resulted in a finding of liability.[29] Private governance actors like social auditors are shaping critical decision making within supply chains, and yet, they have no accountability or liability for the consequences of those decisions.

This is not a coincidence, but rather is by design. In the face of recent legislation and import bans, MNEs hiring private governance firms allows them to achieve plausible deniability and demonstrate they are managing human rights risks in their supply chains, even where the actual abuses persist unchanged. The very attractiveness of the private governance industry lies in the fact that firms—like social auditors—have no legal duty to those harmed by misleading audits, have extensive liability disclaimers (e.g. not being responsible for their accuracy), and face no consequences for false assurances. Yet, the presence of these third parties dilutes the liability of MNEs for problems occurring in their supply chains.

Rather than government anti-slavery initiatives being met by greater workplace inspection or meaningful change in business models or sourcing practices to facilitate higher labour standards in supply chains, the regulatory push has been met with greater reliance on weak private governance systems. Private actors have growing power to shape labour standards and determine which workers are able to be part of global supply chains, but without democratic legitimacy, public accountability, or legal liability. This allows MNEs to externalise risk while appearing to be compliant with new government regulation and facilitates the growth of an industry that wields considerable influence but without responsibility or liability.

Conclusion

A potential hidden cost of the new wave of government action on forced labour is that it has deepened the power and profits of the private governance industry. This deserves more attention and serious consideration and study by scholars and civil society groups. While those involved in bringing about the greater role of governments in tackling forced labour in supply chains are understandably excited about the progress they are making, and have argued that even weak

[29] Business & Human Rights Resource Centre, *Social Audit Liability: Hard Law Strategies to Redress Weak Social Assurances*, September 2021, https://media.business-humanrights.org/media/documents/Executive_Summary_EN_2021_CLA_Annual_Briefing.pdf.

laws can be incrementally built upon and strengthened, it is equally important to examine recent developments through a wide-angle lens with a focus on outcomes and long-term consequences. What are the hidden costs, perverse effects, and unintended consequences of new state initiatives?

In this article, I have argued that a key trend that needs to be carefully considered and further investigated is the evolving relationship between public and private anti-slavery governance. The interplay between these is not new. Indeed, home state regulation was from the outset informed by voluntary business and human rights principles that relied on private governance power and tools to succeed. The 'Ruggie Principles', for instance, which informed public policy discussions leading to home state regulation, emphasise a corporate responsibility to respect human rights; they are frequently referenced as the key policy framework carving out a role for CSR within global human rights governance.

Nevertheless, the interlinkages and overlaps are becoming more consequential and complex. As legislation and import bans drive deepening reliance on private governance, this industry is generating abrupt shifts in sourcing patterns and supply chain relationships. While hundreds of firms are generating millions of dollars from these developments, it is important to look carefully at the consequences for workers, and for labour governance of global supply chains more broadly.

After more than a decade of home state legislation, there is still very little evidence that this is leading to concrete improvements for workers in supply chains, never mind a net reduction of forced labour. And it may be creating a situation where workers in entire regions or worksites are losing access to jobs in global supply chains—no doubt, sometimes informed by genuine human rights risks, but given the problems noted above with the underpinning data used by private anti-slavery governance firms, it is also possible that such losses are anchored in faulty or simply inaccurate information. In a world where precarity and poverty are widespread and decent employment opportunities in short supply, decisions to redraw supply chains to leave out suppliers or regions can have major, life-changing consequences for workers already struggling.

Taken as a whole, the growing power and profit in private anti-slavery governance is unlikely to be a positive phenomenon for labour governance in global supply chains more broadly. Not only is this facilitating the ongoing growth and monopolisation of MNEs and helping them to evade consequences for the human rights issues hard-wired into their business models, but it is bestowing governance power and decision making onto scarcely known and under-studied firms. As mentioned, these firms are not accountable to the public nor to the workers whose lives are influenced by their decisions and advice, and they easily evade liability and muddy the waters of corporate accountability while enabling MNEs to do the same.

If current trends continue, we are on track for 25 more years of CSR reinforced and rubber-stamped by governments, such as through home state regulation. At the same time, we are unlikely to see meaningful and effective action by states that will improve labour standards and address forced labour. There is a need for much bolder and more ambitious government action than we have seen to date. Just as governments were willing to challenge and put enormous pressure on business models reliant on slavery when they made it illegal in the late nineteenth and early twentieth century, governments need to be willing to transform the status quo of contemporary business models reliant on forced labour. This will require sweeping changes to corporate and supply chain governance that touch upon everything from fiduciary duty and value share and distribution to joint liability and labour law enforcement. No doubt, this is far more challenging to build coalitions and political momentum around compared to a toothless transparency law, but it is what is needed to meaningfully address forced labour in supply chains.

In a world where civil society organisations, unions, and even academics face pressure to show return on investment and impact, it is challenging to prioritise large structural change over smaller more achievable wins. But these wins come with hidden costs, and some risk perpetuating harm to the populations they claim to help. Keeping these hidden costs in clear view changes calculations around 'wins', raising questions about who is winning, and whether these wins are coming at a cost for workers. That recent state initiatives have sowed the seeds for CSR to take on an even more decisive and powerful role in labour governance is certainly a very high cost.

Genevieve LeBaron is Distinguished Professor of Global Supply Chain Governance at Simon Fraser University (Vancouver, Canada) and Co-Principal Investigator of Re:Structure Lab. Her research focuses on labour rights and standards in the global economy and the governance of supply chains. She is the author or editor of four books, including *Fighting Modern Slavery and Human Trafficking: History and Contemporary Policy* (with Jessica R. Pliley and David W. Blight, Cambridge University Press, 2021) and *Combatting Modern Slavery: Why Labour Governance is Failing and What We Can Do About It* (Polity Press, 2020). She serves on the UK Parliament's Modern Slavery and Supply Chain Advisory Group and works closely with international organisations, government agencies, and others to strengthen governance to address forced labour in supply chains. Email: genevieve_lebaron@sfu.ca.

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Traceability Problems in the Peruvian Amazon's Timber Supply Chain: Illegal logging, exploitation, and forced labour

Christian Campos-Vásquez, Jaris Mujica, Ángel Peñaloza González, Nicolás Zevallos Trigoso, and Alonso Flores Macher

Abstract

Peru has developed an extensive set of regulations, managerial instruments, and trade standards, largely influenced by free trade agreements, that appear to ensure strict control of the Amazonian timber supply chain. In practice, however, at least 20 per cent of logging is illegal (and up to 86 per cent in some areas), around 70 per cent of companies are informal, and there is repeated evidence of labour exploitation and forced labour. This article explores the relationship between these elements through a systematic review of regulatory and corporate frameworks, interviews with timber workers in Amazonian river ports, and an expert panel analysis. The findings reveal not so much a system of control as one that simulates control: a dense institutional framework that is highly permeable to illegal flows, a traceability scheme that looks modern but lacks accountability, and a trade chain that ultimately relies on a forest regent, a notebook, and a pen. In short, the Peruvian timber sector presents a paradox of international regulatory frameworks and enforcement weaknesses, where compliance is more often performed than achieved.

Keywords: timber, traceability, illegal logging, illegal economies, supply chain, forced labour, Peru

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Introduction

Trade, in great deal, depends on global supply chains—a corporate model based on the fragmentation of production processes and geographic offshoring—to reduce costs and increase productivity. The consequences are clear: overproduction and excessive consumption generate overexploitation of resources, pollution, and job insecurity. In response to trade regulations (on extraction, production, customs), environmental, safety, and labour regulations are being introduced.[1]

Most South American states have joined international treaties and agreements on trade, and environmental and labour regulations related to commodity supply chains, aligned with the Sustainable Development Goals (SDGs) and other instruments. This has involved adjusting national regulations and developing institutions, policies, and budgets tied to the sustainability agenda, including regulations on the origin of commodities.

Companies have also sought to adapt to sustainability standards (in processes of extraction, production, origin, size, weight, labelling, certification, as well as labour and environmental regulations) applied to international and national regulations and free trade agreements.[2] This has led part of the formal sector to incorporate sustainability and traceability narratives, instruments, and practices to maintain access to regulated markets.

However, there is evidence of at least two related problems undermining mechanisms to address labour exploitation in supply chains. First, even though economic, environmental, and social transparency is formally required for supply chain governance, opaque and harmful practices remain widespread—outsourcing to firms that violate legislation, trading with countries with weak regulatory environments, environmentally damaging activities, and recurrent labour abuses. These practices, involving both multinational enterprises and source-country actors, led to the proliferation of binding and voluntary frameworks such as Sustainable Supply Chain Management (SSCM), Shared Responsibility, Corporate Social Responsibility (CSR), Corporate Due Diligence, and Environmental, Social and Governance (ESG) criteria. Although these instruments articulate stronger corporate accountability commitments, they have only limited effectiveness in

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1 UN Environment Programme, *Environmental Rule of Law: First Global Report*, UNEP, 2019, p. 26–30, retrieved 22 March 2025, https://wedocs.unep.org/bitstream/handle/20.500.11822/27279/Environmental_rule_of_law.pdf?sequence=1&isAllowed=y.

2 M Wilhelm, 'Mandatory due diligence legislation: A paradigm shift for the governance of sustainability in global value chains?', *Journal of International Business Policy*, vol. 7, 2024, pp. 459–465, https://doi.org/10.1057/s42214-024-00193-4.

stopping illegal products and practices from entering global markets. Second, state regulations often fail to confront pervasive illegal extractive and production dynamics that, beyond contravening regulatory frameworks, directly violate criminal codes.

Amazon forests represent 33 per cent of the world's forest area[3] and have experienced deforestation of more than 542,581 km^2 from 2000 to 2021[4] associated with extractive activities. Logging is one of the main economic activities in the Peruvian Amazon, where, in addition to the environmental consequences, there is evidence of widespread labour exploitation and forced labour. For example, the International Labour Organization has estimated that in Amazonian communities in Ucayali (Peru), '83.8% of subjects over 18 years of age and 70.5% of those under 18 years of age surveyed present elements associated with a "hard life and work" (...) and 6.1% of adults and 9.1% of those under 18 years of age presented clear indicators of forced labour'.[5]

In Peru, despite state regulations and corporate sustainability instruments, there is evidence of widespread illegal logging, deforestation, and forced labour. Regulations have permeable channels, allowing illegal logging to penetrate formal business dynamics; and, conversely, private regulations and voluntary standards can become formalities with lax filters for illegal products and practices. These dynamics reveal persistent gaps between the normative frameworks and the realities of workers and communities embedded in the timber supply chain.

In this context, this article examines timber extraction in Peruvian forestry as a case study because it illustrates the shortcomings of contemporary mechanisms designed to address labour exploitation in global supply chains. Rather than surveying the entire chain, it focuses on the critical point of origin, where the validity of the instrument is first challenged. At this stage, the entire regulatory architecture—state norms and private standards alike—ultimately depends on a single actor (the instrument implementer, the forest regent), a pen, and a standardised form with limited categories. In other words, the whole system rests on the discretion of a regent whose supervision is largely performative and whose

3 Worldwide Fund for Nature, *The Amazon Rainforest*, WWF, retrieved 23 March 2025, https://www.wwf.org.uk/where-we-work/amazon.

4 Red Amazónica de Información Socioambiental Georreferenciada, *Amazonía 2021: Áreas Protegidas y Territorios Indígenas*, RAISG, 2021, retrieved 23 March 2025, https://www.raisg.org/es/publicacion/amazonia-2021-areas-protegidas-y-territorios-indigenas/.

5 International Labour Organization, *Precariedad y trabajo forzoso en la extracción de madera: un estudio en espacios rurales de la Amazonía peruana*, ILO, 2018, p. 45, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@americas/@ro-lima/documents/publication/wcms_427032.pdf.

tools are intrinsically weak: the assessment criteria reduce complex ecological reality to a binary threshold, and the resulting data are merely administrative entries rather than representations of the phenomenon on the ground.

This problem is exacerbated by the scale of oversight: only 212 forest regents are responsible for supervising hundreds of thousands of square kilometres of forest in a region facing severe environmental pressure. The position functions as an institutional patch (for supply chain accountability), and the core source of information about timber is not the timber itself but a *traceability document* (instrument) validated by a small number of overextended regents associated with serious indicators of compromised integrity. The instrument, therefore, produces the appearance of control while systematically failing to capture empirical reality. This critical node not only authorises the exit of timber from the forest under formal and accountable documentation but also constitutes the primary opening through which illegal practices and labour exploitation are laundered into ostensibly legitimate supply chains.

Methodology

Our research had four specific objectives: 1) describe the Peruvian regulatory framework for timber extraction, trade, and export; 2) determine traceability limitations; 3) determine the sustainability standards of the logging private sector; and 4) identify the links that lead to the concentration of illegal logging, forced labour, and timber laundering.

A qualitative and exploratory design was used to describe the structure of the illegal timber supply chain, the dynamics of exploitation and forced labour, government regulations, and business regulations.

The supply chain was reconstructed using crime script methodology on a dashboard for systematising the results of several instruments, in two phases. Phase 1 (desk research): a) systematisation sheet of previous research (30 academic articles and 30 regulatory documents) and b) official databases (25 management documents and official reports, 20 reports from the private sector, international cooperation, and civil society). Phase 2 (fieldwork): c) semi-structured interviews with forestry officials (4), timber entrepreneurs (4), and former high ranking civil bureaucrats (4); d) semi-structured interviews with timber workers (41) at river ports in Pucallpa (central Amazon of Peru). Information on regulations was collected in a sheet and compared on the same supply chain dashboard (to associate regulations with links in the chain). The results were validated by a panel of five experts, composed of academics, former forestry officials, and civil society members with experience in the sector, who reviewed our supply chain reconstruction and confirmed the critical traceability failure points. The chain reconstruction was carried out between January and July 2024. The phase of

contrasting state and business regulations and their gaps was carried out between February and April 2025.

Supply chain information was processed in Excel; data on regulations and control gaps were added to the dashboard and compared to determine the concentration of responses that identified key points in the supply chain.

Findings

The Regulatory and Institutional Framework for Timber and the Challenge of Traceability in Peru

Peru has developed a comprehensive regulatory and institutional framework for the management of timber resources, closely aligned with international standards. Its participation in international agreements, adoption of national legislation, and establishment of specialised agencies demonstrate a strong formal commitment to sustainable forestry and labour rights. However, despite this robust framework, enforcement challenges persist, particularly in the area of timber traceability, where the system remains vulnerable to manipulation.

The country has signed twenty Free Trade Agreements (FTAs)[6] including with the United States, the European Union, Canada, China, Japan, and others. These agreements include provisions on environmental protection and labour rights that apply to forestry. The US–Peru Trade Promotion Agreement, in force since 2009, links tariff preferences to verification of legal timber under the US *Lacey Act*, which prohibits products obtained through illegal logging. Similarly, the Peru–EU Trade Agreement (2013) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (2017) establish environmental and labour obligations that condition market access. Commercially and strategically, these FTAs commit Peru to respect international trade standards, particularly in sectors vulnerable to illegality such as timber.

Domestically, the Constitution defines natural resources as national heritage and establishes the conditions for their use and exploitation.[7] The *Forestry and Wildlife Law* (No. 29763 from 2011) provides the legal foundation for forest management, regulating concessions, harvesting, processing, and trade.[8] It incorporates Peru's commitments under the Convention on International Trade in Endangered

6 Ministerio de Comercio Exterior y Turismo, *Acuerdos Comerciales del Perú*, MINCETUR, retrieved 9 April 2025, https://www.acuerdoscomerciales.gob.pe/.

7 Section 3(2)(66-69) of the Political Constitution of Peru 1993.

8 Section 3(a-f) of the *Forestry and Wildlife Law* 2011.

Species of Wild Fauna and Flora (CITES), which regulates global trade in threatened species and sets out procedures for sustainable use. The Penal Code criminalises illegal logging and trafficking in timber as offences against natural resources[9] and forced labour and trafficking in persons as offences against human dignity.[10] The specialised prosecutor's offices for organised crime (FECOR) and for environmental matters (FEMA), and police units have been created to investigate and prosecute these crimes, reflecting an institutional effort to link environmental enforcement with human rights protections.

National public policies complement this legal framework. State Policy No. 19 on Sustainable Development and Environmental Management (2002) initiated modern forest governance, followed by the National Forestry and Wildlife Policy (2013). Social risks associated with forestry are also recognised: the National Plan to Combat Forced Labour (2019) and the National Policy against Human Trafficking (2021) identify the forestry sector as a priority for prevention and prosecution. In this way, Peru's framework integrates both environmental and social dimensions of sustainability.

Forestry governance is shared across several agencies. The Ministry of the Environment (MINAM), established in 2008, sets environmental policy, with oversight conducted by the Environmental Assessment and Oversight Agency (OEFA). The Ministry of Agriculture (MINAGRI) oversees the National Forest and Wildlife Service (SERFOR), which acts as the CITES authority[11] and coordinates the National Forest and Wildlife Management System (SINAFOR). This system integrates national, regional, and local authorities to coordinate policy and enforcement.

Forestry management at the regional level is decentralised to regional governments through Forestry and Wildlife Management Units (UGFFS).[12] A key figure in this system is the 'forest regent', a licensed professional responsible for preparing and validating forest management plans. Regents are jointly liable with concession holders for compliance with the law.[13] This illustrates how Peru's multi-level institutional structure has a decisive starting point in this specific individual, a natural person in the local space.

9 Section 8(2)(308-313) of the Penal Code, 1991.

10 Section 8(2)(310) of the Penal Code, 1991.

11 *Forestry and Wildlife Law*, 2011, Section 14(g).

12 *Ibid.*, Section 2(4)(21).

13 *Ibid.*, Section 1(3)(23).

Forestry management is based on titles granted by the state to companies, communities, and individuals for forest use.[14] These require the submission of a forest management plan, prepared and signed by a regent, and the documentation of harvesting, processing, and transport through official records.[15] The catalogue of logbooks for forest inventory (instruments) include commercial inventories,[16] management plans,[17] operations books,[18] primary processing centres,[19] and Forest Transport Guides (GTF).[20] Together, these are designed to create a paper trail that ensures traceability from forest to market. Ultimately, the paper record serves as a political artifact, where the recorded data is not an empirical fact, but an arbitrary construction shaped by administrative bias (when designing the instruments) and prevailing power dynamics.

Thus, Peru possesses a comprehensive and formally robust legal and institutional framework for timber governance. Its Constitution, *Forestry and Wildlife Law*, Penal Code, and policy instruments are aligned with major international conventions and trade agreements. Specialised agencies, oversight bodies, and decentralised authorities have been created, while enabling titles and management plans are designed to regulate sustainable forest use. Formally, the system is coherent and consistent with international administrative standards. However, this very coherence underscores the article's central argument: a complex regulatory apparatus operates alongside an almost total absence of enforcement, challenging prevailing assumptions about state capacity and crime policy in countries embedded in illicit global value chains.

Business Standards

The timber sector is largely informal and illegal. In 2014, 89,547 companies were registered in the sector, of which 73.3 per cent (65,596), mainly microenterprises, were informal—they did not pay taxes and did not have an updated Single

14 *Ibid.*, Section 2(2)(61)(c).

15 *Ibid.*, Section 2(2)(56).

16 Servicio Nacional Forestal y de Fauna Silvestre, *Guía práctica para el registro de información en el Libro de Operaciones de los Títulos Habilitantes*, SERFOR and FOREST, 2021, p. 10, https://www.gob.pe/institucion/serfor/informes-publicaciones/2378237-guia-practica-para-el-registro-de-informacion-en-el-libro-de-operaciones-de-los-titulos-habilitantes.

17 Supreme Decree 018-2015-MINAGRI, Regulations on Forest Management, Section 7(43)(m).

18 *Forestry and Wildlife Law*, 2011, Section 8(52).

19 *Ibid.*, Section 25(171)(b).

20 *Ibid.*, Section 25(172)(a).

Taxpayer Registry with the tax authority.[21] Only 26.7 per cent (23,951) were formal. In 2015, 24,495 formal companies were registered in the sector; 5,683 participate in extraction and primary processing (3,556 dedicated to forestry and extraction, and 1,993 to sawmilling and planning). These segments employ 28 per cent of the sector's workforce (354,818 people).[22]

The formal timber sector is grouped into five national business associations: i) the Timber and Derivatives Industry Committee, ii) the Small Industry Committee (both associated with the National Society of Industries) (only one of its 24 members is a timber industry),[23] iii) the Timber and Timber Industry Committee, iv) the Crafts Committee (associated with the ADEX Exporters Association), and v) the SME Committee (integrated into the Lima Chamber of Commerce).[24] A group of formal businesses are organised into regional associations (chambers of commerce in each timber region). At the local level, the following are registered: i) forestry producers' associations, made up of individuals who carry out forest management and primary processing activities (but only 30 are formally registered nationwide); and ii) timber industrial associations, made up of legal entities (companies) that carry out primary processing activities.[25]

Although the state promotes certification for forest management, chain of custody, sustainable forest management, and timber traceability,[26] only a small group of companies apply international standards, and very few have ISO certifications for the forestry sector[27]—ISO 9001 (quality management), ISO 14001 (environmental management), and ISO 45001 (occupational health and safety). Of the total area under forest concessions in 2013 (7,885,963 hectares), less than 10 per cent (755,477 hectares) had Forest Stewardship Council (FSC) certification. By January 2025, with an area of 1,064,052 hectares certified, the FSC had certified only 94 initiatives: only 12 correspond to forest management certificates (ten company initiatives, one indigenous community, and one NGO);

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21 *Ibid.*, pp. 16–17, 79.

22 Food and Agriculture Organization of the United Nations and Instituto Tecnológico de la Producción, *La Industria de la Madera en el Perú*, FAO and ITP, 2018, p. 15, https://openknowledge.fao.org/server/api/core/bitstreams/e500a79d-18c5-41c0-ae00-fbb2000ee2bf/content.

23 Sociedad Nacional de Industrias, *Comité de la pequeña industria*, SNI, 2025, https://sni.org.pe/comite-la-pequena-industria/.

24 FAO and ITP, pp. 80–81.

25 *Ibid.*, pp. 78–79.

26 CEPLAN, 2025, p. 85.

27 Programme for the Endorsement of Forest Certification, 'Find Certificate', PEFC, n.d., retrieved 25 March 2026, https://www.pefc.org/find-certified.

the rest (82 certifications) are from chain of custody and only 25 from timber companies (the rest are from paper and derivatives companies).[28]

Although SERFOR identifies some good practices, it notes that they are very few: use of satellite imagery in forest management planning, GPS for forest censuses, selected silvicultural practices, monitoring of forest harvesting (traceability of products from the census to forest removal), and protection of wildlife during harvesting activities.[29] Most companies operate within a framework of regulations whose accountability is vulnerable to illegal practices, or are simply informal.[30]

In 2019, 406 companies were registered as exporters of timber products with a free-on-board value of over USD 124 million.[31] These companies must comply with FTA regulations; however, there are indications of the widespread use of exploitative labour in the extraction of timber in the Peruvian Amazon that enters the formal traceable circuit. This is possible due to the permeability of current traceability documents, which are complicated and ineffective in enforcing any type of accountability. Thus, timber that reaches the export channel moves with uncertainty about its origin.

In this context, the Joint Declaration of the Peru–US Meetings (2016) points to serious problems in 'ensuring the legality of timber throughout the supply chain'.[32] The Ombudsman's Office[33] pointed out to MINAGRI the limitations in verifying environmental certifications and land-use authorisations. In 2017, the US indicated that, eight years into the FTA, Peru had not formalised its forestry sector, even though it had allocated nearly USD 75 million in technical assistance

28 Forest Stewardship Council, *Datos y cifras al 31 de enero 2025*, FSC, 2025, p. 2, retrieved 9 April 2025, https://www.pe.fsc.org/sites/default/files/2025-04/D%26C%20ENERO%202025.%20%285%29.pdf.

29 SERFOR, 2022.

30 FAO and ITP, 2018, p. 99.

31 Observatorio Nacional de Política Criminal, *La tala ilegal en la Amazonía peruana*, INDAGA, 2022, p. 53, https://cdn.www.gob.pe/uploads/document/file/3095185/Documento%20-%20La%20tala%20ilegal%20en%20la%20Amazon%C3%ADa%20peruana.pdf.pdf?v=1654203896.

32 PROMPERU, *Declaración Conjunta de las Reuniones Perú – Estados Unidos Consejo de Asuntos Ambientales, Comisión de Cooperación Ambiental y Sub-Comité sobre el Manejo del Sector Forestal*, 2016, p. 2, https://www.acuerdoscomerciales.gob.pe/En_Vigencia/EEUU/Documentos/docs/Comunicado_Conjunto_VersionFinal.pdf.

33 Defensoría del Pueblo, *Deforestación por cultivos agroindustriales de palma aceitera y cacao: Entre la ilegalidad y la ineficacia del Estado*, DP, 2017, p. 13, https://www.defensoria.gob.pe/wp-content/uploads/2018/05/Informe-de-Adjuntia-001-2017-DP-AMASPPI.MA-1.pdf.

since 2009.[34] It has been noted that the legalisation of timber of dubious origin with official documents is a recurring practice[35]—with many cases of sanctions against Peruvian companies,[36] a situation reported in the Recommendations for the Export of Peruvian Timber to the US. [37]

Although instruments, standards, and ISO certifications are in place, and a limited number of companies comply with regulations (especially in the export market), a significant portion of the sector remains informal or operates within opaque boundaries. The sources studied converge on the finding that the severe limitations of traceability mechanisms at the first link of the chain pose no significant obstacle to the incorporation of illegal timber further downstream. In practice, compliance with bureaucracy and formalities can be achieved even while seamlessly integrating illicit products.

The (Illegal) Supply Chain of Illegal Timber Extraction and Trade

Nearly 80 per cent of Peru's twenty-first-century economy is underground[38]—the sum of illegal and informal service provision and commodity production activities[39]—and 71 per cent of the economically active population depends on informal activities.[40] In this context, (conservative) official data indicate that at least 20 per cent of timber extraction and trade is illegal, although it may reach

34 Agencia Agraria de Noticias, 'Perú no formaliza su sector forestal y EE.UU. Le aplica sanciones a través del TLC', *Agencia Agraria de Noticias*, 7 November 2017.

35 Environmental Investigation Agency, *The Laundering Machine: How fraud and corruption in Peru's concession system are destroying the future of its forests*, EIA, 2012, https://eia-international.org/wp-content/uploads/The-Laundering-Machine.pdf.

36 Agencia Agraria de Noticias, 2017.

37 J Araujo and M Carbajal, *Recomendaciones para exportar madera peruana a los Estados Unidos de América*, USAID-SPDDA, https://spda.org.pe/wp-content/uploads/2024/02/Recomendaciones-para-exportar-madera.pdf.

38 G López and C Mendoza, 'Estimación del tamaño de la economía sombra: Evidencia empírica para Ecuador, Perú y Colombia', *Revista Economía y Política*, vol. 36, 2022, pp. 97–117, https://doi.org/10.25097/rep.n36.2022.07.

39 J Escobar, *Una Medición de la Economía Subterránea Peruana, A través de la demanda de Efectivo: 1980-2005,* Instituto de Investigaciones Económicas, Lima, 2008.

40 INEI, *Producción y Empleo Informal en el Perú: Cuenta Satélite de la Economía Informal 2022-2023*, INEI, 2024, p. 116, retrieved 28 March 2025, https://cdn.www.gob.pe/uploads/document/file/7448702/6344108-produccion-y-empleo-informal-en-el-peru-cuenta-satelite-de-la-economia-informal-2022-2023.pdf.

86 per cent in certain areas.[41] Despite regulations and standards, the dynamics of the first links in the timber supply chain have changed little: a structurally informal economy, with precarious conditions, poverty, and blatant exploitation, especially in the Amazon regions.

The evidence of a structure of labour exploitation at the base of the supply chain is clear and not new. Records of extraction, sustained by the exploitation of indigenous labour and forced labour,[42] have been evident since the second half of the nineteenth century.[43] These conditions have changed but have not been eliminated, nor are they close to disappearing.[44] The neoliberalisation processes of the Peruvian economy generated a new boom in the extraction of minerals, hydrocarbons, and timber since the end of the twentieth century.

In fact, research shows the persistence of patronage systems, enlistment, and debt bondage in the timber supply chain in the twenty-first century,[45] which are associated with various forms of exploitation and forced labour.[46] Although there is no official estimate, the government acknowledges the extent, pervasiveness, and significance of the problem in its public policies, and the ILO notes its alarming magnitude.[47] This acknowledgment, however, remains largely rhetorical unless contrasted with the concrete experiences of those directly involved in the sector. Testimonies from our field research corroborate the systemic nature

41 Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre, *Estimación del índice y porcentaje de tala y comercio ilegal de madera en el Perú 2021*, OSINFOR, 2024, p. 30, https://cdn.www.gob.pe/uploads/document/file/6516466/5683472-policy-brief-estimacion-del-indice-y-porcentaje-de-tala-y-comercio-ilegal-de-madera-en-el-peru-el-2021.pdf.

42 Ministerio del Ambiente, *Historia ambiental del Perú. Siglos XVIII y XIX*, MINAM, 2016, https://www.minam.gob.pe/wp-content/uploads/2016/07/Historia-ambiental-del-Per%C3%BA.-Siglos-XVIII-y-XIX.pdf.

43 F de la Rosa, 'La era del caucho en el Amazonas (1870-1920): Modelos de explotación y relaciones sociales de producción', *Anales del museo de América*, vol. 12, 2004, pp. 183–204.

44 J Mujica, *Precariedad y trabajo forzoso en la extracción de madera: Un estudio en espacios rurales de la Amazonía peruana*, ILO, Lima, 2015, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@americas/@ro-lima/documents/publication/wcms_427032.pdf.

45 E Bedoya, A Bedoya and P Belser, 'El peonaje por deudas en la tala ilegal de madera en la Amazonía peruana', *Debate Agrario*, vol. 42, issue 1, 2007, pp. 1–31.

46 E Bedoya and A Silva-Santisteban, *Trabajo Forzoso en la Extracción de la Madera en la Amazonía Peruana*, ILO, Geneva, 2005.

47 International Labour Organization, *Hard to see, harder to count: Handbook on forced labour surveys*, 2024, https://www.ilo.org/publications/hard-see-harder-count-handbook-forced-labour-surveys.

of the problem and also expose the ways in which illegality is normalised and embedded in everyday practices of timber extraction.

The normalisation of abuse is evident in payment practices. Workers frequently reported that verbal agreements were ignored. As a 23-year-old day labourer in Yarinacocha explained, 'The *Patrón* [employer] got a bit stubborn with me... He failed to keep his word. He told me, "you are going to work this many hours", but he made me work more and didn't pay me anyway.'

This precarity extends to small-scale employers, who are often cheated by larger buyers, perpetuating a cycle of debt. A 69-year-old employer in Puerto de Pucallpa described how arbitrary quality assessments are used to withhold payment: '[The buyer says], "The wood came out bad... [so] *tas con tas* [we're eve] with the money."... He completely stiffed me (*me cerró*) out of 5,000 Soles. It made me bitter, my wife cried.'

Our field data confirms the widespread dynamics of exploitation, forced labour, child labour, and human trafficking for labour and sexual exploitation,[48] in the first links of the extractive chain, both in the Loreto region in the northern Amazon,[49] in the Madre de Dios region in the southern Amazon,[50] and in the Ucayali region in the central Peruvian Amazon.[51] The supply chain reconstruction, validated by our expert panel and field observation, identified four links, eight activities, and 40 tasks. Within these, timber extraction and processing involve a high and clearly identifiable presence of labour exploitation.[52]

Workers consistently described the extraction sites as fraught with physical danger and devoid of social protection. A 30-year-old day labourer in Callería highlighted the isolation and risks: 'It's really heavy [work], very risky. You have the danger of vipers... [or] a log hits you... You can break your finger... And to get you out

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48 See also: J Mujica, 'Trabajo adolescente en la extracción de madera en la Amazonía peruana: Explotación laboral, trabajo forzoso, trata de personas', *Revista De Direitos E Garantias Fundamentais*, vol. 17, issue 2, 2016, pp. 155–180, https://doi.org/10.18759/rdgf.v17i2.786.

49 International Labour Organization, *El trabajo forzoso en la extracción de madera: Un estudio en la triple frontera de Perú, Brasil y Colombia*, ILO, Lima, 2018.

50 J Mujica, *Elementos comparados del impacto de la trata de personas en la salud de víctimas adolescentes en el contexto de la minería ilegal de oro en Madre de Dios*, Promsex, Lima, 2014

51 Mujica, 2015.

52 J Mujica *et al.*, 'Vigilar y performar. La cadena de suministro de la madera ilegal en Perú', *URVIO Revista Latinoamericana de Estudios de Seguridad*, vol. 38, 2024, pp. 49–68, https://doi.org/10.17141/urvio.38.2024.6093; J Mujica *et al.*, 'Trabajo forzoso y riesgos en la cadena de suministro de la madera ilegal en el Perú', *Conflicto Social*, vol. 17, issue 32, 2024, pp. 115–147.

of there? You are not near the city, you are not near a town.' This physical risk is exacerbated by the total absence of health coverage. As a 33-year-old employer in Callería admitted, 'We don't have life insurance, we don't have any insurance at all... [When we get sick], no, we don't have any SIS [public health insurance] or anything, only by our own means. Sometimes we self-medicate.'

Beyond physical risks, the labour conditions often meet the criteria for forced labour, particularly through restriction of movement and threats. One 27-year-old labourer in Yarinacocha described a surveillance system designed to prevent exit: 'It's like we are watched so we can't... leave... It's like they want to watch [us], and then nobody gets out.' This immobility is reinforced by the geography itself; as a 45-year-old cook in Callería noted, quitting is dangerous: 'If you said something, they could say, "Ah, so stay here then. Walk. How will you get back to the community?" No, there was a lot of danger because of that too.'

Control is further maintained through threats regarding identity documents and food. The same 33-year-old employer cited above acknowledged that owners would threaten 'that they would take away our document [ID]... and besides that, they wouldn't give us food'. Furthermore, the environment is permissive of severe gender-based violence. A 54-year-old labourer in Manantay reported sexual abuse against women in the camps: 'Several cooks have been raped there... sometimes there are some people, the same chainsaw operators (*motosierristas*), … they abuse them, they rape them.'

In our field work, we found two results that confirm previous research: 1) a high frequency of the system of entrapment due to debt or deception, in an economy where there is no state surveillance or effective controls. The entire sample (41 subjects interviewed in the river ports of Ucayali) recounted experiences of labour exploitation, and 16 described conditions that could be considered as forced labour. 2) Labour exploitation is discernible in simple observation (absence of any type of safety instruments, work in remote areas of the Amazon forest without the possibility of leaving the area for extended periods), or simple records (no contracts, agreements are verbal, payments are sporadic or not made). These are not occasional situations, but rather a common, widespread dynamic rooted in the Amazonian extractive logic.[53]

Our field data also showed a high concentration of illegal logging. We identified that most illegally extracted forest products (in prohibited concessions, with falsified extraction documents, without a permit, under exploitative conditions, among other methods) are mixed with legal timber and are part of the same supply chain sequence to enter the formal market, confirming the state's

[53] *Ibid.*

estimates of the percentage of illegal timber,[54] the number of judicial cases,[55] and institutional alerts.[56] This is associated with the absence of control mechanisms in the extraction areas, mostly in the Amazon forest without any type of physical institutional presence.

Discussion

Despite the elaborate legal and institutional framework, traceability remains the weakest link.[57] Instruments rely on paper records and sworn statements from concession holders and regents, with limited verification capacity. Inventories may include non-existent or off-site trees; operational plans can be manipulated; transport guides may be cloned or falsified; and processing centres may mix legal and illegal timber.[58] In practice, the system documents procedure fulfilment rather than tracking timber itself.

This reliance on documentation undermines credibility. Interviews with specialists, traders, and officials confirm that malpractices are common, beginning with inflated or falsified inventories and continuing through transportation and marketing. Without independent verification—through technology, field monitoring, or accountability mechanisms—the framework cannot prevent the laundering of illegal timber into legal supply chains.

Effectiveness remains contingent upon traceability, which continues to be prone to illegality, forced labour and human trafficking. The dissonance between the strength of Peru's regulatory framework and the fragility of its enforcement mechanisms underscores the persistence of illegal logging, forced labour and human trafficking. In the final analysis, the framework's legitimacy rests less on the comprehensiveness of its laws and institutions than on its structural (in)capacity

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54 OSINFOR, 2024, p. 11.

55 Ministerio de Justicia y Derechos Humanos, *La tala ilegal en la Amazonía peruana*, MINJUSDH, 2022, p. 177, http://cdn.www.gob.pe/uploads/document/file/3095185/Documento%20-%20La%20tala%20ilegal%20en%20la%20Amazon%C3%ADa%20peruana.pdf.pdf

56 Ministerio del Ambiente, *Bosque y Pérdida de Bosque*, MINAM, 2023, http://geobosques.minam.gob.pe/geobosque/view/perdida.php.

57 Centro Nacional de Planeamiento Estratégico, *El sector forestal en el Perú: Propuestas estratégicas para fortalecer su desarrollo*, CEPLAN, 2023, pp. 23–24, https://cdn.www.gob.pe/uploads/document/file/5605664/4973838-ceplan-el-sector-forestal-en-el-peru.pdf.

58 J Urrunaga *et al.*, *Moment of Truth. Promise or Peril for the Amazon as Peru Confronts Its Illegal Timber Trade*, EIA, 2018, https://s3.amazonaws.com/environmental-investigation-agency/assets/2018/02/MoT/MomentofTruth.pdf.

to enforce compliance in environmental, commercial, and labour domains.

The prevalence of exploitation and forced labour is linked to the large scale of extractive activity, which cannot be explained without the exploitation of local labour, as demonstrated by the data in this article, as well as previous research, state and ILO reports, and ethnographic studies, especially at the base of the chain: the extractive link. The extractive dynamics and the trade of these products cannot be understood without the presence of a vast timber laundering system, which mixes illegal and legal resources. What enables these dynamics?

Peru has signed international agreements and conventions, organised its system of standards, public policies, and penal code, designed a specialised institutional structure, and developed a comprehensive system aligned with global trade standards and sustainability regulations. However, formal processes do not guarantee monitoring (in practice) of timber origin, and there are various vulnerabilities, especially at the beginning of the supply chain, such as extraction, licencing, and personnel recruitment. The complex network of standards, regulations, and institutions overseeing the legal chain is sustained by a single actor—the forest regent—and a single object—a manual logbook for forest inventory. The administrative chain and the comprehensive traceability system depend on 'good intentions' to prepare these documents, which lack accountability and are radically vulnerable to the incorporation of illegal products extracted under exploitative conditions.

Thus, the system is designed to trace documents rather than objects (trees, timber, derivatives). It behaves as a simulation bureaucracy: an administrative structure that performs regulation through procedures, meetings, and documentation, while maintaining only a symbolic or ritual connection to the material world it purports to control. As a consequence, regulation targets the instruments accompanying the timber rather than the timber itself, allowing significant volumes of wood—often tied to illegal extraction and labour exploitation—to enter the formal supply chain.

Due diligence requirements and corporate sustainability instruments are often presented as the primary solution to these issues. However, our findings suggest these instruments are fundamentally insufficient, as they target only the small fraction of formal companies that engage with them, while the vast majority of the shadow economy operates in illegality and informality, completely outside these frameworks. Furthermore, these instruments are essentially declarative because they rely on the same flawed, state-level traceability system—the forest regent and his logbook—that enables illegality in the first place.

We argue that these two phenomena are closely linked; the state's 'simulation of control' emerges as the logical response to this flawed international demand. The international community, through FTAs and due diligence requirements, prioritises documented compliance. The Peruvian state, rather than undertaking

the costly and complex task of controlling the vast shadow economy, responds by providing exactly what is demanded: an elaborate performance of legality, deeply permeable to illegal interests. The consequence of this response is twofold: (a) the international pressure for corporate responsibility standards is satisfied not with empirical control, transparency, or justice, but with the state's simulation of it; and (b) the vast majority of actors are accountable to no one, as they are not regulated at all, existing completely outside even this flawed, paper-based system.

While it is possible to study the operational and logistical limitations for surveillance (forest size, staff, budget), they are insufficient to understand the decision behind a clearly permeable system that has not changed despite evidence of illegality and exploitation. We interpret this logic as a performative dynamic of regulation and a simulation of control, whose function is to comply with formal standards for international trade, the goals and indicators of international conventions, and public policies, but with a system designed for *laissez-faire*, *laissez-passer*. The state assumes it cannot effectively regulate or control the illegal dynamics of the timber extraction and trade due to its size, cost, and location (and its own ineffectiveness), and produces an exercise in simulated control. Extractors and producers simulate being monitored, officers simulate control, and companies simulate compliance with regulations, all sustained by a dense set of documents.

Conclusion

Our field data, as well as previous studies, confirm a systemic paradox: Peru's vast timber supply chain, rife with labour exploitation, forced labour, and illegal logging, is managed by an equally vast regulatory architecture. This architecture, however, is not designed for control, but for simulation and lacks effective accountability mechanisms. Our analysis exposed the precise mechanism of this simulation: the entire chain's legitimacy rests not on verified control, but on the declarative, paper-based instruments of a single actor, the 'forest regent'. This 'flaw of origin' is not an oversight; it is the central feature that allows the state to perform legality. It provides a formal mechanism for laundering illegal timber—and the exploitation required to harvest it—directly into the domestic and export supply chains. This dynamic creates a dangerous symbiosis: the international community receives its auditable paperwork, the state performs its sovereignty, and the vast, violent, and unpoliced shadow economy is left undisturbed to fuel the formal market. As long as the international focus demands *paper* rather than *control*, the simulation will prevail, and the exploitation will continue.

Christian Campos-Vásquez is Associate Researcher at the Institute of Criminology (Peru), a think tank dedicated to crime research and crime control solutions. Email: ccampos@criminologia.pe

Jaris Mujica is Research Manager at the Institute of Criminology (Peru). Email: jmujica@criminologia.pe

Ángel Peñaloza González is Associate Researcher at the Institute of Criminology (Peru). Email: apenaloza@criminologia.pe

Nicolás Zevallos Trigoso is Public Affairs Manager at the Institute of Criminology (Peru). Email: nicolas@criminologia.pe

Alonso Flores Macher is a policy expert on organised crime. Email: afloresmacher@gmail.com

Canada's Passage of Transparency Modern Slavery Legislation: How the domestic landscape shaped the law

Jonelle Humphrey

Abstract

Countries, primarily in the Global North, have been implementing transparency and corporate sustainability due diligence laws. These laws seek to increase corporate accountability for various human rights, environmental, and modern slavery offences in global supply chains. Three legislative models have been adopted: 1) Disclosure or Transparency laws; 2) Mandatory Human Rights Due Diligence (MHRDD) laws; and 3) MHRDD laws with civility liability, which is considered best practice. In this article, I evaluate the factors that influenced the adoption of a particular legislative model in various countries and specifically examine what factors influenced the passage of transparency legislation in Canada. I argue that despite international pressure on Canada to enact legislation, it was ultimately features of Canada's domestic political economy that determined the enactment of a transparency law. These features include Canada's membership of the Anglosphere, its powerful mining industry, the advocacy of civil society organisations, key parliamentarians, and ruling political party principles.

Keywords: modern slavery legislation, transparency, mandatory human rights due diligence, Canada

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Introduction

In the wake of tragedies such as the 2013 collapse of Rana Plaza in Bangladesh, where over 1,100 garment factory workers died, countries predominantly in the Global North began adopting transparency and corporate sustainability due diligence laws. These laws aim to increase corporate accountability for various human rights, environmental, and modern slavery offences in global supply chains

(GSCs).[1] There are three models of these laws: 1) disclosure or transparency legislation, which is considered the softest or least stringent model; 2) Mandatory Human Rights Due Diligence (MHRDD) legislation; and 3) MHRDD with civil liability legislation, which is considered the most stringent.[2] The factors that influence the enactment of a particular legislative model differ from country to country, although researchers have observed some commonalities. This article explores the influences behind Canada's passage of transparency legislation, the *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (known as Bill S-211 but referred to herein as FAFCLSCA), passed on 3 May 2023.[3]

Canada has historically been a laggard in enacting and enforcing laws against powerful corporations, passing legislation only in response to external pressures rather than proactively.[4] Adoption of a transparency law can be viewed as a continuation of Canada's reluctance to challenge business interests, particularly in resource-based industries—mining, oil, and natural gas—that underpin its role in the global economy.[5] While there was international pressure on Canada to enact supply chain legislation—due to the proliferation of laws such as the United Kingdom (UK) *Modern Slavery Act 2015* (MSA), the French *Corporate Duty of Vigilance Law* (2017), and the Australian *MSA 2018*—I argue that distinctive aspects of Canada's domestic political economy operated as filters through which the international pressures passed and determined the enactment of transparency legislation.

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1 'Modern slavery' is an umbrella term covering a range of practices including forced labour, which the International Labour Organization defines as 'all work or service which is exacted from any person under the menace of any penalty, for which the said person has not offered himself voluntarily'. International Labour Organization, *Forced Labour Convention*, 1930 (No. 29), Article 2(1).

2 G LeBaron and A Rühmkorf, 'The Domestic Politics of Corporate Accountability Legislation: Struggles over the 2015 UK Modern Slavery Act', *Socio-Economic Review*, vol. 17, issue 3, 2019, pp. 709–743, https://doi.org/10.1093/ser/mwx047.

3 Bill S-211, *An Act to Enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to Amend the Customs Tariff*, 1st Session, 44th Parliament, 2023 (assented to 11 May 2023).

4 See H Glasbeek, 'Missing the targets – Bill C-45: Reforming the Status Quo to Maintain the Status Quo', *Policy and Practice in Health and Safety*, vol. 11, issue 2, 2013, pp. 9–23, https://doi.org/10.1080/14774003.2013.11667787, for Canada's reactive enactment of the Westray Law; and L Snider, *About Canada: Corporate Crime*, Fernwood Publishing, Winnipeg, 2015, which discusses Canada's reluctance to meaningfully regulate corporations.

5 W K Carroll (ed.), *Regime of Obstruction: How Corporate Power Blocks Energy Democracy*, AU Press, Athabasca University, Edmonton, 2021.

The article begins with an outline of the key features of each of the three legislative models, before evaluating the common factors influencing the type of legislation adopted in the UK, France, and Germany. Following this, I discuss the factors influencing the implementation of transparency legislation in Canada, including its membership of the Anglosphere (English-speaking countries with shared political and economic traditions), its powerful mining industry, the advocacy of civil society organisations (CSOs), key parliamentarians, and ruling political party principles. The article concludes by summarising how Canada's domestic political economy shaped its transparency law and whether Canada will enact MHRDD legislation in the future.

Transparency and Corporate Sustainability Due Diligence Laws

Transparency and corporate sustainability due diligence laws require multinational corporations (MNCs) to disclose their efforts to address forced labour and other abuses in their GSCs. These laws are a mix of public and private regulation with extraterritorial effect.[6] Essentially, governments leverage the power of private corporate actors and other stakeholders to achieve the regulatory goal of changing corporate practices with regard to forced labour in GSCs.[7] The three categories of these laws—Disclosure or Transparency; MHRDD; and MHRDD with civil liability—differ in scope (the types of harm covered and the size of the entities required to comply), reporting requirements, definition of supply chain, remedies, and oversight agencies.[8] However, the following stylised typology and analysis of the laws will focus primarily on whether remedy is available to those harmed by the failure of companies to exercise due diligence.

Disclosure or Transparency Legislation

Disclosure or transparency laws do not oblige businesses to do more than report. Companies are required to report on their efforts, *if any*, to eradicate modern slavery in their GSCs, but not to take steps to prevent or eliminate such practices.[9] This approach aligns with reflexive and responsive governance that emphasises voluntary disclosure and self-corrective measures over

6 R Mares, 'Corporate Transparency Laws: A Hollow Victory?', *Netherlands Quarterly of Human Rights*, vol. 36, issue 3, 2018, pp. 189–213, https://doi.org/10.1177/092405191 8786623.

7 *Ibid.*

8 LeBaron and Rühmkorf, p. 719.

9 *Ibid.*, p. 728. Canada's FAFCLSCA is an exception as it also covers child labour.

enforcement.[10] Transparency laws typically have a narrow focus on specific issues such as forced labour or human trafficking.[11] They seek to mobilise investors and consumers to exercise their buying power which would support 'clean' companies and punish bad ones.[12] Less stringent transparency laws impose no direct penalties for failure to report while more stringent ones impose fines for non-compliance with reporting requirements.

Transparency legislation is the preferred model of Anglo-American countries as evidenced by the *California Transparency in Supply Chains Act* of 2010 (the California Act), the UK *MSA 2015*, and the Australian *MSA 2018*. The transparency model has been criticised for overestimating the leverage of consumers and investors to modify corporate conduct.[13] Informational asymmetry is created due to company disclosures being biased towards reporting positive aspects of business operations and withholding from the public what can be classed as sensitive commercial information.[14] Furthermore, independent verification of reports is not required in some disclosure regimes, raising questions about the veracity of disclosures.[15] Disclosure regimes are also criticised for facilitating 'cosmetic compliance' because the design of transparency laws makes it possible for companies to take a tick-box approach to reporting by 'incorporating key words and generic language without providing substantive or meaningful information'.[16] Examples of box-ticking criteria include clauses prohibiting the use of forced labour in supplier contracts and conducting supplier factory audits.

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10 S Wen, 'The Cogs and Wheels of Reflexive Law – Business Disclosure under the Modern Slavery Act', *Journal of Law and Society*, vol. 43, issue 3, 2016, pp. 327–359, https://doi.org/10.1111/j.1467-6478.2016.00758.x; I Ayres and J Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate*, Oxford University Press, Oxford, 1992.

11 LeBaron and Rühmkorf.

12 A G Barna, 'The Early Eight and the Future of Consumer Legal Activism to Fight Modern-Day Slavery in Corporate Supply Chains', *William & Mary Law Review*, vol. 59, issue 4, 2018, pp. 1449–1490, p. 1465.

13 Mares, p. 202.

14 B Pinnington, A Benstead, and J Meehan, 'Transparency in Supply Chains (TISC): Assessing and Improving the Quality of Modern Slavery Statements', *Journal of Business Ethics*, vol. 182, issue 3, 2023, pp. 619–636, p. 622, https://doi.org/10.1007/s10551-022-05037-w.

15 Mares, p. 196.

16 I Landau, 'Human Rights Due Diligence and the Risk of Cosmetic Compliance', *Melbourne Journal of International Law*, vol. 20, issue 1, 2019, pp. 1–27; Business & Human Rights Resource Centre, *FTSE 100 At the Starting Line: An Analysis of Company Statements Under the UK Modern Slavery Act*, BHRRC, 2016, pp. 1–15, p. 13.

Mandatory Human Rights Due Diligence Legislation

In contrast to transparency laws, MHRDD legislation typically covers a wider range of human rights and environmental abuses. The idea of what constitutes HRDD, which has been incorporated into MHRDD laws, is derived from the United Nations Guiding Principles on Business and Human Rights (UNGPs). Guiding Principle (GP) 17 describes the HRDD process as one where businesses 'identify, prevent, mitigate and account for how they address their adverse human rights impacts'.[17] It articulates four steps that should be conducted in the process, including 'assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed'. GP 22 additionally states that businesses should remediate harms if they have caused adverse impacts.[18] MHRDD laws therefore oblige businesses to conduct a set of interrelated processes aimed at collaborating with and protecting rightsholders.[19]

MHRDD legislation improves upon transparency laws and has been the dominant model adopted across Europe. Examples include the Norwegian *Transparency Act* of 2021, Switzerland's Criminal Code reforms and *Ordinance on Due Diligence and Reporting Obligations* of 2022, and the German *Act on Corporate Due Diligence Obligations in Supply Chains (Supply Chain Act) of* 2021.[20] MHRDD laws make due diligence processes, reporting, and remediation of harm mandatory. However, these laws range in stringency, with most imposing a duty on companies to consult with stakeholders, develop a due diligence plan, and implement grievance mechanisms at the company level.[21] Few, however, provide a cause of action to rightsholders.

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17 United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, 2011, HR/PUB/11/04, p. 17.

18 *Ibid*., p. 24.

19 See J Bonnitcha and R McCorquodale, 'The Concept of "Due Diligence" in the UN Guiding Principles on Business and Human Rights', *The European Journal of International Law*, vol. 28, issue 3, 2017, pp. 899–919, https://doi.org/10.1093/ejil/chx042; and J G Ruggie and J F Sherman III, 'The Concept of "Due Diligence" in the UN Guiding Principles on Business and Human Rights: A Reply to Jonathan Bonnitcha and Robert McCorquodale', *The European Journal of International Law*, vol. 28, issue 3, 2017, pp. 921–928, https://doi.org/10.1093/ejil/chx047, for an in-depth evaluation of due diligence and its effectiveness in increasing corporate accountability.

20 The German government announced on 9 April 2025 the repeal of the *Supply Chain Act* and adoption of the European Union Corporate Sustainability Due Diligence Directive. See M Ebdon, 'German Coalition Plans to Repeal Supply Chain Due Diligence Act', *Due Diligence Design*, 24 April 2025, retrieved 10 June 2025, https://duediligence.design/german-coalition-plans-to-repeal-supply-chain-due-diligence-act.

21 J Fudge, T Fanou, and J Humphrey, *Addressing Labour Exploitation Through Global Supply Chains: Moving Beyond Window Dressing to Effective Regulation*, 2022, GFLC Submission to Employment and Social Development Canada Regarding extended consultation on Labour Exploitation in Supply Chains.

The design of MHRDD laws and the way companies conduct HRDD in practice perpetuates cosmetic compliance and exacerbates the power imbalance between companies and rightsholders. Although the HRDD process is meant to be ongoing collaboration with rightsholders, too often 'rightsholders at risk are only expected to be consulted as passive participants, rather than being active agents'.[22] Since the consultation process is designed by the company or their consulting agency, this can create a power imbalance regarding information and resources such that affected workers and communities may be unable to effectively participate.[23]

Another problem with MHRDD is the overreliance by companies on social audits.[24] HRDD is meant to be a continuous process that extends beyond social audits in the workplace.[25] However, information obtained from audits is often unreliable as suppliers engage in practices such as coaching workers prior to planned inspections. Additionally, audits are usually short, superficial checklist exercises that rarely investigate lower tiers of GSCs where workers are more vulnerable to abuses.[26] Genuine engagement with workers, trade unions, and civil society organisations (CSOs) is more likely to expose hidden violations.[27] The MHRDD process is also faulted for its lack of emphasis on remediation, which is not directly included in the four-step process outlined in GP 17 of the UNGPs.[28]

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22 S Deva, 'Mandatory Human Rights Due Diligence Laws in Europe: A Mirage for Rightsholders?', *Leiden Journal of International Law*, vol. 36, issue 2, 2023, pp. 389–414, p. 399, https://doi.org/10.1017/S0922156522000802.

23 *Ibid*., p. 400.

24 J Ford and J Nolan, 'Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy between Human Rights Due Diligence and the Social Audit', *Australian Journal of Human Rights*, vol. 26, issue 1, 2020, pp. 27–45, https://doi.org/10.1080/1323238X.2020.1761633.

25 R McCorquodale and J Nolan, 'The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses', *Netherlands International Law Review*, vol. 68, issue 3, pp. 455–478, p. 457, https://doi.org/10.1007/s40802-021-00201-x.

26 O Outhwaite and O Martin-Ortega, 'Worker-driven Monitoring – Redefining Supply Chain Monitoring to Improve Labour Rights in Global Supply Chains', *Competition & Change*, vol. 23, issue 4, 2019, pp. 378–396, p. 382, https://doi.org/10.1177/1024529419865690.

27 Ford and Nolan, p. 35.

28 Deva; In Germany, the Federal Office for Economic Affairs and Export Control (BAFA) financially sanctions companies non-compliant with the *Supply Chain Act*.

Mandatory Human Rights Due Diligence Legislation with Civil Liability

MHRDD legislation with civil liability moves a step beyond the second model by imposing liability for negligence on companies that have been found to contribute to human or environmental rights abuses. These laws establish a duty of care, that is, 'a legal obligation to adhere to a standard of reasonable care' when carrying out acts that could foreseeably result in harm to human rights or the environment.[29] Victims harmed as a result may in turn bring civil (tort) action to claim remedy.

The French *Corporate Duty of Vigilance Law* of 2017 imposes civil liability when a company fails to act with due diligence. Companies subject to the law must, in line with the UNGPs, implement and report annually on a vigilance plan. This plan involves risk mapping, which entails identifying, analysing, and ranking supply chain risks; regularly assessing subcontractors and suppliers' actions regarding human rights violations; developing reporting mechanisms in conjunction with trade unions; and monitoring the efficiency of the mechanisms and measures put in place.[30] The law provides victims and private parties a right of action against companies that fail to comply. This model is also used in the European Union Corporate Sustainability Due Diligence Directive, passed in May 2024.[31] MHRDD with civil liability is therefore presently the most robust legislative model.

In such civil liability regimes, however, the burden of proof is on the claimant to prove the causal link between the company's breach and the damage suffered. The more remote the damage is along the supply chain, the more difficult it is to prove the causal connection. Moreover, 'material, social, institutional and linguistic circumstances' may inhibit victims from taking legal action before French courts.[32] For this reason, French non-governmental organisations (NGOs) like Sherpa advocate for the burden of proof to be placed on MNCs, as was envisioned in the initial proposal of the French law.[33] **Table 1** provides summarised examples of transparency and MHRDD laws.

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29 S Cossart, J Chaplier, and T Beau De Lomenie, 'The French Law on Duty of Care: A Historic Step Towards Making Globalization Work for All', *Business and Human Rights Journal*, vol. 2, issue 2, 2017, pp. 317–323, pp. 318–319, https://doi.org/10.1017/bhj.2017.14.

30 Barna.

31 Under pressure from business, the European Commission is watering down this law. See Center for Sustainability and Excellence, 'EU Delays Key Sustainability Directives', CSE, 1 May 2025, https://cse-net.org/eu-delays-key-sustainability-directives.

32 E Savourey and S Brabant, 'The French Law on the Duty of Vigilance: Theoretical and Practical Challenges Since its Adoption', *Business and Human Rights Journal*, vol. 6, issue 1, 2021, pp. 141–152, p. 152, https://doi.org/10.1017/bhj.2020.30.

33 Cossart, Chaplier, and Beau De Lomenie.

Although MHRDD laws require more information from companies and sometimes provide for remedy to rightsholders, all three models have been criticised as ineffective in increasing corporate accountability for supply chain abuses. This observation highlights a broader question about the function of regulation in capitalist societies: whether laws serve to meaningfully constrain powerful actors or to symbolically reaffirm state commitment to human rights while leaving corporate autonomy intact.[34] Canada's choice of transparency over MHRDD legislation matters because it demonstrates an ongoing reliance on voluntary corporate action. The next section explores key aspects of a country's domestic political economy that influence the enactment of a particular legislative model.

Table 1: Examples of Transparency and Mandatory Human Rights Due Diligence Legislation

	Transparency			Mandatory Human Rights Due Diligence	
Title	**UK *Modern Slavery Act 2015*, Section 54**	**Australian *Modern Slavery Act 2018***	**Canadian *FAFCLSCA* of 2023**	**French *Corporate Duty of Vigilance Law* of 2017**	**German *Supply Chain Act* of 2021**
Coverage	Slavery, servitude, forced or compulsory labour, and human trafficking	Modern slavery, including trafficking in persons and child labour	Forced and child labour	Human rights, fundamental freedoms, and the environment	Human rights and environmental standards
Scope	Commercial organisations with a turnover of GBP 36 million operating in the UK	Entities with a consolidated revenue of AUD 100 million carrying out business in Australia	Government institutions, and entities conducting business in Canada meeting two of three criteria: • have at least CAD 20 million in assets; • generate CAD 40 million in revenue; • have an average of 250 employees	French companies with: • more than 5,000 employees, including subsidiaries in French territories; • more than 10,000 employees, including global subsidiaries	Enterprises with 3,000 employees in Germany (1,000 employees from 1 January 2024)
Duty of Due Diligence	None	None	None	Companies must implement a vigilance plan to identify risks and prevent serious attacks on human rights and the environment.	Enterprises must exercise due regard for the human rights and environmental due diligence obligations set out in the Act.

[34] Glasbeek.

Due Diligence Procedures				The vigilance plan includes: • a map identifying, analysing, and ranking potential risks; • procedures to periodically assess compliance on the part of the company's subsidiaries, subcontractors, and suppliers; • actions to mitigate risks or prevent serious harm; • an alert mechanism to identify existing or potential risks in consultation with representatives of relevant trade unions; • a system to monitor and evaluate the effectiveness of measures implemented	Due diligence obligations include: • establishing a risk management system; • designating a responsible person; • performing regular risk analyses; • issuing a policy statement; • laying down preventative measures in the business and with direct suppliers; • taking remedial action; • establishing a complaints procedure; • implementing the obligations with regard to risks from indirect suppliers; • documenting and reporting
Duty to Report	A slavery and human trafficking statement must be prepared for each financial year and published on the organisation's website	Entities must give the Minister (Attorney-General's Department) a modern slavery statement for each financial year	Institutions and entities must report annually to the Minister of Public Safety and Emergency Preparedness about any steps taken to prevent or reduce the risk of forced or child labour being used in goods imported into or produced in Canada	The vigilance plan and report on its implementation must be made public in the company's annual report each financial year	An enterprise must prepare and publish on its website an annual report on the fulfilment of its due diligence obligations each financial year

Content of Report	The statement may include information about an organisation's: • structure, business, and supply chains; • slavery and human trafficking policies; • due diligence processes regarding slavery in its supply chains; • parts of supply chains where there is a risk of slavery, and steps taken to assess and manage that risk; • effectiveness in ensuring that slavery is not occurring in its supply chains, measured against performance indicators; • training about slavery available to staff	A modern slavery statement must: • identify the entity; • describe its structure, operations, and supply chains; • describe the risks of modern slavery practices in its supply chains and entities it owns or controls; • describe actions, if any, taken to assess and address those risks, including due diligence and remediation; • describe how the effectiveness of such actions is assessed; • describe the consultation process with entities it owns or controls; • include any other relevant information	The report must include information about the institution or entity's: • structure, activities, and supply chain; • policies and due diligence processes regarding forced and child labour; • business and supply chains that carry risk of forced and child labour, and steps taken to assess and manage that risk; • measures taken to remediate forced or child labour; • measures taken to remediate vulnerable families for loss of income resulting from measures taken to eliminate forced or child labour; • training for employees about forced or child labour; • method of assessing its effectiveness in ensuring no use of forced or child labour	What has been done to implement the vigilance plan as outlined under *Due Diligence Procedures*	The report must state: • whether any human rights or environmental risks, or violation of human rights or environmental obligations have been identified; • what has been done to fulfil due diligence obligations; • how the impact and effectiveness of the measures have been assessed; • what conclusions have been drawn from the assessment for future measures
Liability for Failure to Comply	The Secretary of State may bring civil proceedings for an injunction against non-compliant organisations	The Minister may publish an entity's failure to comply with the reporting requirements on the modern slavery register	Failure to comply is punishable on summary conviction and a fine of not more than CAD 250,000	Civil liability proceedings in a French court, whereby non-compliant companies can be ordered to compensate any loss which could have been prevented by compliance with the Law	The Federal Office of Economic Affairs and Export Control (BAFA) can fine enterprises up to EUR 800,000 (or 2% of turnover if annual turnover is more than EUR 400 million) and exclude them from public contracts for up to 3 years if fines are at least EUR 175,000

Factors which Influence the Enactment of Legislation

Studies of the factors leading to the enactment of supply chain laws in different countries are scarce, as this is an emerging field. While many articles discuss the legal features of supply chain laws in different jurisdictions, a comprehensive literature review of English-language political science, regulation, and legal articles published before January 2024 identified only three articles that discussed the factors that shaped the legislation in the UK, France, and Germany.[35] Despite the existence of common international pressures (such as target 8.7 of the 2030 Sustainable Development Goals, which aims to eliminate forced labour and the worst forms of child labour), these articles identified domestic political and economic factors that shaped the model of legislation adopted in each country.

Persistence of Civil Society Organisations

A common theme across the literature is the instrumental part civil society played in the enactment of legislation. In the UK, the Transparency in Supply Chains (TISC) activist coalition was key in providing legitimacy to a transparency law.[36] TISC comprised religious bodies, including the Church of England, and prominent NGOs such as Amnesty International, Anti-Slavery International, Unseen, and the Walk Free Foundation. While many of the NGOs that eventually endorsed transparency legislation continued to advocate for a stronger law, they compromised with business associations and accepted transparency legislation as a 'first step' in the process.[37] The Rana Plaza building collapse also helped organisations such as the Ethical Trading Initiative (ETI) to demonstrate the need for legislation to address worker exploitation.[38]

In France, the *Duty of Vigilance Law* was developed in 2011 by 'a small, peripheral group of young, female activists, … lawyers and left-wing deputies', seeking to build on the UNGPs.[39] They formed a working group to address the liability of

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35 LeBaron and Rühmkorf; A Evans, 'Overcoming the Global Despondency Trap: Strengthening Corporate Accountability in Supply Chains', *Review of International Political Economy*, vol. 27, issue 3, 2020, pp. 658–685, https://doi.org/10.1080/09692290.2019.1679220; D Weihrauch, S Carodenuto, and S Leipold, 'From Voluntary to Mandatory Corporate Accountability: The Politics of the German Supply Chain Due Diligence Act', *Regulation & Governance*, vol. 17, issue 4, 2023, pp. 909–926, https://doi.org/10.1111/rego.12501.

36 LeBaron and Rühmkorf.

37 *Ibid*., p. 730.

38 C Berman, 'Shaping the Modern Slavery Act: A Look Back', *OpenDemocracy*, 25 September 2016, retrieved 4 April 2022, https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/shaping-modern-slavery-act-look-back.

39 Evans, p. 662; Cossart, Chaplier, and Beau De Lomenie, p. 317.

parent companies and lobbied for four years during which the bill was continuously disregarded by government and opposed by business. What strengthened the campaign was the involvement of human rights and environmental NGOs (such as Amnesty International), legal justice advocates, Catholic socialists, and trade unions. The involvement of unions such as the French Democratic Confederation of Labour added legitimacy to the campaign in the eyes of the Socialist Party with which they were historically allied.[40]

In Germany, NGOs formed the Corporate Accountability (CorA) Network in 2006, which advocated for MHRDD legislation.[41] The opportunity to push for it came after the 2013 elections when, as part of a coalition agreement, social democrats negotiated a National Action Plan (NAP) where the government would develop a law if less than 50% of German companies failed to properly conduct due diligence as part of a monitoring and benchmarking exercise.[42] CorA introduced the Initiative Lieferkettengesetz [Supply Chains Act], which was a broad alliance of CSOs, business associations, unions, and faith-based organisations whose strategy was to invoke Christian values to sway the centre-right parties.[43] This coalition combined an emotional human rights storyline (including the Rana Plaza tragedy) with scientific evidence, after the results of the monitoring exercise showed that only 13–17% of companies properly executed due diligence.[44]

Business Opposition or Support

The role of business or industry associations in influencing the type of law adopted is also a common theme. In the UK, industry actors derailed efforts to introduce stronger legislation by supporting transparency legislation. Businesses including Amazon and IKEA formed a 'transparency coalition' to deflect possible legislation which imposed criminal sanctions.[45] Both the government and businesses leaned into the narrative of transparency legislation as a 'first step'—language later adopted by Canadian parliamentarians who tabled the FAFCLSCA—towards stronger legislation. They also formed a coalition with prominent NGOs (TISC) in a further attempt to thwart more stringent regulation.[46]

40 Evans, pp. 671–672.

41 Weihrauch, Carodenuto, and Leipold, p. 913.

42 *Ibid.*, p. 915.

43 *Ibid.*, p. 916.

44 *Ibid.*, p. 918.

45 LeBaron and Rühmkorf, p. 730.

46 *Ibid.*, p. 733.

Business opposition against legislation in France came mainly from the Movement of the Enterprises of France and the French Association of Large Companies.[47] They argued that the legislation would penalise French companies and jeopardise jobs and investment because competitors such as the rest of Europe, the United States of America (USA), and China would not be subject to the same liabilities. They also took issue with the law having vague wording, unclear liabilities, and overly severe financial penalties.[48] Although amendments were made to the law, the essence of MHRDD with civil liability remained intact.[49]

German companies were generally not in favour of supply chain legislation either. However, civil society recruited companies that had expressed support for an MHRDD law, or already had due diligence measures in place, to speak publicly in support of the law.[50] These included smaller, fair trade companies, but also larger companies like Primark and Nestlé Germany. The support of the German car industry was critical, which happened after the tragic collapse of the Brazilian Brumadinho dam in 2019 in which over 250 people died.[51] German inspection company TÜV SÜD had certified the dam as safe despite knowing it was not. Following this tragedy both BMW and Daimler publicly expressed support for an MHRDD law, and Volkswagen followed in 2020.[52]

Domestic Institutional Environment: Political and Economic Regulatory Tradition

Despite pressure from international norms and institutions, a country's political and economic traditions are key factors that influence the form and stringency of legislation. State–market relations are often indicative of the type of legislation likely to be adopted.[53] This is exemplified by the variations in supply chain legislation in countries with a liberal model like the UK, a state-centric model like France, and a mixed model like Germany. The liberal model or market capitalist systems are characterised by competitive markets where autonomous business actors are allowed to set the parameters for corporate governance.[54] The UK *MSA* reflects this regulatory tradition by relying on existing private governance and not

47 Evans, p. 662.

48 *Ibid.*

49 Cossart, Chaplier, and Beau De Lomenie.

50 Weihrauch, Carodenuto, and Leipold, p. 916.

51 *Ibid.*, p. 917.

52 *Ibid.*

53 M Mason, L Partzsch, and T Kramarz, 'The Devil is in the Detail—The Need for a Decolonizing Turn and Better Environmental Accountability in Global Supply Chain Regulations: A comment', *Regulation & Governance*, vol. 17, issue 4, 2023, pp. 970–979, p. 973, https://doi.org/10.1111/rego.12539.

54 *Ibid.*

establishing any new or stringent enforcement mechanisms.[55] In contrast to the UK, France has had a long-standing acceptance of state intervention for problem solving. This state-centric institutional tradition coupled with anti-globalisation sentiments and mistrust of MNCs offshoring jobs to the Global South (thereby undermining French labour standards) were important factors that allowed for the passage of MHRDD legislation with civil liability.[56] The French mainstream media made direct correlations between Rana Plaza, MNCs, globalisation, and a lack of adequate legislation addressing foreign corporate accountability.[57] Intense business lobbying succeeded in watering down the original bill, which initially included a new liability regime and reversal of the burden of proof, but such setbacks did not change the essence of the law.[58]

Germany is categorised as having a mixed model or managed capitalism, reflected in the negotiations between the state and business associations with regard to the development of policy.[59] Consequently, the German MHRDD law is based on administrative monitoring and enforcement by the state, namely the Federal Office for Economic Affairs and Export Control (BAFA). It is a combination of soft measures, including support for companies in meeting the requirements of the law, and hard measures, including sanctions for non-compliance with due diligence obligations.

Governing Political Party Principles and Key Parliamentarians

Ruling political party principles also determines the type of legislation a country enacts. The UK *MSA* was hastily passed before the 2015 general elections.[60] In 2010, the Conservative government promised to reduce immigration and introduced the *Immigration Act 2014* which limited undocumented migrants' access to public services.[61] However, the Conservatives knew that such harsh treatment of migrants would alienate Anglican and Catholic churchgoers who are a core part of their electorate. They therefore used the *MSA* to project the image of providing assistance to 'modern slaves' who were trafficked to the UK for the purpose of

55 LeBaron and Rühmkorf.

56 Evans, p. 667; Mason, Partzsch, and Kramarz, p. 973.

57 Evans.

58 Cossart, Chaplier, and Beau De Lomenie.

59 Mason, Partzsch, and Kramarz, p. 974.

60 C Robinson, 'Policy and Practice: Claiming Space for Labour Rights within the United Kingdom Modern Slavery Crusade', *Anti-Trafficking Review*, issue 5, 2015, pp. 129–143, https://doi.org/10.14197/atr.20121558.

61 *Ibid.*

labour exploitation.[62] The *MSA* was as much a diversion from the government's anti-immigration agenda as a commitment to ending modern slavery.[63] British Prime Minister Theresa May was a key architect of the *MSA* during her time as Home Secretary.[64] Section 54, which deals with transparency in supply chains, was inserted fairly late into the parliamentary process, after NGOs pushed for its inclusion.[65] Although the section is weak, the Conservative government believed that naming and shaming was an effective tactic to get companies to comply and take effective action.

In France, the Socialist Party led by President François Hollande was in power from 2012 to 2017.[66] In response to activists seeking support for a supply chain law, Hollande and over 70 National Assembly deputies pledged that 'the principles of the responsibility of the parent companies for the actions of their overseas subsidiaries [will] be translated into law'.[67] Activists therefore viewed the Socialists as sympathetic to the cause and frequently emphasised the five-year window of opportunity to get a law passed under this administration. The law was not a priority for Hollande's then Minister of Economy Emmanuel Macron. However, in August 2016 Macron vacated his ministerial post to focus on his presidential campaign and was replaced by Michel Sapin, 'who became a key advocate, putting the bill back onto the legislative agenda'.[68]

Like the Socialists in France, Germany's Social Democratic Party (SPD) was also instrumental in the enactment of the MHRDD law. From 2013 to 2021, the German government was a coalition of centre-right parties Christian Democratic Union (CDU) and Christian Social Union (CSU) with the centre-left SPD.[69] While the CDU and CSU were reluctant to support MHRDD legislation, the SPD supported it and included it in the coalition agreement following the 2017 elections. Gerd Müller, CSU politician and Minister of Development and Cooperation, announced his support for an MHRDD law in 2018. Although his

62 *Ibid.*; J Fudge, 'Why Labour Lawyers Should Care About the Modern Slavery Act 2015', *King's Law Journal*, vol. 29, issue 3, 2018, pp. 377–406, https://doi.org/10.1080/09615768.2018.1549699.

63 *Ibid.*

64 Robinson.

65 G Craig, 'The UK's Modern Slavery Legislation: An Early Assessment of Progress', *Social Inclusion*, vol. 5, issue 2, 2017, pp. 16–27, p. 22, https://doi.org/10.17645/si.v5i2.833.

66 Evans, p. 670.

67 *Ibid.*, p. 672.

68 *Ibid.*, p. 675.

69 Weihrauch, Carodenuto, and Leipold, p. 910.

political affiliation was right wing, he acted against the majority of his party due to his Christian beliefs and dismay over Rana Plaza.[70]

Factors Which Influenced the Passage of Transparency Legislation in Canada

The domestic political and economic factors that determined the model of supply chain legislation enacted in the UK, France, and Germany also influenced the type of legislation enacted in Canada. This section explains how Canada's domestic political economy, including its affiliation with the Anglosphere and its powerful mining industry, resulted in the federal government's adoption of the transparency model. It is based on 23 semi-structured interviews with Canadian parliamentarians, government officials, business representatives, international organisations, and CSOs that participated in the legislative process. Ethical approval was obtained, and the full list of the interviewees is available in my thesis.[71] I also reviewed parliamentary debates, reports, and submissions concerning the enactment of supply chain legislation in Canada.

Canada's Cultural and Economic Links to the Anglosphere

Canada's close ties with other Anglosphere or English-speaking countries (namely the UK, the USA, Australia, and New Zealand) helps to explain why it enacted a transparency law. Countries in the Anglosphere have colonial heritage of formerly belonging to the British Empire and economic traditions such as liberal, market economies or market capitalist systems.[72] As leading proponents of neoliberal ideology since the 1970s, the UK and USA greatly facilitated the growth of complex transnational supply chains.[73] The culture and economic ideology of the Anglosphere therefore explains why light-touch transparency legislation has been enacted by most Anglo countries, including Canada. During 2019 Canadian government consultations on enacting modern slavery legislation, conducted by Employment and Social Development Canada (ESDC), Canadian companies wanted modern slavery reports they had already produced for other jurisdictions

70 *Ibid.*, pp. 917–918.

71 J L Humphrey, 'Experimental Regulation to Address Modern Slavery and Forced Labour in Global Supply Chains: Canada's Passage of Transparency Modern Slavery Legislation', Doctoral Thesis, McMaster University, Hamilton, 2024, https://macsphere.mcmaster.ca/handle/11375/31092.

72 J Bennett, 'America and the West: The Emerging Anglosphere', *Orbis*, vol. 46, issue 1, 2002, pp. 111–126, https://doi.org/10.1016/S0030-4387(01)00109-0.

73 D Harvey, *A Brief History of Neoliberalism*, Oxford University Press, Oxford, 2005.

to also suffice for Canada.[74] An industry representative explicitly stated that its members 'would be more comfortable with transparency reporting measures similar to the UK and Australian Modern Slavery Acts'.[75]

Canada's Powerful Mining Industry

Canadian extractive companies contribute significantly to the country's economy. An estimated 75% of the world's mining and exploration companies are headquartered in Canada.[76] In 2020, mining accounted for '692,000 jobs, contributed $107 billion or 5% to Canada's GDP', and minerals exploration accounted for '$102 billion or 21%' of exports.[77] Canada's extractive sector is also dominant globally. In 2019, 'publicly traded Canadian-based mining and exploration companies were present in 96 foreign countries, and two-thirds of their total $263.2 billion assets were located abroad'.[78] Canadian mining companies and their subsidiaries have been linked to human rights and environmental violations abroad.[79] Despite this, successive Conservative and Liberal federal governments continue to finance the industry as it is key to Canada maintaining its position within global markets.[80]

The Prospectors and Developers Association of Canada (PDAC) and the Mining Association of Canada (MAC) are prominent bodies representing the extractive sector. They are powerful lobbyists that have fought for years against more stringent efforts to regulate the activities of MNCs abroad. These associations have exerted influence on both the Conservative and Liberal parties. For instance, Liberal Member of Parliament (MP) John McKay tabled Bill C-300, the *Corporate Accountability of Mining, Oil and Gas Corporations in Developing Countries Act*, in the

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74 Employment and Social Development Canada, *Labour Exploitation in Global Supply Chains: What We Heard Report*, ESDC 2022, p. 9.

75 *Ibid.*

76 A Neve, 'Strengthened Human Rights Accountability in Extractive Sector in Everyone's Interest', *The Hill Times*, 11 October 2010, https://www.hilltimes.com/2010/10/11/strengthened-human-rights-accountability-in-extractive-sector-in-everyones-interest/275406.

77 C Dowling, 'Mining Companies Face an Evolving Array of Climate Change Risk and Opportunities', *Canadian Mining Journal*, 24 January 2022, para 2, https://www.canadianminingjournal.com/featured-article/mining-companies-face-an-evolving-array-of-climate-change-risk-and-opportunities.

78 *Ibid.*

79 K Ciupa and A Zalik, 'Enhancing Corporate Standing, Shifting Blame: An Examination of Canada's Extractive Sector Transparency Measures Act', *The Extractive Industries and Society*, vol. 7, issue 3, 2020, pp. 826–834, https://doi.org/10.1016/j.exis.2020.07.018.

80 Carroll.

House of Commons in 2009. The bill proposed sanctions for Canadian extractive companies violating human rights abroad, including withdrawal of government funding. MAC and PDAC lobbied extensively against Bill C-300, which failed to pass due to lack of support from the Conservative and Liberal parties.[81]

The mining industry was similarly influential with regard to the passage of the FAFCLSCA. MAC, the Retail Council of Canada, and the Canadian Chamber of Commerce indicated that they were willing to accept a transparency law similar to the UK and Australian Acts, which greatly influenced the support of the Liberal and Conservative parties for transparency legislation.[82] Just as businesses in the UK supported transparency legislation to avoid stronger legislation, industry in Canada did the same to prevent the passage of an MHRDD law.

Advocacy of Civil Society Organisations

After the Rana Plaza tragedy, a class action lawsuit was filed by victims of the incident against Canadian retailer Loblaw Companies Limited and its affiliates, including Joe Fresh Apparel, which sourced clothing from the factories.[83] Canadian CSOs seized on this momentum to push for supply chain legislation. In 2016, World Vision Canada, inspired by the UK *MSA*, began advocating for similar legislation in Canada. World Vision referred to the reputational damage suffered by Canadian companies after Rana Plaza to illustrate the benefits of a law requiring companies to monitor and report on their GSCs.[84] The charity urged the parliamentary Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development to conduct a study on child labour and modern slavery. At the hearings for this 2017 study, World Vision advocated for transparency legislation as a 'first step', echoing the rhetoric in the UK. In conjunction with Canadian law firm Dentons, it suggested the *Extractive Sector Transparency Measures Act* (ESTMA) of 2014 as a precedent.[85]

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81 R Janda, 'Note: An Act Respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries (Bill C-300): Anatomy of a Failed Initiative', *McGill International Journal of Sustainable Development Law and Policy*, vol. 6, issue 2, 2010, pp. 97–107.

82 Submissions to the Standing Senate Committee on Human Rights regarding Bill S-211, https://sencanada.ca/en/committees/ridr/briefs/44-1#?sessionFilter=44-1&OrderOfReferenceID=568185.

83 *Das v George Weston Limited*, 2018 ONCA 1053.

84 World Vision Canada, *Check The Chain: Preventing Child Labour – The Case for Canadian Supply Chain Transparency Legislation*, World Vision Canada Policy Discussion Paper, 2015.

85 House of Commons Canada, *A Call To Action: Ending The Use Of All Forms Of Child Labour in Supply Chains*, 15 October 2018, p. 39, retrieved 8 April 2022, https://www.ourcommons.ca/Committees/en/FAAE/StudyActivity?studyActivityId=10262351.

ESTMA requires extractive companies to report annually on payments made to governments in Canada and abroad, and the FAFCLSCA closely mirrors its reporting entity thresholds and sanctions.[86]

At the 2017 parliamentary hearings, CSOs such as Amnesty International, the Canadian Labour Congress, and Human Rights Watch advocated for MHRDD legislation.[87] World Vision's views, however, were more closely aligned with prominent UK organisations invited to participate in the study by the parliamentary subcommittee. These organisations included ETI and Unseen UK, as well as the Australian Walk Free Foundation, which supported transparency legislation as a 'first step', further demonstrating the influence of the Anglosphere in Canada.[88]

In contrast to World Vision, the Canadian Network on Corporate Accountability (CNCA) opposed transparency legislation. The CNCA was formed in 2005 and comprises CSOs such as MiningWatch and Above Ground (formerly the Halifax Initiative), which were founded in the 1990s to promote foreign corporate accountability for Canadian mining companies.[89] Since its formation, the CNCA's campaign for a regulatory framework that would hold corporations responsible for human rights abuses created crucial, ongoing domestic pressure for legislation to be enacted in Canada. Similar to Germany's CorA, the CNCA advocates for MHRDD legislation. The network provided model MHRDD legislation to New Democratic Party (NDP) MP Peter Julian to assist with the drafting of Bill C-262, which he tabled in the House of Commons on 29 March 2022. Bill C-262, the *Corporate Responsibility to Protect Human Rights Act*, sought to mandate Canadian MNCs to implement due diligence processes and allow foreign victims of corporate human rights abuses recourse in Canadian courts.[90] However, it never received a second reading.

Key Parliamentarians

Liberal MP John McKay (who previously tabled Bill C-300) tabled the first iteration of FAFCLSCA (Bill C-423 the *Modern Slavery Act*) on 13 December 2018. He was inspired by World Vision's advocacy, the UK *MSA*, his Christian

86 Ciupa and Zalik.

87 Witness testimonies and briefs submitted to Canada's 2017 parliamentary study, https://www.ourcommons.ca/Committees/en/SDIR/StudyActivity?studyActivityId=9618040.

88 *Ibid.*

89 Ciupa and Zalik.

90 P Julian (sponsor), *Bill C-262: An Act Respecting the Corporate Responsibility to Prevent, Address and Remedy Adverse Impacts on Human Rights Occurring in Relation to Business Activities Conducted Abroad*, House of Commons Canada, 44th Parliament, 1st session, First reading, 29 March 2022.

faith, and British MP William Wilberforce's 'battle to abolish slavery in the British Empire'.[91] Mirroring the UK precedent, McKay believed that transparency legislation, unlike a more robust MHRDD law, was a good 'first step', as it would gain the support needed in parliament and from business, particularly the mining industry.[92] After Bill C-423 failed to get a second reading in the House of Commons, McKay partnered with Independent Senator Julie Miville-Dechêne to reintroduce Bill C-423 as Bill S-211 in the Senate on 5 February 2020.[93] Miville-Dechêne's interest in eradicating modern slavery stemmed from her appointment as head of the Council on the Status of Women in Québec, where she dealt with, among other subjects, human trafficking.[94] McKay and Miville-Dechêne utilised the Canadian All Party Parliamentary Group (APPG) to End Modern Slavery and Human Trafficking, which comprised majority Liberals and Conservatives, to build cross-party support for Bill S-211.[95] The Canadian APPG is modelled after the UK Human Trafficking and Modern Slavery APPG, further demonstrating the UK influence.[96]

Bill S-211 initially failed to progress as parliament was focused on the COVID-19 pandemic. However, Senator Miville-Dechêne continued to advocate for the legislation. She highlighted media scandals such as the forced labour conditions in the Malaysian Top Glove factory which supplied personal protective equipment (PPE) to Canadian hospitals.[97] Additionally, products such as cotton made using Uyghur Muslim forced labour in the Xinjiang region of China entering Canada via supply chains also demonstrated the need for legislation.[98] Miville-Dechêne reintroduced Bill S-211 into the Senate on 24 November 2021, and with support from the Liberals and Conservatives, it was passed on 3 May 2023.[99] MP McKay's partnership with Senator Miville-Dechêne was crucial to Canada's adoption of transparency legislation.

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91 Interview, John McKay, 18 January 2022.

92 *Ibid.*

93 It is easier to get private member bills through the Senate due to the absence of the lottery system present in the House of Commons. (Interview, John McKay).

94 Interview, Julie Miville-Dechêne, 14 October 2021.

95 Interview, John McKay.

96 History of Canada's APPG to End Modern Slavery and Human Trafficking, https://endmodernslavery.ca/about.

97 E Szeto, C Taylor, and A Tomlinson, 'Hidden Camera Reveals "Appalling" Conditions in Overseas PPE Factory Supplying Canadian Hospitals, Expert Says', *CBC News*, 15 January 2021, https://www.cbc.ca/news/world/marketplace-overseas-personal-protective-equipment-manufacturing-working-conditions-1.5873213.

98 Interview, Julie Miville-Dechêne.

99 House of Commons Canada, Vote No. 310, 44th Parliament, 1st Session, 3 May 2023, https://www.ourcommons.ca/Members/en/votes/44/1/310.

Ruling Political Party Principles

Following the 20 September 2021 federal election, the Liberal Party of Canada secured a minority government. Thus, the Liberals needed the support of another party to pass legislation. Since both the Liberals and Conservatives support limited regulation of business, they voted to pass the FAFCLSCA, with the support of the mining industry and other business associations that preferred transparency legislation. Both parties agreed that Bill S-211 was a good 'first step', echoing similar rhetoric articulated by UK businesses, World Vision, McKay, and Miville-Dechêne. Conservative MP Garnett Genuis stated that although Bill S-211 would not 'solve every problem', they should pass the bill and strengthen it later.[100] By contrast, two other prominent political parties, the NDP and Bloc Québécois, supported Bill C-262 which was the MHRDD legislation tabled by NDP MP Peter Julian in conjunction with the CNCA. However, Bill C-262 gained no industry support and no traction in parliament. Ruling party principles was therefore a key factor which influenced the passage of transparency legislation in Canada.

Conclusion

In this article, I explored the factors which influenced the passage of transparency and MHRDD laws in different countries, and specifically the passage of transparency legislation in Canada. I argued that international pressures to enact legislation were filtered through distinctive aspects of each country's domestic political economy, which ultimately determined the type of legislation enacted. Advocacy by civil society, business support or opposition, domestic regulatory tradition, the support of key parliamentarians, and ruling political party principles led the UK, France, Germany, and Canada to adopt a specific legislative model. The possibility that Canadian companies operating in Europe may have to report under MHRDD laws did not influence Canada's choice of legislative model.

Several countries in Europe, and now the European Union, have enacted MHRDD laws. By contrast, Anglo-American jurisdictions prefer light-touch transparency laws. Anglo countries' preference for transparency legislation is in large part due to their commitment to the freedom of businesses to set the parameters for corporate governance. Canada's powerful mining industry, which has a history of successfully lobbying against increased foreign corporate accountability legislation, exemplifies this commitment. Moreover, Canada's membership in the Anglosphere, and its close ties to the UK, greatly influenced its choice of a transparency law.

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[100] House of Commons, *Debates (Hansard) No. 074*, 18 May 2022, section 1835, retrieved 20 July 2022, https://www.ourcommons.ca/DocumentViewer/en/44-1/house/sitting-74/hansard#11699320.

The characterisation of transparency legislation as a 'first step', which originated in the UK, was embraced by World Vision Canada, MP McKay, and Senator Miville-Dechêne. While this characterisation was successful, the trade-off was that MNCs are not required to conduct MHRDD processes, nor does this legislation provide a right of action in Canadian courts for foreign victims of rights violations in the supply chains of Canadian MNCs. Canada's adoption of a transparency law that imposes no enforceable obligations other than to report reaffirms its reputation as a laggard when it comes to regulating corporate power. As the CNCA continues to campaign for an MHRDD law, it is crucial to note that no other country in the Anglosphere has moved beyond transparency to enact MHRDD legislation, despite widespread acknowledgement of the weaknesses of current transparency laws.[101] Ten years have passed since the UK enacted the *MSA* as a 'first step', yet a second step has still not been taken. So far, transparency laws have not been a 'first step' but rather a dead end, and there is a risk that the FAFCLSCA will also serve as a dead end for Canada.

Jonelle Humphrey obtained a PhD in Labour Studies from McMaster University and researches legislative and regulatory strategies to combat modern slavery in global supply chains. This article draws on research supported by the Social Sciences and Humanities Research Council. Email: humphj2@mcmaster.ca

[101] M Koekkoek, A Marx, and J Wouters, 'Monitoring Forced Labour and Slavery in Global Supply Chains: The Case of the California Act on Transparency in Supply Chains', *Global Policy*, vol. 8, issue 4, 2017, pp. 522–529, https://doi.org/10.1111/1758-5899.12512; Business & Human Rights Resource Centre and Modern Slavery Registry, *Modern Slavery Act: Five Years Of Reporting, Conclusions From Monitoring Corporate Disclosure,* BHRRC, 2021; A Sinclair and F Dinshaw, *Paper Promises? Evaluating the Early Impact of Australia's Modern Slavery Act,* Human Rights Law Centre, 2022, retrieved 1 November 2025, https://www.hrlc.org.au/reports/2022-2-3-paper-promises-evaluating-the-early-impact-of-australias-modern-slavery-act.

Measuring Risk-based Human Rights Due Diligence: Sourcing and labour outcome metrics

Jason Judd and Sarosh Kuruvilla

Abstract

In contrast to existing guidance frameworks for due diligence that focus on global firms describing their programmes (inputs), in this article, we argue that quantitative data on labour outcomes are required to hold global firms to account for human rights harms in their supply chains. We present twenty-five metrics that measure both lead firm sourcing practices and supplier firm labour rights and working conditions. We argue that these metrics are useful for regulators to assess how lead firms covered under due diligence legislation are addressing human rights harms in their supply chains. In addition, they are particularly useful to lead firms themselves in order to assess the level and salience of risks.

Keywords: human rights, risk-based due diligence, labour practices, global supply chains, CSDDD

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Introduction

'If you can't measure it, you can't improve it.'[1]

Interest in and support for due diligence legislation peaked over the past decade. The French *Duty of Vigilance Law* (2017) was followed by the Dutch *Child Labour Due Diligence Act* (2019), the Norwegian *Transparency Act* (2021), the Swiss *Supply*

[1] The phrase 'If you can't measure it, you can't improve it' is most commonly attributed to management consultant Peter Drucker, but that exact wording does not appear in his published works. The saying is a paraphrase that grew out of Drucker's broader ideas about objectives, measurement, and effectiveness. It has also been attributed to Lord Kelvin and Edward Demming.

Chain Act (2022), and the German *Supply Chain Act* (2023), as well as the EU's *Corporate Sustainability Reporting Directive* (CSRD) (2022) and finally the *Corporate Sustainability Due Diligence Directive* (CSDDD) (2024). Although these laws differ in significant ways in terms of scope, coverage, obligations of companies, and penalties for non-compliance, the commonality across them is that they attempt to hold companies *accountable* for human rights and environmental harms in their operations and global supply chains.

The impetus for these value chain due diligence laws has been the growing disillusionment with private voluntary regulation efforts by companies over the last twenty-five years, given their failures to sustainably improve human rights in supply chains,[2] and tragedies like the Rana Plaza factory collapse. In some sense, the laws reflected widespread acceptance by European policymakers that twenty-five years of private voluntary regulation and 'best practices' guidance for due diligence had done little to limit harms to both people and planet across global supply chains.

While the EU Omnibus Package, discussed below, seeks to 'defang' the EU due diligence directive and could be used to dilute existing due diligence laws in effect in EU member states, the central concept—that of covered companies (lead firms) accounting for human rights and environmental risks in their supply chains—will likely remain. And if that remains, there is the burning question of how regulators will know who is harming workers or running big risks for the environment. Another question is how stakeholders—business partners (including upstream suppliers), workers and unions, investors and researchers—will know which lead firms and practices are failing and which ones are delivering good outcomes.

The central argument in this article is that a risk-based due diligence regime requires new forms of disclosure by covered corporations. We suggest that, in order for a risk-based due diligence regime to deliver information about human rights and risks in the supply chains of global corporations, there is a need for companies to disclose data on human rights *outcomes* in their supply chains. Under the old private regulation regime, lead firms monitored their supply chains themselves and were not required to disclose the results of their efforts.

To that end, we (researchers at the Cornell Global Labor Institute) have developed a series of quantitative outcomes metrics. By focusing on outcomes for workers in the supply chain, they provide the crucial human rights *evidence* that is necessary

[2] R M Locke, *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy*, Cambridge University Press, Cambridge, 2013; S Kuruvilla, *Private Regulation of Labor Standards in Global Supply Chains: Problems, Progress, and Prospects*, Cornell University Press, Ithaca, 2021.

for the conduct of due diligence. Such outcomes data is critical for regulators to monitor and review the performance of companies and to assess the effectiveness of companies' targeted approach to risk. Such data is also useful for lead firms themselves, because it provides them the evidentiary base to prioritise risks and decide which ones are more salient or urgent.

We contribute to the regulation literature through our focus on outcomes, in contrast to the variety of existing guidance frameworks that overwhelmingly focus their disclosure requirements on what firms do (their programmes) rather than whether these programmes are effective (outcomes). We argue that while programme-based reporting may be *necessary* to indicate what companies are doing, it is *insufficient* under a mandatory due diligence regime, as they tell us little or nothing about whether those actually improve outcomes. Outcomes-based disclosures help solve the policy-practice decoupling that has been a common criticism of private voluntary efforts.

Due Diligence Risk Assessment and Reporting

On 26 February 2025, the European Commission introduced its 'Omnibus Simplification Package'—a set of proposals aimed at streamlining EU sustainability regulations. It proposes to postpone the application of the CSDDD until January 2027, reduce the number of companies covered by the CSRD, eliminate EU-wide civil liability, limit the focus of the legislation to first-tier suppliers only rather than the whole supply chain, and require due diligence once every five years rather than annually (amongst a series of other proposals).

In limiting the due diligence obligations to only Tier 1 suppliers, the Omnibus Package would reduce the CSDDD to a pale shadow of the 2024 law that applied to all tiers of the supply chain and all significant business relationships. Furthermore, in removing the EU-wide civil liability provision that gives the law its teeth, due diligence remains mandatory but is not very different from the private voluntary regime that has been in place for the last 30 years. However, what will remain, in our best guess, is that firms will be still be required to undertake risk-based due diligence, which will then be the basis on which firms can be held accountable for harms to human rights in the supply chain. The key question is how regulators can hold firms accountable.

In the old private regulation regime, lead firms gathered data about supply chain labour conditions by themselves or by outsourcing it to social auditing companies and multi-stakeholder programmes.[3] Lead firms used that intelligence as they pleased—to revise sourcing strategies, to remediate conditions in factories, or to

[3] Kuruvilla.

do nothing at all.[4] Lead firms were also largely free to report only what they cared to report. Even firms that obtained extensive intelligence about working conditions among suppliers tended to report a select subset of such information, and only in aggregate terms.[5]

In this voluntary regime, several guidance frameworks emerged to help lead firms define their approaches, track their progress, and showcase their efforts. The OECD's *Guidelines for Multinational Enterprises on Responsible Business Conduct* and its *Due Diligence Guidelines for Responsible Business Conduct*, the Workforce Disclosure Initiative, and the Global Reporting Initiative (GRI) are examples. These guidance frameworks focus largely on *inputs*; that is, they require companies to disclose their plans, policies, and processes regarding human rights in their supply chains. Hao, Dragomir, and Radu note the general lack of rigour: '[T]he limitations [in non-financial reporting] include inconsistent formats, lack of standardization, weaknesses in the reliability and comparability of information used in decision-making process, and limited assurance'.[6]

To be sure, these descriptions of corporate policies and procedures indicate the efforts companies are making to uphold labour rights in their supply chains. But they are highly selective and emphasise the positive. They are used by lead firms as much for display as for disclosure and often combine future goals with carefully curated data in reports with titles such as 'Circular & Climate Positive' and 'Fair & Equal'. What is missing in these firms' reporting is evidence: uniform outcomes data for the labour policies and workplace practices that matter most.[7] In other

4 In a due diligence regime, collecting reliable data on working conditions and labour rights is an obligation of the lead firm. Legislation in Germany and the EU that includes legal liability for due diligence failures should drive changes and new investment in intelligence-gathering.

5 S Kuruvilla and J Judd, *Measuring Supply Chain Due Diligence: Labor Outcomes Metrics*, Global Labor Institute, Cornell University, May 2024.

6 NS Hao, V D Dragomir, and O M Radu, 'Effects on Corporate Stakeholders and Limitations of the Implementation of the Non-financial Reporting Directive (2014/95/EU)', *Journal of Accounting and Management Information Systems*, vol. 22, issue 4, 2023, pp. 609–630, https://doi.org/10.24818/jamis.2023.04002.

7 We know only in broad terms how reporting requirements will contribute to the administration of European due diligence regimes. The European Sustainability Reporting Standards (ESRS), drafted by the European Financial Reporting Advisory Group (EFRAG), have used the GRI template of input-based reporting for the initial CSRD requirements. In fact, the advisory group emphasises the inter-operability of CSRD requirements with GRI and other input-focused reporting frameworks including those from the Sustainability Accounting Standards Board (SASB) and Taskforce on Climate-related Financial Disclosures (TCFD). These requirements are revised—i.e. 'simplified'—as part of the 2025 Omnibus revision.

words, under private regulation, the description of inputs does not make it easy to hold firms accountable.

Evidence is crucial given that mandatory due diligence requires companies to focus efforts on the highest-risk areas within a company's operations, value chain, or business relationships. This approach recognises that not all risks are equal and allows businesses to allocate resources efficiently by prioritising actions based on the severity and likelihood of potential adverse impacts. Prioritisation of which risks are significant requires data and evidence. How else can a company assess whether a risk is significant or not? Data also allows companies to tailor due diligence solutions appropriately, allowing them to allocate resources more effectively. Data is also crucial for monitoring and review, and to assess the effectiveness of the company's targeted approach to reduce risk.

We present here a set of quantitative metrics that measure labour outcomes—actual impacts for workers. These metrics are 'hard' measures required of lead firms that will allow regulators to track the performance of those firms against their due diligence obligations. They also allow regulators to track the effectiveness of company efforts to reduce risks or remediate harms to people along their value chains and compare performance across companies. For firms, the metrics are particularly useful for a clear-eyed and quantitative assessment of risks and outcomes. Regulators and firms alike will be able to compare outcomes across suppliers, countries, tiers, and over time. What firms are required to report in a due diligence or corporate accountability regime will inform the choices regulators make and, therefore, how lead firms and their upstream and downstream business partners behave. Public disclosure under the accompanying reporting regime can balance the need-to-know against legitimate business confidentiality claims, so that unions, campaigners, investors, and researchers can see and compare outcomes.

A useful analogue are the US Securities and Exchange Commission's (SEC) required 10-K reports, which provide a comprehensive overview of a company's business and financial conditions, including audited financial (outcomes) statements and other information such as earnings per share, debt, gross profit, and more. These quantitative metrics are uniform across firms and can differ from those covered in the company's annual report to shareholders. The 10-K is a useful tool for firms themselves, regulators, investors, researchers, and others. Outcome metrics for people and planet—which, like core financial reporting, cannot be said to be confidential business information—similarly provide crucial information that markets require and that allow the democratic network that holds corporations accountable to do their work.

The metrics we have developed put reporting on labour outcomes in the same class as reporting on financial outcomes. That is, they require firms to present uniform quantitative data on *results* that regulators can compare between firms and their supply chains, and over time. Labour outcome metrics will also allow

regulators and firms themselves to put CSRD 'double materiality' standards into practice by accounting for the 'financial implications of those [material sustainability] risks, as well as growing awareness of the risks and opportunities from other environmental issues and from health and social issues, including child and forced labor'.[8]

Effective regulation of due diligence efforts to surface human rights risks, and for companies, the ability to analyse risks, to decide which are salient or less salient, requires uniform quantitative outcomes metrics. Mandatory disclosure of *outcomes* data to regulators and others complement and emphasise the shift from private regulation to accountability and public regulation.

Labour Outcomes Metrics for Risk Analysis and Disclosure

We draw on the long tradition of industrial relations scholarship to develop outcomes metrics for risk analysis and reporting and disclosure. These metrics are designed to capture impacts for workers, including climate impacts on workers and workplaces. Outcomes-based metrics have several advantages. The first is they measure outcomes, not inputs, and more clearly *indicate impacts* for workers. They also track progress for suppliers and lead firms.

Second, they are *parsimonious*. Inputs reporting—descriptions of company policies and programmes—do not make the lives of due diligence regulators (or lead firms' compliance teams) easy. They will struggle to peruse countless pages of each firm's input-focused reporting, compare it against others, and make meaningful determinations about compliance with due diligence requirements. And, after completing their burdensome task, regulators will still not know whether these policies and programmes actually reduce environmental impacts or improve working conditions and advance worker rights.

The third advantage of outcome-based metrics is their *utility* for multiple stakeholders. As we note above, outcomes data can be put to work by regulators, firms themselves, industry groups, worker organisations, investors, and others. And outcome metrics give companies a clear sense of what information to collect and how to improve their analysis of risk. New due diligence requirements carry the risk of legal liability for lead firms. A more precise analysis of harms and risks should soon be a priority, and outcome metrics enhance precision.

A fourth advantage of outcome metrics is that they are *readily available*. The data required for our outcomes metrics are based on data that is routinely available inside global firms. Labour and environmental compliance data are ritually

[8] See Recital 11 of CSRD.

collected from suppliers through the auditing process. Researchers have used this information—when shared by firms—to evaluate the impacts of private regulation.[9]

Finally, while our metrics have been designed for the apparel industry, they are *adaptable* for other sectors. Our outcomes measures are, we believe, the closest possible proxies for the most common or gravest labour abuses found in apparel value chains. And taken together, they produce both an outcomes- and risk-rating system that works at the supplier, national, and global levels. We offer an important caveat here. Some aspects of global production are hard to see and difficult to measure. We do not have a measure among our 25 metrics of child or forced labour. The numbers of reported forced labour cases or detected child labour cases, for example, are not, by themselves, indicators of the overall risk or prevalence of forced labour or child labour. From a due diligence perspective, the risks here are relatively easy to identify at the macro level—dependence on migrant workers, political turmoil, extreme poverty—but less amenable to a meaningful quantitative measure.

In presenting the rationales for these metrics, we refer to recent scholarship and note how they are consistent with the principles and requirements of recent due diligence legislation, including the German *Supply Chain Act*, the CSDDD, and the CSRD.[10]

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[9] See, for example: Locke; Kuruvilla; S Kuruvilla *et al*., 'Field Opacity and Practice-Outcome Decoupling: Private Regulation of Labor Standards in Global Supply Chains', *Industrial and Labor Relations Review*, vol. 73, issue 4, 2020, pp. 841–872, https://doi.org/10.1177/0019793920903278; M Amengual, G Distelhorst, and D Tobin, 'Global Purchasing as Labor Regulation: The Missing Middle', *Industrial and Labor Relations Review*, vol. 73, issue 4, 2020, pp. 817–840, https://doi.org/10.1177/0019793919894240; J L Short, M W Toffel, and A R Hugill, *Beyond Symbolic Responses to Private Politics: Codes of Conduct and Improvement in Global Supply Chain Working Conditions*, Harvard Business School Working Paper 17–001, 2018; Y Bird, J L Short, and M W Toffel, 'Coupling Labor Codes of Conduct and Supplier Labor Practices: The Role of Internal Structural Conditions', *Organization Science*, vol. 30, no. 4, 2019, pp. 847–867, https://doi.org/10.1287/orsc.2018.1261.

[10] Our metrics are directly and immediately relevant for due diligence and reporting regimes such as the German Supply Chain Act. In fact, they are quite tightly coupled. See Federal Office for Economic Affairs and Export Control (BAFA), *Identifying, Weighting and Prioritizing Risks: Guidance on Conducting a Risk Analysis as Required by the German Supply Chain Due Diligence Act "Lieferkettensorgfaltspflichtengesetz" or "LkSG"*, BAFA, 2022, https://www.bafa.de/SharedDocs/Downloads/EN/Supply_Chain_Act/guidance_risk_analysis.html, and *Risiken ermitteln, gewichten und priorisieren: Handreichung zur Umsetzung einer Risikoanalyse nach den Vorgaben des Lieferkettensorgfaltspflichtengesetzes*, BAFA, 2022, https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung_risikoanalyse.pdf.

We group our 25 metrics into six groups. In the first five groups, we highlight the outcomes that we want to measure and show the metrics that operationalise the individual measures. The final group of metrics focuses on the *quality and diligence of firms'* intelligence-gathering processes. This group is not focused on outcomes; the metrics are contextual in that they provide information that is relevant to the interpretation of the metrics in the previous groups.

In addition to disclosure of corporate 'demographics'—locations, ownership, workforce size, and so on—we suggest that all metrics be reported annually and show data for the preceding three-year period in order to provide a baseline and allow tracking of changes over time. We have designed the measures so that regulators (and firms and others) can convert them into scorable metrics that allow them to compare the relative labour performance of regulated firms globally, and by country, by year. And within supply chains, lead firms can measure and compare the performance of different suppliers. Below, we discuss each metric, what it seeks to measure, and the rationale for why that measure is necessary.

Group 1: Sourcing Risk Metrics (Lead Firm)

Metric 1: Lead firms' sourcing breakdown (percentage) by country in terms of both value and volume.
Measure: *Overall sourcing risk*
Rationale: Macro- or country-level measures are important for gauging and comparing firms' overall tolerance for risk of harms to workers. Due diligence legislation requires some overview of companies' business activities and value chains. Much of labour outcome risks for firms is determined by these macro-level choices.

Many apparel firms, for example, already report where their contract suppliers are located and the number in each country; Gap, Adidas, Patagonia, Marks & Spencer, and H&M, among others, do this. But most do not report the value and volume sourced from each country, which is crucial for risk assessment. (Adidas is one of the few that report some sourcing *volumes* by country.)[11] If, for example, 30, 20, and 10 per cent of an apparel brand's product comes from China, Bangladesh, and Cambodia, respectively, that firm is indicating—among other things—tolerance for large-scale harms or risks to workers regarding freedom

[11] See N.A., *Annual Report 2023: Global Operations*, Adidas, 2024, retrieved 20 November 2025, pp. 65–69, https://report.adidas-group.com/2023/en/_assets/downloads/annual-report-adidas-ar23.pdf.

of association,[12] inadequate wages,[13] and escalating climate impacts on workers.[14]

Metric 2: The percentage of each supplier's production that is reserved for the lead firm, on average, by year.
Measure: *Leverage*
Rationale: Micro- or factory-level choices matter, too, as they indicate how lead firms view 'partnership' and 'leverage' with contract suppliers. Closely related to the above is the leverage companies have over the suppliers, which could translate into the amount of influence they could exert over supplier labour practices. Prior research shows that share of production or 'leverage' is an important predictor of suppliers' overall compliance[15] and a useful indicator for regulators when determining credit for improvements or responsibility for harms.

Most buyers know their share of their Tier 1 factories' production and, although it should not be regarded as confidential business information, none report this information publicly. The guidance for the German law acknowledges that it is not possible for a company to have any influence if it only has a small percentage of a supplier's production. It notes that 'the ratio of the order volume to the supplier's (total) turnover might be difficult to answer for many companies at the beginning. After all, the supplier's total turnover is rarely known. Companies can try to gradually work towards more transparency'.[16] So leverage percentage is clearly an important issue to report, since leverage determines whether companies will be held accountable for harms.

Metric 3: The number of years of sourcing relationships and annual changes in value/volume for each factory.

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12 M Anner, 'Corporate Social Responsibility and Freedom of Association Rights: The Precarious Quest for Legitimacy and Control in Global Supply Chains', *Politics & Society*, vol. 40, issue 4, 2012, pp. 609–644, https://doi.org/10.1177/0032329212460983.

13 T Begum and R Ahmed, 'Bangladesh Garment Workers Fighting for Pay Face Brutal Violence and Threats', *The Guardian*, 15 November 2023, https://www.theguardian.com/global-development/2023/nov/15/bangladesh-garment-workers-fighting-for-pay-face-brutal-violence-and-threats.

14 J Judd and S Kuruvilla, 'Climate Change and the Apparel Industry in Southeast Asia', *Southeast Asia Program (SEAP) Spring Bulletin*, Cornell University, 2025, https://ecommons.cornell.edu/bitstreams/cf6aeb74-4f3b-48fa-bfaf-d89f78e37809/download.

15 Locke; Kuruvilla.

16 See Federal Office for Economic Affairs and Export Control (BAFA), 'Appropriateness: Handout on the Principle of Appropriateness According to the Requirements of the Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations', BAFA, December 2022, pp. 4–12, https://www.bafa.de/SharedDocs/Downloads/EN/Supply_Chain_Act/guidance_appropriateness.html.

Measure: *Length and quality of relationships*
Rationale: Empirical research indicates that long-term buyer–supplier relationships characterised by commitment or partnership promote compliance and good labour standards.[17] Other things being equal, long-term partnership-based relationships help due diligence relative to sourcing models that are short-lived and frequently changing. Companies will have this data in their sourcing database, so reporting the metric is relatively easy. Using this data, regulators ought to be able to correlate length of relationship with labour standards compliance. Most companies do not currently report this information on their websites.

Metric 4: Annual change of suppliers by country.
Measure: *Supplier turnover*
Rationale: An important complement to our 'leverage' and 'length of relationship' measures is the annual change in a lead firm's production base. Supplier turnover rates are a key indicator of sourcing volatility and an indicator of risk for workers. This data exists within sourcing departments of all lead firms and can be instantly produced. Relatively few companies disclose this metric publicly. The CSRD's disclosure requirements mandate that the 'undertaking shall disclose the main features of its upstream and downstream value chain, including a description of the main business actors (including key suppliers, customers, distribution channels and end users).'[18]

It is now increasingly the norm for lead firms to have a set of strategic suppliers with whom they have more stable, longer-term relationships, and to maintain a subset of non-core and non-strategic suppliers. Requiring supplier turnover disclosure is relevant, in addition to the metric above, since supplier churn, even in the non-core strategic supplier base, indicates short-lived relationships that could pose risks to workers.

Metric 5: Correlation between sourcing and compliance over time.
Measure: *Sourcing and labour performance alignment*
Rationale: Perhaps the most important indicator is whether and how well sourcing and human (or labour) rights compliance is integrated within lead firms. Does the sourcing management system incentivise suppliers to improve labour standards? Specifically, do the firms reward suppliers with better compliance and labour practice records with more orders and, over time, reduce orders from suppliers with weaker and un-remediated records? Are the worst suppliers pushed out?

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17 R Locke, M Amengual, and A Mangla, 'Virtue out of Necessity? Compliance, Commitment, and the Improvement of Labor Conditions in Global Supply Chains', *Politics & Society*, vol. 37, issue 3, 2009, pp. 319–351, https://doi.org/10.1177/0032329209338922; Kuruvilla.

18 CSRD Disclosure Requirements SBM 3.

Lead firms with good management systems tend to demonstrate close alignment between sourcing and compliance.[19]

All that is required for this analysis is data on sourcing volumes and compliance scores over time, by factory. It should show a relationship between factories' labour compliance records (see our metrics on labour compliance below) and order volumes that suppliers receive. As the compliance score improves, suppliers should receive more orders.

This measure is consistent with the notion of the appropriateness of firms' efforts to influence supply chain labour practices, i.e. whether risks arise from within firms due to this lack of alignment, or from the suppliers' practices. It is also evidence that is useful in demonstrating effectiveness—specifically, that lead firms' sourcing systems provide clear incentives and clear consequences for suppliers.

While our metric here is focused on the existence of management systems that incentivise compliance, we do not develop quantitative measures of purchasing practices for several reasons. First, lead times for the delivery of orders—often mentioned as a purchasing practice that affects workers—vary in accordance with the respective business models. Appropriate lead times for retailers may differ from appropriate lead times for fast fashion brands. Second, shorter payment terms provide suppliers with relief from interest payments on their working capital needs, but the variation in payment terms is large, with no sense of what is ideal. Third, poor sourcing practices will show in outcomes measures such as overtime hours and worker turnover rates. Due diligence requires that firms unearth risks and harms to workers, and then work back to identify and deal with the causes.

Group 2: Workforce Risk Measures (Suppliers)

Metric 6: The specific metric to be used here is the percentage of migrant (foreign) workers in the supplier workforce (by factory). In countries where migration across states or provinces requires permissions or specific work authorisations in the employing state, the metric may have to list the state/province of origin as well.
Measure: *Migration and citizenship status of workers*
Rationale: Research in multiple sectors shows that migrant workers are particularly susceptible to exploitation, increasing the risk of harms for workers and for

[19] For an example of a case where alignment was not achieved despite efforts to integrate sourcing and compliance, see Amengual, Distelhorst, and Tobin. For research that shows how a large retailer is achieving such alignment, see Kuruvilla. For examples of ongoing company efforts to achieve this alignment see M W Toffel, E McNeely, and M Preble, *New Balance: Managing Orders and Working Conditions*, Harvard Business School Case, 2019, and N-h Hsieh, M W Toffel, and O Hull, *Global Sourcing at Nike*, Harvard Business School Case 619-008, 2019.

lead firms whose suppliers rely on workers who are internal or cross-border migrants.[20]

This data is readily available to supplier management and external auditors. The larger the ratio of migrant workers, the greater the risk for workers, including the risk of forced labour. A second, related percentage—migrant workers with recruiting/placement debts—is a useful measure of forced labour risks among migrants. This data is harder to find but should be collected by firms conducting meaningful due diligence.

Specifically, the question is whether the structure of the labour force in supply chain factories, represents a risk for the companies that source from them. If suppliers have a high proportion of migrant workers in their workforce, this constitutes a level of risk for forced labour violations. The metric, therefore, is useful for companies in their analysis of forced labor risk.

Metric 7: Number of temporary/casual workers as percentage of the total workforce (by factory, by year).
Measure: *Precarious employment relationships*
Rationale: Contingent workers are, in general, likely to have fewer rights and more prone to labour exploitation than permanent workers. If factories employ a large share of contingent or casual/temporary workers, or even workers on a series of short-term contracts, then labour risks for both workers and lead firms increase. As with worker legal status above, this data is readily available to employers and lead firms.

Metric 8: Turnover rate, calculated as the number of workers who have left employment, divided by the total number of workers for the year or month.
Measure: *Worker turnover*
Rationale: Workers leave jobs for many reasons but high worker turnover in factories indicates high labour risk. A 2022 analysis of social audit and worker turnover data in 622 supplier factories in 28 countries—all producing for a large US apparel retailer—showed that higher worker turnover in supplier factories was associated with violations of code provisions and, more specifically, with labour standards violations (as opposed to violations of other code provisions). Within the labour cluster, high turnover was due primarily to wage and benefits violations.[21] This relationship was stronger in lower-wage countries.

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[20] O Balch, 'Abuse of Migrant Workers Is Now a Top Risk for Businesses', *The Guardian*, 16 February 2016, https://www.theguardian.com/sustainable-business/2016/feb/16/migrant-workers-top-risk-businesses.

[21] C Li and S Kuruvilla, 'Corporate Codes of Conduct and Labour Turnover in Global Apparel Supply Chains', *British Journal of Industrial Relations*, vol. 61, issue 3, 2023, pp. 481–505, https://doi.org/10.1111/bjir.12705.

Worker turnover data is kept by most factories or can be easily calculated from payroll data. Very high turnover indicates worker dissatisfaction and could be due to lead firms' sourcing practices such as pricing 'squeezes',[22] relatively low wages, or wage theft and other abusive labour practices at the factory level.[23] For lead firms, the turnover metric is an indicator of a *variety* of human rights risks that could trigger deeper inquiry.

Metric 9: Female wages as a percent of male wages in similar production roles.
Measure: *Gender pay equity*
Rationale: All forms of discrimination are generally prohibited in both private and public regulation of work. But in apparel production, where women form the majority of the workforce, we pay particular attention to gender discrimination and pay equity, in particular, consistent with ILO conventions 100 and 111. Most global brands include gender equity in their codes of conduct. For example, ALDI Nord's commitment to gender equality includes the statement that 'Sex or gender, marital status, or pregnancy should not lead to disadvantages during hiring, employment, training, promotion and remuneration'.[24] H&M's policy states: 'We are working to improve wages in our supply chain by helping factories to bring in effective wage management systems. These systems empower workers by raising awareness about wages and developing skills to improve them. They also help factories set a fair wage structure that isn't influenced by a worker's gender.'

However, despite 25 years of private regulation in the global apparel industry, virtually no apparel lead firm reports on its website the gender pay differential for production employees among suppliers. The simplest measure here is the average monthly pay by gender for similar work and for the same level of tenure.[25]

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22 Anner.

23 Kuruvilla; Li and Kuruvilla.

24 See N.A., *International Policy on Gender Equality in ALDI's Supply Chains*, ALDI, November 2021, https://www.aldi-nord.de/content/dam/aldi/germany/verantwortung/umbau_cr_bereich/menschenrecht/Gender_Policy_final_EN.pdf.res/1635858497708/Gender_Policy_final_EN.pdf and N.A., 'Gender Equality in Our Supply Chain', H&M Group, n.d., retrieved 1 December 2025, https://hmgroup.com/sustainability/fair-and-equal/gender-equality-in-our-supply-chain.

25 This metric is required under German law. Section 2(7) of the Act refers to the prohibition of unequal treatment in employment, including, for example, on the grounds of national and ethnic origin, social origin, health status, disability, sexual orientation, age, gender, political opinion, or religion or belief. Unequal treatment includes, in particular, the payment of unequal remuneration for work of equal value. The metric, tracked over time, is also consistent with the lead firm's need to show effectiveness.

Metric 10: The ratio of female supervisors to female workers.
Measure: *Gender equity, gender-based harassment and violence*
Rationale: Women now form the majority of the global apparel workforce, but men form the majority of management and supervisory staff.[26] This mismatch increases the risk of gender-based harassment and violence, and reducing the ratio—that is, upping the share of women among supervisors—reduces that risk. For parity, the percentage of female supervisors should equal the percentage of female workers in the factory. H&M is one of a few lead firms to articulate a clear goal: 'Our ambition is that the ratio of women supervisors matches the ratio of women workers. However, in 2022 only 27% of supervisors in our supplier factories were women, while 62% of the workforce were women.'[27] H&M reports an input measure—leadership training programmes for women workers—but not yet the ratio. Gap Inc. has a similar goal: 'Our goal of achieving gender equity at the supervisor level in all of our strategic factories will be driven by our Supervisory Skills Training program.'[28] An analysis of an undisclosed company's supply chain data[29] shows wide variation in the ratio of female supervisors to female workers across factories, within and across countries. The number of male and female supervisors and workers is easily accessible from factories and represents a simple way of indicating the risk for harassment and violence.

Group 3: Working Conditions Risk Measures (Suppliers)

The composite factory working conditions metric below—Metric 11—includes violations for all working conditions and labour rights provisions, but we use separate metrics for key measures, including wages, working hours, and freedom of association.

Metric 11: Total number of violations by labour standard category for each factory.
Measure: *Factory working conditions violations*
Rationale: Most firms use social audits to obtain intelligence about compliance with and violations of labour conditions specified in national law and their voluntary codes of conduct. Based on this intelligence, lead firms assign scores to

26 S Kuruvilla, *The Dindigul Agreement to End Gender-Based Violence and Harassment. Has It Worked?*, Global Labor Institute, 2025.

27 See 'Gender Equality in Our Supply Chain'.

28 N.A., 'Gap Inc. Announces Landmark 2025 Goals to Drive Women's Empowerment in Its Supply Chain', Gap Inc., 15 March 2021, https://www.gapinc.com/es-us/articles/2021/03/gap-inc-announces-landmark-2025-goals-to-drive-wom.

29 I Bratton-Benfield, S Kuruvilla, and J Judd, 'Gender Discrimination in Fashion Supply Chains: What Should Companies Report?', *The Sourcing Journal*, 8 November 2023, https://sourcingjournal.com/topics/thought-leadership/gender-discrimination-pay-gap-apparel-factories-levi-strauss-cornell-university-464585.

their supplier factories.[30] Of course, it is key that lead firms' data be reliable, and legislation in Germany and the EU that includes legal liability for due diligence failures should induce companies and their auditors to ensure reliability of their intelligence regarding factory working conditions.

Businesses are required to exercise due diligence in a manner appropriate to them with the aim of preventing or minimising human rights or environment-related risks. What this metric shows is whether firms' actions over time contribute to fewer labour violations in their supply chains. Comparisons of violations between audit firms and countries can be difficult, but flat or rising rates of violations indicate risky working conditions. Based on this data, companies can determine whether violations of working conditions are, on the whole, declining over time.

Metric 12: Actual average hours worked by month, and the average hours of overtime worked by month for each factory.
Measure: *Working hours*
Rationale: Hours of work are governed by ILO conventions 1 and 30 as well as national laws that set workplace standards. Working hours have bearing on worker health and safety and the composition of workers' earnings. For regulators and firms themselves, consistently high levels of overtime are an indication of the impact of an employer's poor management or a buyer's poor purchasing practices.[31]

Metric 13: Actual average monthly income for production jobs, compared to local minimum wage, prevailing manufacturing wages for the local area, and living wage estimates.
Measure*: Wages*
Rationale: Wages are a subject of mandatory due diligence as well as national and private regulations. Section 2(8) of the German *Supply Chain Act* prohibits the 'withholding of an adequate living wage, where the adequate living wage amounts to at least the minimum wage as laid down by the applicable law and apart from

[30] Locke demonstrates how Nike assigns its factories a grade based on their aggregated performance (violations) on all code of conduct provisions (Locke). Kuruvilla shows how a major global retailer assigns a total score for each factory which is then a key input into sourcing decisions (Kuruvilla). Other lead firms assign different weights to different types of violations but arrive at a grade or rating for their factories. For example, the ILO's Better Work programme reports findings on eight 'clusters' of labour rights and standards, making it possible to assign compliance scores on a per-labour-standard basis or a total audit score basis (D K Brown, R H Dehejia, and R Robertson, 'The Impact of Better Work: Firm Performance in Vietnam, Indonesia and Jordan', Discussion Paper 27, *SSRN*, August 2018, https://doi.org/10.2139/ssrn.3130946).

[31] G Distelhorst and A McGahan, 'Socially Irresponsible Employment in Emerging-Market Manufacturers', *Organization Science*, vol. 33, no. 6, 2022, pp. 2135–2158, https://doi.org/10.1287/orsc.2021.1526.

that is determined according to the regulations of the place of employment'. This limitation appears to void the 'withholding' requirement: decades of academic research have demonstrated that minimum wages in apparel exporting countries are not 'living wages'.[32] Voluntary codes of conduct require that factories pay local minimum wages, living wages—but without actual wage levels—or wages agreed via collective bargaining.

Given the lack of clarity, what should firms report? At the minimum, firms should be collecting and calculating actual average monthly incomes—breaking out entry level wages, average base wages, bonuses, all overtime pay, and deductions—for each production role in the factory. They should also report the local minimum wage, prevailing manufacturing wages for the local area, and living wage estimates for the region.[33]

Metric 14: The number of recorded injuries, accidents, and work-related illnesses (by factory, annually).
Measure: *Accidents*
Rationale: National law and corporate codes can include as many as 200 items regarding health and safety measures, so we rely on reporting of workplace accidents. Most national laws require factories to keep a record of workplace accidents, injuries, and illnesses consistent with our proposed metric.

Accidents are recorded by factory management which may misrepresent or understate the numbers of accidents, injuries, and illnesses. Due diligence requires that lead firms spend time triangulating evidence on this issue, via off-site interviews with workers and leaders of worker organisations.[34]

Metric 15: a) The existence of a worker-trusted grievance/hotline system and b) where trusted, the number of grievances/hotline calls.
Measure: *Grievance mechanism*
Rationale: Due diligence regimes and enforceable agreements, for example, mandate that all aggrieved parties have access to remedy—ways in which their complaints can be heard and addressed. Most remedy mechanisms include either

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32 Anner; H Kabir *et al.*, 'The Paradoxical Impacts of the Minimum Wage Implementation on Ready-made Garment (RMG) Workers: A Qualitative Study', *The Indian Journal of Labour Economics*, vol. 65, 2022, pp. 545–569, https://doi.org/10.1007/s41027-022-00375-9.

33 See, for example, Kuruvilla for detailed wages data for brands and audit firms and the Fair Labor Association's reporting on wages.

34 Since Section 2(5) of the German law prohibits disregarding health and safety obligations applicable under the national law of the place of employment, data regarding accidents, injuries, and illnesses indicate risk for lead firms and constitutes evidence of compliance over time.

a formal grievance system at the factory level or a phone-based complaints mechanism run by/for lead firms. A factory in which workers feel comfortable submitting grievances is a possible indicator of positive labour management relations, especially if a union and a collective bargaining agreement has been established. On the other hand, a large number of grievances may also indicate poor working conditions and desperate workers.

Harrison suggests that the characteristics of various grievance mechanisms as well as the contexts in which they operate significantly affect human rights outcomes: 'even the most successful mechanisms only manage to produce remedies in particular types of cases and contexts.'[35] Many global apparel brands have instituted 'hotlines' that substitute for or supplement grievance procedures at the local level. Hotline calls have been used quite successfully in the case of the Bangladesh Alliance.[36]

Effectiveness of grievance mechanisms requires that workers see them as legitimate, accessible, predictable, equitable, and transparent. However, as with employer-reported accidents and illnesses, this metric can be manipulated and requires that lead firms triangulate evidence using the testimony of workers (away from the workplace) to determine their trust in the system.

Group 4: Representation Rights Metrics

Metric 16: The share of workers in democratically elected activist unions (i.e. unions that bargain with/challenge management on core workplace issues).
Measure: *Freedom of association and union presence*
Rationale: Freedom of association is a core human right, and due diligence regimes generally require lead firms to respect this right in their operations and those of their supply chains. The German *Supply Chain Act*, for instance, 'prohibits disregarding freedom of association, according to which employees are free to form or join trade unions; the formation, joining or membership in a trade union must not be used as a reason for unjustified retaliation; trade unions are allowed to operate in accordance with the applicable law of the place of employment which includes the right to strike and the right to collective bargaining'.[37] Most firms and their multi-stakeholder groups collect information on worker organising rights—typically reduced to the presence or absence of unions—through social audits.

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[35] J Harrison and M Wielga, 'Grievance Mechanisms in Multi-Stakeholder Initiatives: Providing Effective Remedy for Human Rights Violations?', *Business and Human Rights Journal*, vol. 8, issue 1, 2023, pp. 43–65, https://doi.org/10.1017/bhj.2022.37.

[36] H Alamgir, 'The North American Helpline Initiative in Bangladesh for Garment Workers', *Journal of Occupational Health*, vol. 62, issue 1, 2020, pp. e12178, https://doi.org/10.1002/1348-9585.12178.

[37] German *Supply Chain Act*, Section 2(6).

Legal prohibitions against worker organising (China) or effective monopolies on union formation (Vietnam) deny workers this fundamental right.

At the same time, the presence of a union by itself does not signify that the right to freedom of association is being upheld. Unions could be controlled by a company or, as in the case of China, by the Communist Party. Recent research based on an analysis of data from the ILO Better Work programme describes apparel supplier factories engaging in symbolic compliance by allowing unions to form in their factories, but also engaging in substantive non-compliance by restricting the right of the union to operate within them.[38] Thus, the existence of a union by itself is not enough evidence that freedom of association genuinely exists. Assessing whether unions are activist and challenge management on fundamental issues requires intelligence-gatherers to interview workers, usually away from the factory premises to get accurate information.

Metric 17: The share of workers covered by enforceable collective bargaining agreements (including enforceable brand agreements) with negotiated provisions better than state-specified minimums, by factory.
Measure: *Collective bargaining agreement presence*
Rationale: Freedom of association is designed to, among other things, advance another core labour right—collective bargaining at the workplace and industry levels. Analyses of Better Work data demonstrate that compliance with legal (and voluntary) workplace requirements is significantly higher in factories with both a union and a collective bargaining agreement.[39] But decades of research in industrial relations show that even where workers are able to unionise, employers often refuse to bargain (or to bargain in good faith).

As many factory-level agreements are formalistic—often dictated by employers—and generally re-state legal provisions, the existence of a collective bargaining agreement does not by itself indicate that the right is respected.[40] Thus, it is critical to interview workers and union representatives to determine the legitimacy of collective agreements.

[38] C Li, S Kuruvilla, and J Bae, 'Between Legitimacy and Cost: Freedom of Association and Collective Bargaining Rights in Global Supply Chains', *Industrial and Labor Relations Review*, vol. 78, issue 3, 2025, pp. 435–462, https://doi.org/10.1177/00197939251314867.

[39] S Kuruvilla, M Fischer-Daly, and C Raymond, 'Freedom of Association and Collective Bargaining in Global Supply Chains', in S Kuruvilla, *Private Regulation of Labor Standards in Global Supply Chains: Problems, Progress, and Prospects*, Cornell University Press, Ithaca, 2021, pp. 148–180.

[40] Li and Kuruvilla; Anner.

Metric 18: Are members of representative committees chosen by workers?
Measure: *Workplace governance representation*
Rationale: National laws, corporate codes of conduct, and some collective agreements such as the Bangladesh Accord provide for workplace representation, typically irrespective of the presence of a representative union. Workplace representation usually takes the form of committees with specific and sometimes narrow responsibilities—canteen committees, social events committees, etc.—and broader ones such as workplace or health and safety committees. Factories participating in Better Work have the latter type, called performance improvement consulting committees. The Bangladesh and Pakistan Accords require health and safety committees be set up in all factories that supply the signatory firms, and that these committees function in accordance with national law and applicable ILO standards. Safe and healthy workplaces—now included by the ILO as a core labour right—generally require worker representation and engagement with management.

It is important that committee candidates are chosen by workers—not nominated by management—and democratically elected by workers.

Metric 19: Gender ratio of committees compared to gender ratio of workforce.
Measure: *Workplace governance representation by gender*
Rationale: Gender equality requires that women be represented in various workplace committees in proportion to their numbers in the workforce. As with our gender equity and harassment measures above, some firms have recognised this need, and some report on them. Some lead firm policies are couched in broad terms. Adidas' code states that 'women are to be guaranteed equality of opportunity in access to training, employment, promotion, organization and decision-making', while others have more specific goals. Gap Inc. lists as goal that '100% of workers employed in our strategic factories will have their voices heard through gender-equitable workplace committees'. Relatively few firms report relevant metrics. H&M, for example, states that 66% of workplace dialogue committee members in their tier 1 factories are women.[41]

Group 5: Work Climate Impacts

Worker health and safety—now a core labour standard according to the ILO—is inadequate where there is a lack of measures to prevent excessive physical and mental fatigue, in particular through inappropriate work organisation in terms of working hours and rest breaks. Metric 14 above captures some workplace health and safety outcomes but does not account for the special and underrated risk posed for workers by climate breakdown. Note that these metrics are necessary

[41] See codes of conduct statements and sustainability reports from Adidas, Gap Inc., and H&M.

given the climate crisis, rising heat levels, and increased flooding. These occur in tropical and coastal countries, where most of the world's apparel factories are concentrated, such as Bangladesh, Vietnam, or Indonesia. Even more importantly, there are no consistent national or international standards protecting workers from heat and other catastrophic climate events. Our five outcomes metrics below are dedicated to pinning down the impacts of climate events on workers (and production).

Metric 20: The number of days per year on which the indoor wet bulb globe temperature (WBGT) exceeds 30˚C, by factory. (Or, outdoor WBGT exceedance days until indoor readings are available).
Measure: *Extreme heat*
Rationale: Recent research has analysed climate vulnerability—extreme heat, intense flooding, etc.—and the looming economic damage for apparel producing countries that fail to make investments in climate adaptation. High heat and humidity make work and life difficult for workers. Intense flooding can disrupt production for days and even weeks at a time. They can cut deeply into productivity at work and earnings for both workers and employers, and they can harm the health of workers and their families. In Cambodia, for example, nearly two-thirds of factories between 2015 and 2022 had heat levels above 32˚C (dry bulb) and 69% experienced indoor temperatures that were higher than outdoor temperatures in the dry (hot) season.[42] Global Labor Institute's 2024 *Hot Air* policy brief analysed changes in heat stress waves (wet bulb globe temperatures), revealing significant increases since 2005 in leading apparel production centres, including Ho Chi Minh City, Hanoi, and Karachi.[43]

But there is little by way of national standards or global guidance for indoor heat and dealing with its impacts on workers and production. In Bangladesh, labour law refers to 'tolerable' heat levels, and Cambodian law only notes that work must be undertaken in a thermal environment that 'does not affect workers' health'. The most commonly used measure of heat stress levels for workers is the WBGT, a combined measure of heat and humidity. Workplace research sets a WBGT of 30.5˚C as the safe limit for moderate effort, including apparel production.[44]

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42 J Judd *et al.*, *Higher Ground? Report 1: Fashion's Climate Breakdown and Its effects for Workers*, Global Labor Institute, Cornell University, September 2023, https://www.ilr.cornell.edu/sites/default/files-d8/2024-09/GLI%20Report%201_Rev_9-19-24.pdf.

43 J Judd *et al.*, *Hot Air: How Will Fashion Adapt to Accelerating Climate Change?*, Global Labor Institute, Cornell University, December 2024, https://www.ilr.cornell.edu/sites/default/files-d8/2024-12/gli-hot-air-4-december-2024.pdf.

44 C Schwingshackl *et al.*, 'Heat Stress Indicators in CMIP6: Estimating Future Trends and Exceedances of Impact-relevant Thresholds', *Earth's Future*, vol. 9, issue 3, 2021, pp. e2020EF001885, https://doi.org/10.1029/2020EF001885; E Somanathan *et al.*, 'The Impact of Temperature on Productivity and Labor Supply: Evidence from Indian

Metric 21: Flood Analysis – Site inundation in 10-year flood projections (RP 10) with projected outside flood levels of 0.25 m or more (by factory).[45]
Measure: *Intense Flooding*
Rationale: Flooding can cause factories to lose production, governments lose export earnings, and workers lose income. They also place workers at risk for a variety of illnesses such as rashes, diarrhoea, and dengue, resulting in loss of income (material risks for workers) and lost production and exports (a material risk for global buyers). Prior research has calculated that 'an increase in 100 millimeters of average monthly rainfall precipitation— expected between the start of the monsoon season and its peak [in tropical zones that are home to apparel production]—is associated with an increase in sick leave rate by 10 percentage points per month'.[46]

What is important to report here is whether supplier factories have prepared adequately for intense flooding. Is there a contingency plan? Are there both short- and long-term plans to deal with flooding impacts? The key measure is whether factories carry out flood analyses to prepare.

Metric 22: Paid breaks as share of work day hours during high heat stress days, disaggregated by regular and overtime work, by factory.
Measure: *Worker health, paid rest breaks*
Rationale: In high heat and humidity, workers will need more frequent rest breaks. Flooding affects not just workers' health but also their ability to travel to the factory, resulting in lost earnings. In national laws, as well as in codes of conduct, there are too few or unclear standards for paid breaks, paid sick leave, pay during force majeure work stoppages, and the right to halt dangerous work. The proposed metric is whether rest breaks are paid.

The German law, for example, refers to the lack of measures to prevent excessive physical and mental fatigue, including changes to working hours and rest breaks, as a human rights risk.

Metric 23: Paid sick days used as a share of available days, by factory.
Measure: *Worker health, illness*
Rationale: A key measure of factory-level and national policy-level forbearance when climate events affect workers' ability to work is the provision of paid sick leave. Currently, many countries do not have formal laws regarding sick leave. It

manufacturing', *Journal of Political Economy*, vol. 29, no. 6, 2021, pp. 1797–1827, https://doi.org/10.1086/713733.

45 Return Period (RP) refers to the frequency in years of a projected flood event. RP 10 is a ten-year flood event.

46 F Sebastio, 'Climate Change Is Threatening the Garment Industry', *Trellis*, 27 March 2018, https://trellis.net/article/climate-change-threatening-garment-industry.

should be part of workplace policy. Higher use of sick days in climate-vulnerable regions indicates adaptability of production and policy to climate events.

Metric 24: Number of paid force majeure days available both in policy and used in practice, by year, by factory.
Measure: *Worker health, force majeure*
Rationale: Flooding and heat waves can directly disrupt production, and indirectly via public breakdowns in transport and communications systems. During force majeure events, workers should not have to risk their health or lives and should be paid for sick days and days when work cannot be offered to them. The COVID-19 crisis established a new baseline for workplace furlough policies and compensation. The relevant metric is whether there are provisions for worker pay due to force majeure events. These data will need to be reviewed by regulators and firms in the context of climate events in the region.

Group 6: Intelligence-gathering/Auditing Risk Measures (for Context and Disclosure Only)

The failure of social auditing to improve working conditions in the aggregate is well-documented in the literature.[47] But social audits are still the means used by global firms to collect data on labour practices among suppliers. European member state laws as well as the CSDDD and CSRD require firms to 'know and show' their understanding of working conditions and labour rights protections along their supply chains.

The development of self-assessments, scaled-up by the buyer-led Social and Labor Convergence Program, followed by in-person verifications, is little different from the traditional audit (with the attendant problems) and often done by the same auditing companies. But the threat of civil liability in the French *Duty of Vigilance Law* and the previously passed CSDDD, as well as administrative fines in the German law, may provide an incentive for companies to improve their intelligence-gathering. This may lead to better and longer audits and reduce audit fraud (as auditors may be sued for poor performance as well). The purpose of these metrics is for transparency. It will surface the audit duration, which provides a clue as to whether the audit has been long enough to uncover violations. There are potentially many different measures that could be used here, but our focus on parsimony leads us to use just a few, and these are *context metrics* to help regulators and others better *interpret* the data that companies report.

Metric 25.1: Auditor Disclosure.
Measure: *Name of auditing firm/person*
Rationale: Effective firm-level due diligence needs reliable, high-quality intelligence/data that go beyond ticking the box. Disclosure by firms regarding

47 Kuruvilla.

intelligence-gathering methods and service providers indicate the quality of their due diligence efforts and—in the case of unreliable findings—represent a reputational risk for service providers.

The German law requires that companies prepare an annual report on the fulfilment of its due diligence obligations and publish it on their website. Transparency regarding the names of the auditing company/auditing personnel is consistent with this principle of public disclosure. This is quite similar to financial/accounting audits. What this measure is focused on is making auditing firms and auditors accountable.

Metric 25.2: The ratio of audit person-days to factory workforce, by factory.
Measure 25.2: *Audit duration per factory*
Rationale: Audit duration is one indicator of audit reliability. Short-duration audits increase the risk that the information is inaccurate. Academic research shows that the average number of audit days for a 1,000-worker factory is two person-days, i.e. two auditors auditing for one day.[48] In-house auditors, e.g. Nike staff or contractors, often spend much more than one day. ILO Better Work assessors visit factories more regularly, and their assessments are generally deemed more reliable.

Metric 25.3: Are auditing fees paid by the lead firms of suppliers? (by factory).
Measure 25.3: *Audit fee payment*
Rationale: Our final auditing disclosure measure—i.e. whether firms or suppliers pay the auditing fees—goes to conflict of interest, risk of collusion, and reliability of findings. Lead firms once paid for audits themselves, but during the last ten years, factories are increasingly expected to bear the costs of audits. In the case of the Social and Labor Convergence Program, a new initiative that attempts to reduce duplication in audits, suppliers choose from a pre-approved list and pay for the verification of their self-assessments. Lead firms are responsible for the collection and analysis of findings and the reporting to regulators and should, as a matter of legal liability, set the terms and make the choices. (We are not requiring disclosure of the amount of fees, although such disclosure could also provide a clue about the quality of the audit.)

Discussion and Conclusion

We have argued in this article that holding lead firms accountable for human rights risks in their supply chains requires lead firms to have enough 'intelligence' about working conditions in their supply chains, as well as to ensure that they are not the cause of harms (by ensuring that their purchasing practices are aligned with their human rights requirements). Hence, we have offered guidance in the form of quantitative metrics that lead firms can use to assess the level of human rights

[48] *Ibid.*

risk for each supplier facility. The sourcing metrics also help lead firms analyse their own sourcing practices to ensure that they do not incentivise exploitative work practices at the supplier level.

We also suggested that these metrics are useful to regulators (for example, the German regulator, BAFA, which is responsible for the administration of the German law, or the Norwegian Consumer Authority, which is responsible for the regulation of the *Transparency Act*). The metrics allow regulators to see how well the covered lead firms are doing in terms of identifying risks in their supply chains. Since the metrics proposed here are factory by factory indicators, they allows regulators to see the performance of lead firms across their supply chains. It also allows the lead firms themselves to compare performance across their factories. It is possible to create scoring systems to compare the performance of various lead firms on the sourcing metrics, or to compare the performance of various supplier factories on the other metrics.[49] And if transparently reported, it allows all stakeholders (including consumers) to see the human rights risks and to judge which ones are more salient. Hence, it is important that the use of the metrics by companies be transparently displayed on a factory-by-factory basis in their annual sustainability reports, and possibly displayed on the websites of the national regulators. As an example, the ILO's Better Work programme displays factory-by-factory performance on the respective Better Work websites in each country.

Who might object to these quantitative measures? Lead firms have thus far managed to get by with reports about their inputs and might thus balk at the use of outcome measures—but they would have to comply if regulations demanded it. Hence, as we have seen in the case of lead firms' responses to the CSDDD, they are likely to argue that these metrics create new burdensome requirements. We argue here that collecting these metrics does not present an additional burden. Under pressure from campaigners, unions, or regulators, some firms have disclosed elements of their supply chain such as where their first-tier factories are located, but most, including some of the world's largest brands and retailers, have not.

We argue that, even though companies disclose relatively little, they have all of the underlying data to report on most, if not all, of the metrics we advocate, or they can easily obtain them. All lead firms have our sourcing measures, even if their sustainability (or labour compliance) departments do not have ready access to it. Companies only disclose a small percentage of the data they have. The tendency is for lead firms to report in the aggregate, not at the factory-by-factory level. Since the aggregate data is the sum of individual factory data, these firms

[49] There are many considerations in developing scoring systems or an index of performance, which is beyond the scope of this article.

could easily meet and exceed the requirements of the German law as well as the CSDDD and CSRD, if the rules were to require outcomes-based reporting. And with regard to various labour outcome measures, most companies practise social auditing, and auditors could be instructed to obtain these outcome data. We have evidence from a variety of cases where global companies, *on a non-disclosure basis*, have shared data with researchers who have analysed the data and published results in scholarly journals,[50] and many other case studies.[51]

Lead firms could also object on the basis that collecting and reporting such data could potentially expose them to civil liability. While that is true, it is the very intent of the legislation in France, and was also the intent under the CSDDD that was passed in 2024, which has been weakened since then. On the other hand, such quantitative metrics also allow companies to mount a defence of their due diligence policies. They can show through their data that they generally have good programmes, even if one or two factories in a 1,000-factory supply chain pose a risk. In the longer run, the data will be useful in any civil liability process, in any courtroom.

Administrators of due diligence laws in each country could object that this imposes an administrative burden on them to collate and display reports. But the transparency requirement significantly eases those burdens. Since most laws require that companies send in their due diligence reports to regulators while also posting them on their websites to make them easily available, AI technologies could be easily utilised to collate and display evidence.

Observers and experts could object to our metrics on the grounds that they are incomplete and that many more could be added. And they may be correct, because it is important for measures to be as complete as possible. On the other hand, there is also value in parsimony, and we suggest that the twenty-five metrics reported here provide reasonable indicators of risks to human rights in supply chains. In the trade-off between completeness and parsimony, we argue that the latter trumps the former.

In summary, the purpose of mandatory due diligence legislation—and the public reporting that accompanies it—is to make clear which human rights and environmental risks are material to firms' financial results, and to hold firms accountable for harms to people and planet. Legislation like the CSRD aims to 'equalise' financial reporting—like that required in the US SEC's 10-K reports—and non-financial reporting. In the case of financial reporting, if lead firms were to report only on input-based policies and processes rather than

[50] See, for example: Locke; Brown, Dehejia and Robertson; Amengual, Distelhorst, and Tobin; and Kuruvilla.

[51] For a detailed list, see Appendix 3 in Kuruvilla.

financial results, there would be no basis to judge whether they are meeting their obligations to shareholders and regulators. Our outcome metrics regarding human rights perform a similar function. For investors and other stakeholders, they provide clear quantitative information that will help in environmental, social, and governance (ESG) investment decisions. For regulators and firms themselves, they provide strong and clear measures of progress (or its lack) without an undue administrative burden.

To reiterate and conclude, we argue that these 25 metrics constitute a valuable complement to improvement to and, in part, a substitute for input measures required in existing guidance frameworks. Our quantitative metrics ease the reporting and analytical burdens on firms and their regulators who will be able to see at a glance which firms are making progress and fulfilling their due diligence obligations. They overcome the limitations of inconsistent formats, lack of standardisation, and weaknesses in the reliability and comparability of information used in decision-making processes.[52] It is also possible to use the context variables to examine auditing across lead firms and across factories. Thus, the metrics, if publicly available, lend themselves to further analysis and research, and can be a basis for all stakeholders to assess the severity of human rights risks.

Jason Judd is the Executive Director of the Global Labor Institute at Cornell University. Email: jasonj@cornell.edu

Sarosh Kuruvilla is the Andrew J. Nathanson Professor of Industrial Relations and Asian Studies of the ILR School and Global Labor Institute at Cornell University. Email: sck4@cornell.edu

[52] Hao, Dragomir, and Radu.

When Policy Meets Reality: Obstacles to eliminating debt bondage from responsible recruitment

Ana Maria Soto Bernal, Lisa Rende Taylor, and Mark Taylor

Abstract

'Employer Pays Principle' (EPP) responsible recruitment policies of multinational enterprises (MNEs) aim to reduce risks of forced labour in supply chains by requiring all costs of labour recruitment to be borne by employers, not workers. Based on in-depth interviews with almost 4,000 foreign migrant workers in Japan, Malaysia, and Thailand conducted between 2020 and 2025, this paper investigates how effectively EPP policies were implemented across supply chains. Less than ten per cent of respondents experienced truly zero-fees recruitment. All others had to pay some or all of the costs of recruitment up front, with 14.6 per cent being indebted in the process, and only 12.2 per cent ever receiving reimbursement for some or all fees paid. When significant recruitment fees were discovered, most suppliers resisted reimbursing the full amount. Most MNEs were not willing to require the full amount be repaid to affected workers, nor share the reimbursement costs. The paper concludes by calling on MNEs to adopt more responsible contracting practices to make EPP recruitment possible by suppliers; share responsibility for reimbursing recruitment fees to impacted workers in their supply chains; and consider as not EPP-compliant suppliers employing workers who have paid recruitment fees, even if they reimburse them later.

Keywords: responsible recruitment, Employer Pays Principle, debt bondage, human rights due diligence (HRDD), supply chains

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Introduction

The contemporary global economy is fundamentally reliant on cross-border migrant labour, a process linked to the intricate architecture of global supply chains, which often relies on assembling a workforce at key sites.[1] While this mobility is a driver of economic growth, labour recruitment has become a primary site of vulnerability. Unchecked and deceptive recruitment practices can exacerbate poor working conditions and lead to extreme forms of exploitation, such as forced labour and debt bondage.[2] To address the endemic risks in the migrant labour system and ensure that globalisation does not facilitate these human rights abuses, international focus has shifted towards effective worker protection mechanisms. As one powerful countermeasure, institutions are increasingly examining how robust collective agreements can be leveraged to extend and enforce fundamental labour protection standards, mitigating the systemic failings embedded in global recruitment corridors.[3]

This paper explores the dynamics of such labour recruitment in a globalising world, analysing the gap between corporate social responsibility commitments of multinational enterprises (MNEs) and the operational realities in their supply chains. Based on an empirical assessment of MNE policies at scale across multiple supply chains and countries, it was found that: less than ten per cent of respondents did not pay any recruitment fees, suppliers resisted reimbursing to workers the full amount of fees they paid, and MNEs were not willing either to require that workers not pay recruitment fees or share responsibility of reimbursing recruitment fees paid by workers. The paper concludes by recommending that MNEs adopt more responsible contracting practices to make EPP recruitment possible by suppliers by sharing responsibility for reimbursing recruitment fees paid by workers in their supply chains and having clear EPP compliance standards and practices.

Corporate Commitments to Responsible Recruitment

Responsible/ethical recruitment has received increasing attention in social responsibility spaces in recent years as companies seek higher confidence that risks of human trafficking, forced labour, debt bondage, and exploitative recruitment are eliminated from their supply chains. Responsible recruitment is especially important for brands and retailers importing into countries with

1 J Gordon, *Global Labour Recruitment in a Supply Chain Context*, International Labour Organization, Geneva, 2015.

2 K Bales and R Soodalter, *The Slave Next Door: Human Trafficking and Slavery in America Today*, University of California Press, Berkeley, 2009.

3 S Hayter and J Visser (eds.), *Collective Agreements: Extending Labour Protection*, ILO, Geneva, 2018

laws prohibiting the import of goods made with forced labour—such as the *Tariff Act* in the United States—as worker-paid recruitment fee linkages to debt bondage and other exploitation can lead to customs law enforcement action. Indeed, between 2020 and 2023, US Customs and Border Patrol's (CBP) forced labour enforcement efforts under the *Tariff Act* have resulted in the repayment of over USD 50 million in worker-borne recruitment fees and withheld wages that trapped workers in debt bondage.[4]

Responsible recruitment, a rising priority in corporate social responsibility spaces, is intended to reduce risks of forced labour and debt bondage. It could also be used by companies to strengthen their human rights due diligence (HRDD) policies and procedures, which are increasingly mandatory. Human rights due diligence requires functioning, credible grievance mechanisms and ongoing engagement with workers and communities to ensure that workers/rightsholders shape the view of a company's human rights footprint over time.[5]

Corporate responsible recruitment policies often centre around the 'Employer Pays Principle' (EPP), which requires all fees and related costs of recruitment of workers in their supply chains to be borne by employers, not jobseekers and workers.[6] These costs include all costs incurred during the recruitment process, including fees charged by an employer and/or subsidiaries, labour recruiters and employment agencies, and other third parties providing related services. Any illegitimate or undisclosed costs to brokers, sub-brokers, or other actors are also prohibited.[7] This definition is in line with the Dhaka Principles endorsed by the Leadership Group for Responsible Recruitment, the Code of Conduct for the World Employment Confederation, and ILO Convention No. 181 on Private Recruitment Agencies.[8]

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4 N.A., 'CBP Modifies Withhold Release Order in Response to Smart Glove's Successful Actions to Address Forced Labor Supply Chain Issues', U.S. Customs and Border Protection, 26 April 2023, https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-withhold-release-order-response-smart-glove-s.

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

6 'Leadership group for responsible recruitment', n.d., retrieved 30 November 2025, https://www.ihrb.org/projects/leadership-group-for-responsible-recruitment; Issara Institute, *Worker Voice-Driven Ethical Recruitment Toolkit*, Issara Institute, Bangkok and Palo Alto, 2022.

7 International Labour Organization (ILO), *General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*, International Labour Office, Geneva, 2019, pp. 8–29.

8 See 'Leadership group for responsible recruitment'; 'Code of Conduct', World Employment Confederation, n.d., https://weceurope.org/world-employment-confederation-global/code-of-conduct-2/; International Labour Organization, *Private Employment Agencies Convention (No. 181)*, 1997.

MNEs committed to EPP are still a minority but are growing in number, at least in some sectors. Assessments by KnowTheChain (a resource and benchmarking initiative for investors and companies to identify and address forced labour risks in global supply chains) of the disclosures and policies of 45 information, communications, and technology (ICT) companies and 60 food and beverage companies showed a marked difference in approaches to responsible recruitment. Among the ICT companies assessed in 2025, 96 per cent disclosed a policy prohibiting recruitment fees in their supply chains. However, while many policies emphasise fee prevention and reimbursement for employees, they often lack a formal requirement for employers to directly assume the financial burden of recruitment. Additionally, only 13 per cent of companies disclosed the due diligence steps to make sure workers are not charged fees in the first place.[9] Conversely, in 2023, from the 60 major food and beverage companies assessed, only half disclosed a policy prohibiting recruitment fees in their supply chains, and only 28 per cent of companies' policies aligned with EPP.[10]

The Institute for Human Rights and Business (IHRB) launched a Leadership Group for Responsible Recruitment in May 2016, with a membership of 17 MNEs committing to EPP policies and whose mission was 'the total eradication of recruitment fees being charged to workers anywhere by 2026'.[11] As of January 2026, 406 companies have been identified with publicly available policies that 'have partly or fully assimilated the Employer Pays Principle.'[12] However, while EPP is international best practice, its successful implementation is consistently thwarted by the global value chain structure, which incentivises low-cost production and creates an environment where recruitment costs are systematically externalised onto the most vulnerable workers.

The Gaps between National Laws and International Standards

Despite growing international consensus around EPP and many global brands and retailers employing zero recruitment fee policies in their supplier codes of conduct, national laws in production countries do not necessarily align with these standards. A 2020 International Labour Organization (ILO) study on recruitment fees and related costs examined policies across 90 countries. The

9 KnowTheChain and Business & Human Rights Resource Centre, *2025 KnowTheChain, ICT Benchmark key findings report*, 2025, https://media.business-humanrights.org/media/documents/KTC_2025_ICT_Key_findings_report.pdf, pp. 10, 14.

10 KnowTheChain and Business & Human Rights Resource Centre , *2023 KnowTheChain, Food and Beverage Benchmark Report*, 2023, https://omiusajpic.org/wp-content/uploads/2023/07/KTC-2023-FB-Benchmark-Report-1.pdf, p. 32.

11 'Leadership group for responsible recruitment'.

12 'Responsible Recruitment Register', n.d., retrieved 30 November 2025, https://responsible-recruitment-register.ihrb.org/.

study identified 63 policies explicitly prohibiting the charging of recruitment fees and costs to workers, with 62 per cent (39 of 63) coming from countries in Europe and the Americas, and less than 5 per cent (3 of 63) coming from Asia-Pacific countries.[13] For Asian suppliers within American and European supply chains, these inconsistencies between national laws and global customer standards can be a source of tension, creating three distinct categories of fees that could exist in their supply chains:

- **Illegal fees.** Workers are charged fees that are both in violation of national laws (i.e., illegal) and non-compliant with EPP requirements;
- **Legal but non-EPP compliant fees.** Workers are charged fees that are legal under national laws, but not in compliance with corporate EPP policy requirements; and
- **EPP.** Workers who paid no fees for their job, thus in compliance with both national laws and corporate EPP requirements.

It should not be surprising, then, that much cross-border labour recruitment across the globe falls far short of responsible recruitment standards. In Southeast Asia, for example, Issara Institute's[14] experience of working with workers and businesses across a wide range of export-oriented industries over the past decade has shown that the general practice of employers and recruitment agencies has been, directly or indirectly, to push many (and sometimes all) recruitment-related fees and costs onto workers, who are willing to pay for desperately needed jobs, and sometimes fall into debt bondage in the process.

A further challenge is confusion around what exactly is required to meet corporate responsible recruitment and more specifically EPP policies, beyond that which is stipulated in national law. This confusion is caused by often vaguely worded buyer policies and insufficient communication from buyers on how to delineate costs that are above and beyond legal requirements. With a growing number of global brands and retailers adopting responsible recruitment policies, including EPP, it is important to assess what is working and what is not.

The objective of this mixed-methods research study is to leverage Issara Institute's position on the ground, running independent worker voice channels within MNE supply chains, oftentimes in partnership with MNEs, to better understand the real outcomes and consequences of EPP policies on workers, suppliers, and recruitment agencies. Recommendations will then be proposed

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[13] International Labour Organization (ILO), *A global comparative study on defining recruitment fees and related cost*s, ILO, Geneva, 2020, p. 19.

[14] Issara Institute is a non-profit funded by corporate donors and unrestricted donations from MNEs who are strategic partners. The organisation works independently from the MNEs following the core mission of the foundation to empower and protect workers.

on how to better bring responsible recruitment policies into practice and ensure corporate accountability for recruitment-related forced labour and exploitation in value chains.

Methodology

Our research objective was to investigate: (a) exactly what brands and retailers required of suppliers to consider them in compliance with their ethical recruitment policies, and (b) what changed in response to business policies and practice as well as impacts on workers. Our mixed-method approach included the collection and analysis of qualitative and quantitative data around business policies related to responsible recruitment, business practices related to labour recruitment, and worker experiences and outcomes related to their recruitment, via:

1. Randomised representative sample surveys interviewing workers from Myanmar, Cambodia, Thailand, Nepal, Indonesia, Vietnam, China, Mongolia, and the Philippines in Thailand, Malaysia, and Japan about recruitment fees and experiences (n=3,788). These interviews were from 35 first-tier supply chain companies.
2. In-depth interviews with suppliers, recruitment agencies, and global brand and retailer MNEs (n=42).

The recruitment fees within the scope of the interviews consist of all recruitment related costs including fees charged by recruitment agencies as well as by brokers and sub-brokers. This definition is in line with the Employer Pays Principle of the Leadership Group of Responsible Recruitment, the Code of Conduct of the World Employment Confederation, and ILO Convention No. 181.

Quantitative-qualitative Analysis of Recruitment-related Fees Paid by Migrant Workers

Individual worker interviews were carried out between January 2020 and January 2025 as part of larger, often workplace-wide recruitment fee surveys organised in collaboration with the management of those sites as well as at least one of their global brand/retailer customers (Issara Strategic Partners). The interviews with workers were conducted in private, without any intervention from the suppliers or buyer representatives. Issara Institute implemented mixed-methods surveys with robust randomised representative samples of workers drawn from rosters provided by the suppliers for each workplace.[15] The sample of workers included in this study, an aggregation of all the interviews from these workplace surveys, are described in Table 1. The analysis conducted took the following variables

[15] L Rende Taylor, A M Soto Bernal, M Taylor, and J Basedow, *Repayment of Recruitment Fees to Workers: 4 Emerging Best Practices*, Issara Institute, Palo Alto and Bangkok, 2021.

into account: workers' nationality, workers' destination countries, and companies' EPP policies, including the dates such policies entered into force, to compare recruitment fees paid by workers before and after policy.

Table 1: Sample of workers interviewed about their recruitment journeys and fees paid.

Destination country and industries	Nationality of workers	Number of workers
Japan (n=102):	Burmese	4
	Chinese	2
Food and beverage, health and beauty, household goods, packaging, plastics, recycling, services	Filipinx	45
	Mongolian	2
	Thai	6
	Vietnamese	43
Malaysia (n=133):	Burmese	3
	Indonesian	5
Packaging, rubber products	Nepali	112
	Pakistani	13
Thailand (n=3,553):	Cambodian	369
	Burmese	3,179
Apparel, electronics, food and beverage, packaging, poultry, seafood	Lao	5

Interviews and Focus Group Discussions with Suppliers, Recruitment Agencies, and MNEs

In addition to in-depth interviews with the suppliers and recruitment agencies associated with the workforce surveys noted above (n=42), we conducted three rounds of interviews with 12 Thai suppliers in the seafood, garment, and poultry industries to collect initial insights regarding the state of EPP from policy to practice in Southeast Asia. This was followed by a second more in-depth interview and focus group discussions with select suppliers to discuss the study's emerging findings. In addition, 10 Myanmar recruitment agencies that send workers to Thailand, Malaysia, Japan, Singapore, and Qatar participated in two rounds of individual interviews, and the preliminary findings from these discussions were further ideated with five MNEs. The interviews and focus group discussions were carried out between January 2022 and March 2025, and all participating businesses had a pre-existing relationship with Issara Institute as well as either prior experience with employer pays policies or a commitment to implementing them for future labour demands.

The methods employed in this research were diverse, each attempting to capture a view of the perspectives of different key stakeholders and workers in the international labour recruitment process, and the underlying relationship and power dynamics between them. Specifically, in-depth interviews with suppliers and recruitment agencies clarified their respective systems and intentions but would not be able to verify the real experiences of workers. For this reason, the data collected from the surveys with workers is fundamental to triangulate the data from the findings. Conversely, worker reports of recruitment experiences and

fees were vital for validating the ultimate outcomes of these business relationships but alone would be insufficient for understanding the nature of those business relationships. We found this mix to be critical since, taken alone, the insights of just workers or just one facet of business would yield an incomplete picture of forced labour within labour recruitment, and corporate responses and accountability.

Limitations

The sample of worker-reported data is heavily weighted towards Burmese migrant workers in Thailand (approximately 84% of the total sample of 3,788), reflecting regional migration patterns and the export-oriented value chains relevant to Issara Institute's work. The corridor-specific data regarding fees should not be generalised to represent average fees within these corridors, or within other corridors. Since the sample is skewed towards MNEs and suppliers already willing to engage on ethical recruitment issues, the amounts of recruitment fees and debt bondage in this sample may not be representative of the experiences of all migrant workers in and from these countries. The business responses to these human rights issues are also not expected to be typical for all suppliers hiring foreign workers in these countries, nor for all MNEs sourcing from these countries.

For these reasons, the quantitative results are presented in two ways: (a) the aggregated all-corridor data for a macro view, and (b) a disaggregated analysis focusing specifically on the Myanmar-Thailand corridor, as this sub-sample allows for the most robust statistical inferences.

Results

Prevalence of Zero-fee Recruitment and Indebtedness Due to Recruitment Fees

Only 9.80 per cent (371/3,788) of worker respondents experienced truly zero-fee recruitment, as illustrated in Figure 1. All others had to pay some or all of the costs of recruitment up front, with 14.6 per cent (553/3,788) becoming indebted in the process, and only 12.2 per cent (461/3,788) ever receiving reimbursement by their employer (the supplier) by the time of the survey for some or all recruitment-related fees. The means and ranges of worker-paid recruitment fees as reported by workers, and mean amounts of reimbursements by employers (suppliers), is summarised in Table 2.

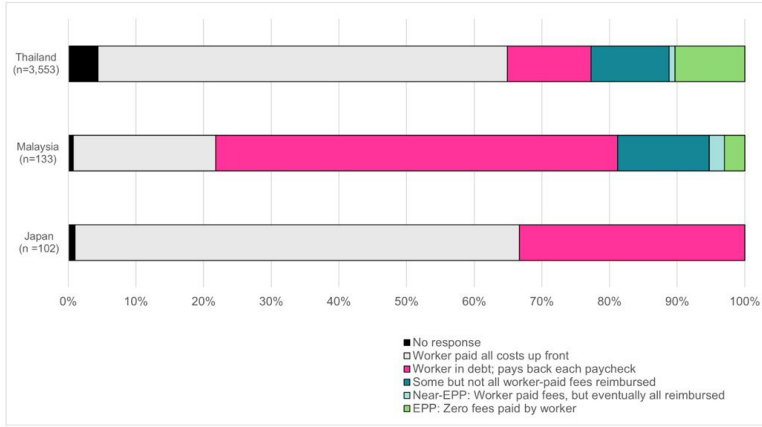

Figure 1. Prevalence of EPP, indebtedness due to recruitment fees, and other EPP non-compliance as reported by foreign migrant workers in Japan, Malaysia, and Thailand (n=3,788).

Burmese workers in Thailand represented the bigger sample size of this research given that they represent the majority of migrant workers in Thailand followed by Cambodian workers. Given the difference with the rest of nationalities covered in this research, the data of Burmese workers in Thailand was analysed separately. As shown on Figure 2, 11.4 per cent (361/3179) of respondents reported zero-fee recruitment and all other Burmese workers in Thailand had to pay some or all of the recruitment cost.

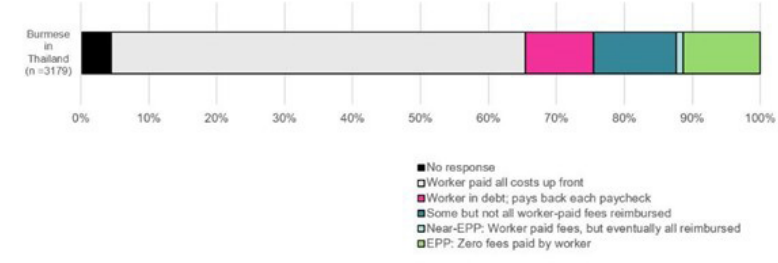

Figure 2. Prevalence of EPP, indebtedness due to recruitment fees, and other EPP non-compliance as reported by the subsample of foreign migrant workers from Myanmar in Thailand (n=3,179).

Table 2: Recruitment-related fees paid by foreign migrant workers in Japan, Malaysia, and Thailand in the sample (n=3,788), and amount reimbursed by employers (suppliers) by the time of the survey.

Destination country	Mean and range of fees paid by workers before recruitment (USD)*	Monthly minimum wage as reference (USD)*	Mean reimbursement paid by employer (the supplier) by the time of the survey (USD)*
Japan	$3,641.49 [$0–$8,900]	$1,050	$0
Malaysia	$862.50 [$0–$4,348]	$400	$273.03
Thailand	$319.24 [$0–$3,009]	$300–$350	$17.60

* Referencing currency exchange rates on 15 June 2025.

The EPP policies of the MNEs within the scope of this research had different implementation dates. Table 3 illustrates how the EPP policies of MNEs coming into force impacted the mean recruitment fees paid by workers, starting from the first mile (village-level broker fees) up to arriving at the workplace, including fees for training required by the employer.

Impacts of Recruitment Fees and Recruitment Indebtedness on Workers and Their Families

The implementation of the EPP policies and the effect on reduction or elimination of recruitment fees for workers varied significantly based on the recruitment corridors. For instance, in the Myanmar-Thailand corridor, there was no significant change pre- and post-EPP policy.

However, in the Cambodia-Thailand corridor, the recruitment fees increased 20.1 per cent post-EPP policies. This was a result of the weak service agreements between the recruitment agencies and the suppliers; both parties had no clarity of EPP policies and fees to be covered by the supplier. This lack of clarity resulted in recruitment agencies charging excessive recruitment fees to Cambodian workers. The date of enforcement of EPP policies varied within the sample; however, the data was analysed based on the relevant EPP enforcement date per interviewee, which determined the pre- and post-EPP fees described in Table 3.

Table 3: Recruitment-related fees reportedly paid by foreign migrant workers in Japan, Malaysia, and Thailand before and after MNE EPP policies entered into force (n=3,788), by recruitment corridor. Statistics shown only for sub-groups with n ≥ 10.

Recruitment corridor	Mean of fees paid by workers before EPP policies (USD)	Mean of fees paid by workers after EPP policies (USD)	% change
Philippines-Japan	$366	$230	37.15% reduction
Vietnam-Japan	$7,440	$5,540	25.5% reduction
Myanmar-Thailand	$268	$266	0.7% reduction
Cambodia-Thailand	$603	$727	20.1% increase
Nepal-Malaysia	$1,014	$855	15.6% reduction
Pakistan-Malaysia	N/A	$362	N/A

Workers paying all costs up front had to make financial decisions directly impacting their and their families' livelihoods, such as selling properties, pawning goods, or taking loans. In addition to the unethical recruitment practices at the first mile, the political situation in Myanmar, the unpredictable changes in the recruitment regulations, and forced conscription laws, as well as violence, have had a significant impact on the recruitment experiences of Myanmar job seekers. These factors have driven job seekers to migrate through irregular channels to Thailand, with recruitment processes being facilitated by informal brokers in Myanmar and Thailand at high cost.

> *[I am] from Mandalay. I was informed by [broker in Myanmar] about a job at a garment factory. [I] and three other workers from our village were asked to pay THB 30,000 (USD 918) to get a job at [garment factory name]. [We] sent MMK 1,000,000 (USD 236) each to [broker in Myanmar]. [I am] still paying debt and owe about THB 10,000 (USD 306)[16] to [broker in Myanmar] until now. [Broker in Myanmar] has a connection with a worker from the garment factory who informed [about] job vacancies. [I] don't know if that worker gets money from [informal broker in Myanmar]. [I] had to wait about four months in Thailand, and just started working at the [garment factory] a month ago.*[17]

Additionally, workers recruited through regular channels (the Government-to-Government Memorandum of Understanding) were led to believe by their employer they would be reimbursed for the recruitment-related fees they paid, but then received no reimbursement, facing deception and debt in EPP recruitment process.

In the case of Malaysia, there was a decrease of 15.6 per cent in the recruitment fees paid by Nepali workers post-EPP policies. However, the mean of the fees paid by workers but not reimbursed by employers was still high—USD 589.47—about 1.5 times the monthly minimum wage (see Table 2). Similar to workers going to Thailand, many workers going to Malaysia reported having to take loans from moneylenders at exorbitant interest rates.

> *I took a loan from one of the local loan sharks to pay off the cash amount asked by the agent. I took a loan on 35 per cent interest and it took me nine months to pay off that loan. The interest was charged on a monthly basis, and my loan amount was NPR 200,000 (USD 1,454). So every month I pay NPR 4,500 (USD 32)[18] as interest.*[19]

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16 Exchange rate 10 June 2025: USD 1 = MMK 4,229; USD 1 = THB 32.6.

17 Interview, Burmese worker in Thailand, 2022.

18 Exchange rate 10 June 2025: USD 1 = NPR 137.5.

19 Interview, Nepalese worker in Malaysia, 2023.

In addition to taking loans to pay recruitment-related fees, workers also reported how recruitment agencies ask them to sign affidavits saying they did not pay any recruitment fees, or paid only legal fees, before migrating abroad.

> *[I] was aware of the 'free visa and free ticket' policy implemented by the Government of Nepal. They even had us sign a document acknowledging this policy. However, it was disheartening to discover that they [the recruitment agency staff] still charged us NPR 100,000 (USD 727) for processing fees. Additionally, the medical expenses amounted to NPR 9,000 (USD 65), and there was a NPR 1,000 (USD 7) fee for orientation, although we didn't actually participate in a stay-in orientation class. Furthermore, I incurred travel expenses of NPR 6,000 (USD 44) for two trips to Kathmandu.*[20]

For Vietnamese workers in the sample, there was a reduction of 25.54 per cent in fees paid after EPP policies. However, the fees paid by Vietnamese workers were the highest across all nationalities of workers in Japan in the sample, paying up to nearly USD 8,900, equivalent to nearly 8.5 months of wages at Japan's minimum wage rate. All the fees charged to foreign workers in Japan were charged in the origin countries, and in most cases, charged by the recruitment agencies directly. Recruitment fees cannot be charged by Japanese employers to workers in Japan; however, Japanese employers within the scope of the research had mixed practices of EPP implementation, where some suppliers paid all recruitment-related fees to the recruitment agencies, others made partial payment, and others did not provide information if they paid or not the recruitment fees to the recruitment agency. Moreover, unethical practices by the recruitment agencies in origin countries were reported by workers, especially in the case of Vietnamese workers who were charged excessive fees without being provided any information about the fee details, or any proof of payment.

> *The total fees I paid was USD 7,700. The recruitment company was shady; they were being vague about it. They didn't give me any receipt either, they just quoted the price and asked me to pay. The cost for each expense is not listed.*[21]

In addition to the recruitment-related fees, the surveys with workers also provided insights on the recruitment process risks starting from the 'first mile' and up to arrival at the workplace. For instance, workers migrating to Thailand and Malaysia reported paying high fees to informal brokers at the village level, due primarily to a lack of or limited information about job opportunities and related fees, and brokers making false promises about the opportunities and benefits of the

[20] Interview, Nepalese worker in Malaysia, 2023.

[21] Interview, Vietnamese worker in Japan, 2022.

position. There were also several cases where workers were asked by recruitment agencies to pay the fees in advance and be reimbursed later by the recruiter or employer, after signing contracts in the country of destination, or after passing a three-month probation period. However, the percentage of the fees reimbursed was low or no reimbursement was made at all, as illustrated in Figure 1 and Table 2.

Business Responses to the Risks and Costs of Labour Recruitment Paid by Workers

When illegal and/or unallowed worker-paid recruitment fees were discovered by our workplace surveys, most suppliers resisted reimbursing the full amount to workers. Faced with this pushback, most MNEs negotiated with their supplier and did not require the full amount be repaid to affected workers. Further, MNEs were unwilling to share the reimbursement costs, as might be expected according to the principle of shared responsibility.[22] In the end, the suppliers in the survey in Japan refused to pay back any of the worker-paid fees reported by workers; suppliers in Malaysia had made partial reimbursements before the surveys with workers and did not make any additional reimbursement after the survey findings; and the suppliers in Thailand were required by their customers, the MNEs, to reimburse the workers, though only 6 of the 34 (17.6 per cent) suppliers included in this sample made reimbursements of the full amount owed to workers.

The findings also included key points regarding points of risk in the recruitment process and recommendations for risk reduction and systems strengthening, for example, identifying high-risk recruitment agencies using informal brokers, human resources staff operating in corrupt or unethical ways, and systems capacity gaps. For these non-financial recommendations, most suppliers agreed to implement at least some if not all of the recommendations to strengthen systems and mitigate risk.

Discussion

Our research provides evidence of a profound and persistent gap between the ethical recruitment policies adopted by MNEs and their effective implementation on the ground. Despite the adoption of the Employer Pays Principle (EPP) as the de facto standard for responsible recruitment, a mere 9.8 per cent of the 3,788 migrant worker respondents across all surveyed corridors reported a genuinely zero-fees experience. Additionally, MNEs accepted suppliers reimbursing recruitment fees to workers months after workers started working, instead of ensuring that the costs of recruitment (visas, work permits, medical checks, travel, and other associated expenses) are paid directly by businesses at the time that payment is required.

[22] Rende Taylor *et al.*; *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, United Nations, 2011.

To take responsible recruitment from policy to practice across global supply chains, MNEs need to source from suppliers (who are the direct employers) that pay all the costs of their workers' recruitment in advance of the workers' arrival, which is a cost over and above the amounts required to be paid by employers as per national law. In addition, suppliers must also effectively build and invest in functioning responsible recruitment business systems. There should be buy-in by leadership, management, and HR. Preparation steps may include: new recruitment policies; overhaul of existing recruitment practices, including employment contracts with workers and service contracts with recruitment agencies; improved due diligence and vetting of recruitment agencies; strengthened worker feedback channels and grievance mechanisms; human resource staff expansion, upskilling, or upgrading; and partnerships with external organisations such as non-profits that can empower workers, reduce risks, and improve transparency.

These steps entail considerable cost and effort on the part of suppliers, but can significantly strengthen internal business systems, reduce recruitment risks, align with buyer policy requirements, and improve worker retention and productivity. The overall cost of recruiting new workers would naturally increase, and potentially significant remediation fees may also need to be repaid to workers, if formal or informal fees were found to have been paid during their recruitment journeys.

For suppliers, then, when do the benefits of investing in EPP-compliant responsible recruitment systems outweigh these significant costs? Examining the perspectives of businesses—suppliers, recruitment agencies, and buyers—helps explain corporate action (and inaction) in making responsible recruitment across supply chains a reality.

There is limited global buyer adoption of EPP policies and a lack of incentives for suppliers and therefore for recruiters to fully invest in responsible recruitment—just penalties for non-compliance and unsustainable business. Many supplier respondents reported that they only had a limited number of (or no) buyers with policies prohibiting suppliers and recruiters charging workers recruitment-related fees, and an even smaller number of buyers that explicitly required compliance with EPP. Several suppliers, however, did express they believed the demand for responsible recruitment would only grow over time[23]—highlighting the importance of timing and the need for a critical mass of buyers (or at least involvement of strategic customers) to require responsible recruitment before suppliers adopt higher standards. Despite the hope for growth in the adoption of EPP policies, the current limited demand is also having a high impact on recruitment agencies and their ability to sustain their business by accepting only contracts that require full EPP-compliance. Many recruitment agencies in our research informed us that they were keen to become fully EPP-compliant, but

[23] Focus group discussion, suppliers in Thailand, 2023.

it was impossible due to insufficient demand for responsible recruitment by suppliers. One Myanmar recruitment agency attempting to transition exclusively to responsible recruitment stated in July 2022 that all their customers followed Employer Pays Principle policies. However, by April 2023, it was struggling, down to only one customer willing to cover all recruitment fees. The agency was unable to find more suppliers committed to zero-fees recruitment for workers, and as of 2025 it was challenging to stay in business and uphold its 100% zero-fees commitment, given the limited demand for responsible recruitment.

Furthermore, many suppliers highlighted the lack of incentives and recognition of their efforts. They explained that they employed responsible recruitment practices as a requirement of their current customers in order to maintain business/orders; however, they did not believe that adhering to these higher standards was necessarily helping them to attract new customers.[24] No interviewed supplier identified any clear incentives from their buyers for investing in building EPP-compliant recruitment systems—they only knew they would face penalties if they were not in compliance. As one supplier explained, 'We receive no price increases, contract security, or other incentive for EPP despite the vastly higher costs compared to the legal requirement here.'[25]

Suppliers nearly unanimously believed that MNE purchasing teams still ultimately make their final purchasing decisions around quality and price, and not human rights performance or continuous improvement on social issues. This belief was validated by most MNE respondents, who came from social responsibility and human rights teams. MNE respondents shared that implementing responsible recruitment is challenging when buying power leverage is low and when there are competing priorities between commercial purchasing teams and social responsibility/human rights teams. The MNE social responsibility and human rights respondents also highlighted the challenges that their teams have within their larger companies in communicating human rights requirements to suppliers, and in having any role in shaping incentives to progressive suppliers. The main lever for change that they hold typically comes from a compliance standpoint. However, MNEs and suppliers both highlighted that purchasing teams held the greatest power when it came to supplier relationships. Supplier scorecards generally do not recognise or incentivise ethical business conduct. As shared by one MNE respondent,

> *It is difficult to share information about our human rights policies and priorities with suppliers and recruitment agencies, as we do not have direct relationships with them. We only have direct legal agreements with our Tier 1 suppliers, so we heavily rely on these [non-producing importer]*

[24] *Ibid.*

[25] Interview, supplier in Thailand, 2022.

> *suppliers. However, frankly, many of these Tier 1 suppliers don't really care about policies, and they most likely do not share our company's human rights policies with the [upstream] suppliers and recruitment agencies in our company's supply chains.*[26]

The insufficient demand for EPP by suppliers and/or lack of financial support from MNEs has led to progressive recruitment agencies having to employ a bifurcated model in order to survive—one higher standard for customers requiring zero recruitment costs for workers, and another standard for customers that tolerate workers' paying for the cost of recruitments. This is the current state of play for most recruitment agencies.

Thus the evidence suggests that the main challenges to operationalising responsible recruitment are not a lack of progressive recruitment agencies, as many MNE, supplier, and social auditors often point to, but rather it is a structural flaw rooted in a business model that profits from cost externalisation with (i) limited and inconsistent demand for responsible recruitment from suppliers, (ii) lack of willingness by suppliers (or their authorised agents)[27] to pay recruitment agencies for the increased costs needed to carry out ethical recruitment practices, and (iii) very late and sometimes reduced payments from customers. Together, these practices significantly reduce the likelihood of responsible recruitment to be successfully implemented—even by the most progressive of recruitment agencies. One recruitment agency reflected:

> *...Brands should implement mandatory systems for suppliers not to vet recruitment agencies based on the quotation. Suppliers should not bargain the quotation from recruitment agencies if the supplier really wants the recruitment agency to perform ethical recruitment at its highest level. The quotation for ethical recruitment will also be high, as the recruitment agencies added every expense for the whole process to operate, and the recruitment agencies have to charge a little bit more than the official exchange rate due to the rapid inflation. Suppliers should change the behaviours of not making payment in time as signed, otherwise the recruitment agencies could not survive for zero-cost if recruitment agencies have to pay everything in advance but still not charge workers…*[28]

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[26] Focus group discussion, MNE representative, 2025.

[27] For clarity, the recruitment agencies in the destination country, which suppliers sometimes use to manage their foreign migrant worker recruitment and negotiate arrangements with origin-side recruitment agencies, are referred to here as the supplier's representative agent. They could also be referred to as the destination-side recruitment agency.

[28] Interview, Myanmar recruitment agency, 2022.

Like suppliers, recruitment agencies make a risk-reward calculus regarding investing time and resources on a responsible recruitment model. In general, a recruitment agency will be more motivated and able to adopt higher recruitment standards and an EPP model if there are sufficient customers (suppliers/employers) willing to pay for the additional costs involved in a timely manner.

Additionally, recruitment agencies need to be properly paid and in a timely manner by the supplier (or the supplier's authorised agent) for the additional costs involved with EPP. If recruitment agencies are paid by suppliers for the official recruitment costs and overheads, but in reality, there are also informal fees, kickbacks, bribes, delayed payments, or underpayments from suppliers or their agents, the entire EPP model breaks down. A comparison of interviews with suppliers/employers and recruitment agencies strongly suggested that the parties did not discuss either the true costs of recruitment or the mechanisms to safely identify and report recruitment fees being imposed on the workers. These are commonplace features of labour recruitment in the corridors studied. As illustrated in Figure 1, workers ended up bearing the brunt of the cost of recruitment, and were often coached to tell their employer, auditors, or visiting buyers that they paid zero fees in order to not lose their job opportunity.

In sum, our findings reveal a profound decoupling of policy from practice. For many MNEs, EPP appears to be a tool for symbolic compliance rather than substantive reform, which could be a way to signal responsibility to the public while maintaining a commercial model that makes the 'Employer Pays' mandate a financial impossibility for the recruiter. In several cases, while corporations adopt these standards on paper to meet ethical benchmarks, their actual purchasing practices remain unchanged. This disconnect creates a structural trap: MNEs claim credit for zero-fee policies while their own price negotiations ensure that suppliers cannot afford to implement them without passing costs back to the workers.

Recommendations and Conclusion

There are real costs for recruiting workers into global value chains. Legitimate formal fees borne by employers typically include: recruitment agency fees; travel, accommodation and logistic fees at origin and/or destination; and government-imposed fees such as for work permits, visas, health checks, and filing and processing. Informal fees, often borne by recruitment agencies, may include kickbacks and 'pay to play' arrangements (bribes), as well as 'facilitation fees' to government officials. There are also real costs for developing systems and operationalising EPP to ethically recruit workers fee-free, debt-free, and informal broker-free, which relatively few businesses seem to want to pay. Currently, most workers in Southeast Asian supply chains are paying recruitment fees for their jobs, including workers who are supposed to be recruited under the EPP policies of global buyers, as this paper showed.

The core of this failure is structural and economic. When MNEs mandate EPP but at the same time pressure suppliers for the lowest possible prices, the effect is an externalisation of the true cost of ethical recruitment onto the workers. Therefore, the onus to mainstream responsible recruitment ultimately lies with MNEs—the global brands and retailers requiring higher recruitment standards than national laws dictate. They have power to influence recruitment practices through supplier codes of conduct and set procurement and supplier contracts to incentivise or mandate EPP. By upholding their own policies and standards, MNEs can provide a more level playing field that will proliferate demand for EPP as well as the need to invest in stronger recruitment systems across global supply chains.

MNEs could do this by: (1) adopting EPP policies that specifically require suppliers to pay recruitment fees for workers up front and not as reimbursements; (2) implementing responsible buying and contracting practices whose payment terms include advance payments so that suppliers have resources to make labour recruitment-related payments up front; (3) promoting ethical recruitment practices by suppliers, including by considering ethical recruitment conduct in the supplier scorecards of buying teams, alongside considerations of cost, volume, and quality; commitment to longer-term business relationships; and increased/more regular orders and/or co-share the financial responsibility and cost of EPP with suppliers; and (4) eliminating social audits of recruitment agencies that require an EPP-only model because there is simply not enough demand from suppliers at present for recruitment agencies to be sustainable under this requirement.

There are numerous industry coalitions, multi-stakeholder initiatives, and other corporate fora and communities that ethical MNEs can use to influence practices across industries and standardise responsible recruitment. Mandatory human rights due diligence laws would also support requiring lead firms to take steps to avoid the risk of violating international human rights standards. Furthermore, investors should also reinforce and incentivise ethical corporate behaviour like zero-fee recruitment. However, as demonstrated by this paper, there is a long way for MNEs to fully implement policies and codes of conduct that protect all workers, as voluntary efforts cannot solve the root causes of the issues because they do not change the underlying profit models. Ultimately, if lead firms continue to be unwilling to undertake these steps voluntarily, governments from sending and receiving countries should introduce and enforce legislation that holds employers responsible for fees paid by workers.[29]

[29] G LeBaron, *Combatting Modern Slavery: Why Labour Governance is Failing*, Polity Press, 2020, p. 237.

Ana Maria Soto Bernal is the Director of Impact and Innovation of Issara Institute. She has worked on human trafficking and forced labour issues for eight years, and has led research on ethical recruitment and recruitment-related fees, empowerment approaches for trafficking survivors, and workers engagement mechanisms in the seafood sector. She holds a Master of Arts Degree in Human Rights from Mahidol University, Thailand. Email: ana@issarainstitute.org

Dr Lisa Rende Taylor is the Founder and Executive Director of Issara Institute. She has worked on human trafficking and forced labour issues for over 20 years and is a behavioural ecologist with a Ph.D. from the University of Washington. Email: lisa@issarainstitute.org

Mark Taylor is Senior Director, Strategy and Global Partnerships of Issara Institute. He holds an MBA from Georgetown University and has been working in Asia for over 20 years on sustainability, private sector development, and business and human rights in global supply chains. Email: mark@issarainstitute.org

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Exposing Exploitation: Lessons from the Gräfenhausen lorry strike on the strategic use of supply chain law

Marie Diekmann

Abstract

This article presents a case study of a wildcat strike by lorry drivers that took place in the Gräfenhausen rest area in Germany, in 2023, in order to explore the potential of the German *Supply Chain Act* (GSCA) and similar laws to combat labour exploitation and activate collective action by migrant workers. Despite adverse circumstances, the successful strike showed that supply chain laws can unveil exploitation. The case demonstrates the emergence of collective agency through the supply chain approach. Vulnerable migrant workers are susceptible to exploitation due to socioeconomic and legal circumstances, and they are, in general, unlikely to successfully claim their rights. The success of the Gräfenhausen strike resulted from building social relations, a broad network of supporters, and the strategic use of the GSCA to pressure companies at the end of the supply chain to pay outstanding wages. Such supply chain laws provide important resources for social actors addressing exploitation as a human rights issue and transforming exploited workers into rights holders. The Gräfenhausen case underscores the essential role of solidarity and collective support alongside legal mechanisms for the successful enforcement of rights.

Keywords: labour exploitation, collective action, lorry strike, German Supply Chain Act, human rights due diligence

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Introduction

Drawing on the 2023 wildcat strike by lorry drivers in Gräfenhausen, Germany, this article explores the potential of the German *Supply Chain Act* (GSCA) to combat labour exploitation and activate collective action by exploited workers. The strike itself is remarkable, as the drivers organised and ultimately succeeded

despite adverse circumstances. The case also illustrates that supply chain laws, even though primarily designed to ensure human rights along supply chains in the Global South, can also help unveil exploitation within economies of the Global North. Furthermore, the case demonstrates the emergence of collective agency, which stands in sharp contrast to the predominant criminal law approach to exploitation that not only fails to address structural factors but also tends to fix individuals in a position of victimhood. By contrast, the supply chain approach enables exploited workers to act collectively and claim their rights. This case must be placed against the backdrop of current political backlash at both the national and European levels against supply chain regulation, and in the context of a growing anti-immigrant rhetoric and politics.

The analysis begins with a brief overview of the case, followed by a discussion of the prevailing legal approach to labour exploitation, its limitations, and the potential of new supply chain legislation as an alternative regulatory framework. Building on this, the final section turns back to the case itself to examine the conditions that contributed to its success. The article is based on a qualitative case study combining document analysis and one semi-structured expert interview. The main empirical material stems from an interview with a representative of the Road Transport Due Diligence Foundation (RTDD), who acted as a mediator in the Gräfenhausen strike.[1] Additional sources include reports and documentation provided by trade union advisory networks such as Faire Mobilität (Fair Mobility), and materials on the case from a conference organised by the Friedrich Ebert Stiftung, which offered detailed accounts of the events.[2] These sources were complemented by informal exchanges with practitioners and experts involved in the field of labour rights counselling. The material was collected between October 2023 and October 2024 in the context of my research for the German national Human Rights Report (*Menschenrechtssituationsbericht*).[3] The article adopts an exploratory socio-legal approach to reconstruct how the conflict unfolded and analyse the role of supply chain law in enabling collective rights enforcement.

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1 Interview, Road Transport Due Diligence (RTDD), online, 26 April 2024.

2 Friedrich-Ebert-Stiftung, *Faire Mobilität and DGB: Gräfenhausen ist kein Einzelfall! Für faire grenzüberschreitende Arbeit in Europa*, Hybrid Conference on 12 October 2023, Berlin, https://www.fes.de/themen/gewerkschaften-international/graefenhausen-ist-kein-einzelfall-fuer-faire-grenzueberschreitende-arbeit-in-europa; M Wahl and A Weirich, *Lebens- und Arbeitsbedingungen der LKW-Fahrenden auf Parkplätzen in Deutschland: Erfahrungen aus der Beratungspraxis von Faire Mobilität*, Faire Mobilität, April 2023, https://www.faire-mobilitaet.de/dgb-fm-fileadmin/dateien/Dokumente/Internationaler-Stra%C3%9Fentransport/Fachinformationen/Dossier_Lebens-u._Arbeitsbedingingungen_IStT.pdf.

3 Deutsches Institut für Menschenrechte (DIMR), *Entwicklung der Menschenrechtssituation in Deutschland Juli 2024 – Juni 2025*, DIMR, 9 December 2024, retrieved 1 June 2025, https://www.institut-fuer-menschenrechte.de/menschenrechtsschutz/berichterstattung/menschenrechtsbericht.

The case study shows how a rare instance of collective rights enforcement emerged within the European transport sector. The drivers and their supporters not only organised a successful strike under adverse conditions but also strategically employed the mechanisms of the GSCA to hold companies accountable. The interaction between collective action and administrative oversight in this case illustrates how responsibility within subcontracting chains can be redefined in ways that open new avenues for rights enforcement and access to law. Central to this process were the solidarity networks and communication structures that enabled coordination among the drivers and sustained external support—without which the legal and organisational effort required for the enforcement of rights would hardly have been possible.

Gräfenhausen Strike: Context and course of events

Transport supply chains in Germany are highly fragmented, with subcontracting structures that enable exploitation of migrant workers.[4] Typically, industrial or commercial firms contract large or medium-sized logistics companies, which then outsource part of the transport work to downstream transport service providers. These providers frequently subcontract further, often to foreign companies operating under lower labour and social standards. This multi-layered subcontracting structure allows responsibilities to be shifted downstream, enabling German companies to benefit from cheap foreign labour.[5] In most cases, migrant workers do not claim their rights even if they could in theory.[6] As rights and access to law is mostly conceptualised as an individual procedure, wage claims usually take the form of isolated individual cases.

Through the Gräfenhausen strike, migrant truck drivers claimed their rights collectively and successfully. The drivers, who came mostly from Uzbekistan and Georgia, were subcontractors of the same transport company from Poland. They were formally hired under Polish law, apparently through *umowa zlecenie* (service contracts) that classify workers as independent contractors operating at their own economic risk and not formally subject to an employer's direction and control. In practice, however, they rented their trucks from the Polish transport company,

4 V Helwing-Hentschel, M Franz, and P Verfürth, *Sorgfaltspflicht in Transportlieferketten: Gesamte Lieferkette in den Blick nehmen*, Forschungsförderung Working Paper Nr. 343, Hans-Böckler-Stiftung, July 2024, pp. 6–10, https://www.boeckler.de/de/faust-detail.htm?produkt=HBS-008904.

5 *Ibid.*

6 European Union Agency for Fundamental Rights, *Protecting Migrants in an Irregular Situation from Labour Exploitation – Role of the Employers Sanctions Directive*, Publications Office of the European Union, Luxemburg, 2021, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-employers-sanctions-directive-report_en.pdf.

worked exclusively for it, and followed its logistical directions.[7] Whether this contractual arrangement represented an abusive misclassification of dependent employment was never examined in court and was not a central point in public debate. Similarly, the question of whether the strike itself was lawful under German collective labour law did not play a role.[8] The case was consistently treated as a human rights case rather than a labour law issue.

The Polish transport company carried out orders for major companies based in Germany to provide transport and logistic services within their supply chains, including some well-known multinational corporations. The company operated within a multi-tier logistics chain in which the ordering firms were not in a direct contractual relationship with the Polish transport company but commissioned their transport services indirectly through intermediaries. Consequently, the drivers themselves had no contractual relationship with the companies whose goods they transported.

In March and April 2023, around 60 truckers gathered at the Gräfenhausen highway rest area to protest over unpaid wages totalling around EUR 100,000 (Gräfenhausen I).[9] In late March 2023, the transport company attempted to violently end the strike and force the drivers to release the trucks by sending several individuals who arrived in an armoured vehicle and were seemingly ordered to take the trucks from the drivers. The police intervened and prevented the assault.[10] The incident significantly increased media attention on the case, both in Germany

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7 A Weirich and M Wahl, *Arbeitsbedingungen im internationalen Straßentransport in Deutschland: Entsendung von Drittstaatsangehörigen*, Faire Mobilität, June 2025, p. 21, https://www.faire-mobilitaet.de/dgb-fm-fileadmin/dateien/Dokumente/Internationaler-Stra%C3%9Fentransport/Fachinformationen/Dossier_Arbeitsbedingungen_Entsendung_06_25_barrierefrei.pdf.

8 Supporters, public authorities, and the media consistently referred to the protest as a 'strike', which is remarkable given that, under Article 9(3) of the German Constitution, only employees, not self-employed contractors, are entitled to strike, and such action must be called by a trade union and address matters subject to collective bargaining. For a discussion of the legal status of the strike, see K Lörcher, 'Gräfenhausen ein Symbol? Lkw-Fahrer wehren sich', *Grundrechte-Report 2024*, S. Fischer Verlag, Frankfurt am Main, 2024, pp. 139–143.

9 Hessenschau, 'Streik von Fernfahrern eskaliert!', 20 April 2023, https://www.hessenschau.de/tv-sendung/graefenhausen-streik-von-fernfahrern-eskaliert--hessenschau-vom-07042023,video-181796.html; Hessenschau, 'Streikende Lkw-Fahrer an der A5', 14 April 2023, https://www.hessenschau.de/tv-sendung/start-der-esa-sonde-zum-jupiter-gegluckt--hessenschau-vom-14042023,video-182028.html.

10 S Richter and N Hecht, 'Streik der Lkw-Fahrer in Gräfenhausen zeigt Wirkung: "Endlich schaut Deutschland mal hin"', *Frankfurter Rundschau*, 11 April 2023, https://www.fr.de/rhein-main/streikende-lkw-fahrer-a5-darmstadt-polizeieinsatz-schlaegertrupps-attacke-92199139.html.

and internationally. The wages were eventually paid by the transport company, and the strike ended at the end of April 2023.[11]

Just three months later, in August 2023, around 150 drivers gathered again at the Gräfenhausen rest area to demand outstanding salaries from the same transport company, this time around EUR 500,000 in total (Gräfenhausen II).[12] A broad network of supporters and the extraordinary hardships endured by the strikers attracted a great deal of media attention. However, the Polish transport company remained unwilling to pay and may have been unable to do so.[13]

In mid-September 2023, some of the drivers began a hunger strike to express solidarity with their families, who were left without income because of the unpaid wages.[14] Consequently, the Federal Office for Economic Affairs and Export Control (BAFA), which serves as the administrative supervisory authority for compliance with the GSCA, became involved this time. Shortly before, Federal Minister of Labour Hubertus Heil had publicly called for a special review of companies linked to the Polish transport firm under the GSCA.[15] BAFA investigated on site and contacted the ordering companies whose goods were stored on the trucks. On 25 September 2023, BAFA president Torsten Safarik visited the Gräfenhausen rest area, while the hunger strike was being discontinued following medical advice. Following BAFA's intervention and its pressure to ensure that appropriate remedial action was taken, the ordering companies covered the

11 D Behruzi, 'Solidarität mit den Lkw-Fahrern in Gräfenhausen!', *ver.di*, 3 May 2023, https://psl.verdi.de/branche/++co++430e8df0-d877-11ed-9bf1-001a4a160111.

12 Deutsche Verkehrszeitung (DVZ), 'Gräfenhausen: Streikende Lkw-Fahrer warten auf über eine halbe Million Euro Lohn', *DVZ*, 21 August 2023, https://www.dvz.de/unternehmen/strasse/detail/news/graefenhausen-streikende-lkw-fahrer-warten-auf-ueber-halbe-million-euro-lohn.html; M Rathmann, 'Ausbeutung von Fahrern: Fahrer fordern halbe Million Euro', *Eurotransport*, 23 August 2023, https://www.eurotransport.de/logistik/spedition-und-logistik/ausbeutung-von-fahrern-fahrer-fordern-halbe-million-euro.

13 Interview with RTDD. The interview indicated that the company might already have been insolvent.

14 Interview with RTDD; Business & Human Rights Resource Centre (BHRRC), 'Germany: Truck drivers stage hunger strike to draw attention to exploitation', BHRRC, 26 September 2023, https://www.business-humanrights.org/en/latest-news/germany-truck-drivers-stage-hunger-strike-to-draw-attention-to-exploitation.

15 Business & Human Rights Resource Centre, 'Streik in Gräfenhausen: Arbeitsminister erwirkt Sonderprüfung der deutschen Auftraggeber im Rahmen des Lieferkettengesetzes', BHRRC, 15 September 2023, https://www.business-humanrights.org/de/neueste-meldungen/streik-in-gr%C3%A4fenhausen-arbeitsminister-erwirkt-sonderpr%C3%BCfung-der-deutschen-auftraggeber-im-rahmen-des-lieferkettengesetzes.

outstanding wages because the Polish transport company, which was contractually responsible for payment, continued to refuse to pay. The drivers then ended their strike on 3 October 2023, after 10 weeks of protest.[16]

What Is Labour Exploitation and How Is It Addressed?

The Gräfenhausen strike is not only a rare instance of exploited migrant workers successfully enforcing their rights collectively but also a revealing case of how structural conditions usually obstruct such success. Thus, this case invites a closer look at how labour exploitation is legally framed—and whether new tools such as the GSCA can offer alternatives. Labour exploitation refers to the systematic disregard of labour standards and workers' rights, ranging from underpayment and excessive working hours to coercive and criminal practices that may fall under the scope of human trafficking. What qualifies as exploitation in legal and political discourse depends on how freedom and consent in labour relations are defined. As Judy Fudge has shown, the boundary between free and unfree labour is not fixed but constructed through governance and legal interpretation.[17]

The Criminal Law Paradigm and Its Perils

Since 2016, German law has included a specific offence of labour exploitation under Section 233 of the Criminal Code (StGB). In this context, labour exploitation refers to employment that takes advantage of a personal or economic predicament or a migration-related vulnerability.[18] Legally, this offence is closely linked to human trafficking.[19] Under Section 232(1) No. 1(b) StGB, human trafficking for the purpose of exploitative employment is punishable when the working conditions significantly deviate from those of comparable lawful employment and the perpetrator acts with reckless intent to profit. In addition, Section 232b StGB criminalises acts intended to place a person into, or keep them within, an exploitative situation as defined in Section 232b Nos. 1–3 StGB.

16 N.A., 'Gräfenhausen: Protest beendet, Fahrer erhalten Geld', *ver.di*, 2 October 2023, https://www.verdi.de/themen/geld-tarif/++co++30982468-611d-11ee-a748-001a4a16012a.

17 J Fudge, *Constructing Modern Slavery: Law, Capitalism, and Unfree Labour*, Cambridge University Press, 2025, pp. 2–12.

18 T Fischer, *Strafgesetzbuch und Nebengesetze: Kommentar*, 71st edn., Munich, 2024, § 232, paras. 5–10.

19 W Renzikowski, '§ 232', in B von Heintschel-Heinegg (ed.), *Münchener Kommentar zum Strafgesetzbuch*, 4th edn., Munich, 2021, para. 3.

However, these legal norms are rarely applied.[20] Criminal law also fails to address the structural and socioeconomic dimensions of exploitation as the law focuses on individual misconduct.[21] Rather than focusing on individual culpability, an analysis of labour exploitation must consider the economic and institutional structures that enable it. The focus on criminality might even 'divert attention from the underlying structures and processes that generate exploitation'.[22] Exploitation is understood as a deviation from the norm, driven by the bad intentions of an individual perpetrator, rather than as a structural feature of the economic order. This perspective persists, even though entire sectors have emerged in which strong economic incentives to exploit prevail, and non-exploitative business practices are significantly disadvantaged.[23] Especially in sectors with a high proportion of migrant workers, there are strong economic incentives for labour exploitation. This is particularly true for transnational production and supply chains, where significant regulatory and enforcement gaps persist. Global competition favours those actors who are able to produce and deliver with the greatest flexibility and at the lowest cost.[24]

The transport and logistics sector in Germany is marked by intense competition and cost pressure. To reduce expenses and respond flexibly to capacity changes, a growing share of transport orders is outsourced to subcontractors. In road freight in particular, transport services are increasingly carried out by drivers from Eastern Europe, as well as from Central Asia and other non-EU countries. These workers are employed by subcontractors several tiers removed from the principal client. This multi-tiered structure allows companies to shift responsibility downstream while benefiting from cheap foreign labour. Digitalisation—especially the rise of job allocation platforms—has further enabled this outsourcing model.[25]

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20 Deutsches Institut für Menschenrechte, *Monitor Menschenhandel in Deutschland: Erster periodischer Bericht*, October 2024, DIMR, p. 184, https://www.institut-fuer-menschenrechte.de/publikationen/detail/monitor-menschenhandel-in-deutschland.

21 H Shamir, 'A Labor Paradigm for Human Trafficking', *UCLA Law Review*, vol. 60, 2012, pp. 76–136.

22 Fudge, p. 12.

23 D Klein, *Corporate Governance im Kontext von Schwarzarbeit und illegaler Beschäftigung in der deutschen Bauwirtschaft: Entwurf eines systemischen Gestaltungsmodells*, Shaker Verlag, Düren, 2021, pp. 52–53.

24 G LeBaron, *Combatting Modern Slavery: Why Labour Governance is Failing and What We Can Do About It*, Polity Press, Cambridge, 2020; J Drubel, *Das ILO-Zwangsarbeitsverbot in der globalisierten Wirtschaft*, Springer VS, Wiesbaden, 2022, pp. 123–128.

25 Helwing-Hentschel, Franz, and Verfürth.

Vulnerability to Labour Exploitation

Understanding exploitation requires examining the legal and economic conditions that make people vulnerable. In the road transport sector, vulnerability does not primarily result from an irregular migration status but from the institutional and contractual arrangements that generate dependency and restrict access to rights. Many drivers are employed by subcontractors established in other EU countries but recruited from non-EU states. This transnational employment structure often entails long periods of work under inferior conditions, for low wages, and with limited access to assistance. The further removed workers are from their home context, the greater their dependence on intermediaries and employers, and the more difficult it becomes to resist exploitation.[26]

Understanding exploitation in the road transport sector also requires taking into account the specific living and working conditions of long-distance drivers. Many of them spend weeks or even months on the road, often living in their trucks under precarious conditions. Access to basic infrastructure such as sanitary facilities or safe rest areas is limited and possibilities for social interaction are almost non-existent.[27]

Reports by trade union initiatives describe cases in which drivers receive falsified or misleading documents concerning their employment status, wages, or driving and rest times. In the event of inspections, drivers may face administrative fines for exceeding driving hours, even when such violations result from employer pressure.[28] In Germany, the drivers' vulnerability is increased by the absence of an independent labour inspection authority that focuses exclusively on working conditions. In the transport sector, inspections are carried out by the Federal Office for Logistics and Mobility (Bundesamt für Logistik und Mobilität, BALM) and the Financial Control of Undeclared Work Unit (Finanzkontrolle Schwarzarbeit, FKS), whose mandates centre on transport safety and fiscal compliance rather than on the protection of labour rights. At the same time, many drivers report threats, coercion, and forms of bogus self-employment. The continuous work and living conditions on the road make it difficult for them to access medical care or claim basic labour rights such as paid leave.[29]

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26 Weirich and Wahl, 2025, p. 2.

27 A Weirich and M Wahl, *Informationen zur Branche "Internationaler Straßentransport": Erfahrungen aus der Beratungspraxis von Faire Mobilität*, Faire Mobilität, July 2022, p. 5, https://www.faire-mobilitaet.de/dgb-fm-fileadmin/dateien/Dokumente/Internationaler-Stra%C3%9Fentransport/Fachinformationen/Dossier_Int._Stra%C3%9Fentransport__07_2022_.pdf.

28 *Ibid.*

29 *Ibid.*

Hardening Corporate Social Responsibility

In face of the structural deficiencies in enforcing labour rights especially in transnational contexts, a new legal tool has emerged: human rights due diligence obligations along the supply chain. After corporate social responsibility (CSR) had long existed solely in the form of soft law, a new legislative trend has emerged in recent years towards transforming CSR into enforceable law. While human rights obligations primarily apply to states, international law now establishes a normative expectation for companies to respect them, specified through due diligence obligations. The United Nations *Guiding Principles on Business and Human Rights* (UNGPs)[30] remain the most thorough framework document for business and human rights to date. The UNGPs are structured in three pillars and establish the duty of states to protect against human rights abuses (first pillar), define a global standard for corporate conduct to respect human rights (second pillar), and offer guidelines and recommendations on access to remedy for victims of business-related human rights violations (third pillar). According to Principle 12 of the UNGPs, companies must respect internationally recognised human rights, including the International Labour Organization (ILO) core labour standards prohibiting forced labour and exploitation. The commentaries to Principles 3 and 12 explicitly identify migrant workers as a particularly vulnerable group, requiring heightened attention from both states and companies. While the UNGPs are considered soft law and lack direct legal effect, they have profoundly influenced the ongoing discussion about regulating transnational corporations and have informed laws worldwide, including those in Europe. France took the lead in 2017 with the adoption of the *Loi de Vigilance* (*Corporate Duty of Vigilance Law*), probably the most far-reaching supply chain law worldwide.[31] Germany followed in 2023 with the *Supply Chain Act* (*Lieferkettensorgfaltspflichtengesetz*). An EU-wide supply chain law has since been adopted.[32]

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30 Resolution 17/4 adopted by the Human Rights Council, *Human Rights and Transnational Corporations and Other Business Enterprises*, UN Doc. A/HRC/RES/17/4.

31 C Lavite, 'The French Loi de Vigilance: Prospects and Limitations of a Pioneer Mandatory Corporate Due Diligence', *Verfassungsblog: On Matters Constitutional*, 16 June 2020, https://doi.org/10.17176/20200616-124112-0.

32 The Corporate Sustainability Due Diligence Directive (CSDDD), adopted in 2024, was initially intended to introduce civil liability provisions and apply to a broad range of companies. However, following the 2025 Omnibus procedure aimed at reducing administrative burdens for companies, its scope was significantly narrowed and the liability provisions were removed. As a result, the Directive will not entail a substantive strengthening of existing due diligence obligations in Germany. Germany, alongside France, played a central role in advocating for the dilution of the CSDDD's provisions. See: Business & Human Rights Resource Centre, 'Briefing: How German Members of the European Parliament are Adopting the Demands of the Business Lobby for the EU Corporate Sustainability Due Diligence Directive', BHRRC, 24 January 2023, https://www.business-humanrights.org/en/latest-news/briefing-how-german-

The German Supply Chain Act

The GSCA requires companies to prevent, mitigate, and compensate for human rights violations and environmental damage within their supply chains. In force since 1 January 2023, it applies to companies headquartered in Germany with at least 1,000 employees. Unlike the UNGPs, the GSCA does not directly reference international human rights conventions but formulates corporate due diligence obligations through a catalogue of prohibitions derived from the corresponding human rights conventions. The obligations to respect human rights implies a particular emphasis on labour-related rights. Section 2(1) states protected rights, which are explicitly defined through references to international agreements, such as the ILO Core Labour Standards and UN human rights treaties, and include the right to freedom of association and collective bargaining as well as the right to fair working conditions, particularly regarding wages, working hours, and occupational health and safety. Section 2(2) specifies the types of human rights violations covered by the Act such as forced labour, child labour, hazardous working conditions, and human trafficking for labour exploitation.

In the Gräfenhausen case, several of these protected rights were likely affected. First, the right to appropriate remuneration under Section 2(2) No. 5 GSCA appears to have been violated, as drivers were not adequately paid. Second, the right to safe and healthy working conditions under Section 2(2) No. 4 GSCA was compromised, given the drivers' prolonged stays in their vehicles and lack of adequate rest and sanitary facilities. BAFA explicitly confirmed that the drivers had not been adequately remunerated and that occupational safety had been neglected.[33] In addition, potential interferences with the freedom of association and collective bargaining (Section 2(2) No. 6 GSCA) could be relevant, considering that the strike was met with threats and intimidation by the Polish transport company. If drivers were pressured through threats or acts of violence to continue working, this could constitute forced labour within the meaning of Section 2(2) No. 3 GSCA.

Companies are required to identify such risks, through human rights risk assessments (Section 5). Where concrete indications of violations arise, companies are obliged to take immediate action. This may include stopping the violation

members-of-the-european-parliament-are-adopting-the-demands-of-the-business-lobby-for-the-eu-corporate-sustainability-due-diligence-directive; Business & Human Rights Resource Centre, 'France Strikes Again to Undermine the CSDDD', BHRRC, 28 February 2024, https://www.business-humanrights.org/en/latest-news/france-strikes-again-to-undermine-the-csddd.

33 Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA) Press Release, *Zweiter Transportgipfel in Borna: Austausch für mehr Menschenrechtsschutz im Transportsektor,* BAFA, 20 February 2024, https://www.bafa.de/SharedDocs/Pressemitteilungen/DE/Lieferketten/2024_03_transportgipfel_borna.html.

where possible, cooperating with suppliers to implement improvements, or even terminating the business relationship if no remedy is feasible (Section 7). The GSCA thus recognises labour-related human trafficking as a core area of corporate due diligence obligations. Given the prevalence of migrant labour in high-risk sectors, and consistent with the interpretation of international human rights bodies,[34] the protection of vulnerable groups, such as migrant workers, is understood to form an implicit part of corporate obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.[35]

The GSCA provides for graduated due diligence: Section 5 generally excludes indirect suppliers from risk analysis, unless the company gains 'substantiated knowledge' of relevant risks, triggering full obligations under Section 9(3).

Access to Justice under the GSCA

The Gräfenhausen strike was a high-profile case with various actors involved at different stages. Workers, their supporters, and the press brought the workers' struggle to public attention. BAFA intervened in this conflict proactively and publicly. Workers had the option to apply to BAFA for remedy, as well as to start court proceedings against the companies involved or their direct employer. But they chose to go on a wildcat strike and then apply to BAFA, which turned out to be a smart choice. In the following section, I will give a short overview on the grievance mechanism under the GSCA.

Under the GSCA, individuals affected by human rights violations in a company's supply chain can access two non-judicial grievance mechanisms: one operated or supported by the company itself (Section 8), and one administered by BAFA, the competent supervisory authority (Section 14). Both mechanisms can be used to seek remedy for due diligence violations by companies. Section 8 GSCA grants companies considerable flexibility in structuring their procedures, and the same applies to BAFA's process. In both cases, the mechanisms primarily serve investigative functions—either through dialogue obligations (Section 8) or BAFA's authority to initiate investigations on its own initiative (Section 14).

[34] See, for instance: Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to Just and Favourable Conditions of Work (Article 7 of the ICESCR), E/C.12/GC/23, 27 April 2016, para. 47(e).

[35] M Krajewski and M Kaltenborn, 'Einleitung', in M Kaltenborn *et al.* (eds.), *Lieferkettensorgfaltspflichtenrecht: LkSG, GwB, EU-HolzhandelsVO, EU-KonfliktmineralienVO, BetrVG, WRegG, CSR-RL-UmsG*, Verlag C.H. Beck, Munich, 2023, para. 70.

Although the organisational framework of the BAFA grievance mechanism is legally defined, its procedures remain flexible. For instance, BAFA may pursue an amicable resolution by involving mediators, as it did in the Gräfenhausen case. If a complaint is found to be justified, outcomes must be determined. While Section 15 sets out possible outcomes for the BAFA mechanism, Section 8 (on company-level mechanisms) does not define specific procedural results. However, in cases of substantiated complaints, at a minimum, preventive and remedial measures must be taken (Sections 6 and 7).

Since the law has only recently been enacted, its interpretation by administrative authorities—and potentially by the courts—remains uncertain. The GSCA establishes obligations to endeavour, implying a relatively limited standard of liability at this stage. Accordingly, BAFA so far has shown reluctance to impose sanctions during its reviews.[36] An expansive interpretation of the law through its application was not anticipated. However, companies are likely to face pressure to implement remedial actions in cases of well-documented and severe human rights violations within their supply chains. Failure to do so may oblige BAFA to impose sanctions (Section 22 et seq.).

This institutional uncertainty has coincided with growing political controversy over the law's scope and enforcement. The GSCA had become a major point of contention within the governing coalition and a focal point of lobbying. Disagreements over the Act's future were among the issues that led to the collapse of the governing coalition in November 2024. Following the February 2025 election, the new government moved to weaken the Act. On 3 September 2025, the new federal government introduced a draft law to amend the GSCA.[37] On 26 September 2025, the Federal Ministry for Economic Affairs instructed BAFA to apply the law with restraint for the time being and to refrain from taking coercive measures against companies.[38] BAFA's already cautious enforcement practice has

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[36] Bundesamt für Wirtschaft und Ausfuhrkontrolle, *Rechenschaftsbericht 2023 nach dem Lieferkettensorgfaltspflichtengesetz*, BAFA, July 2024, https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/rechenschaftsbericht_2023.html?nn=1469788.

[37] Bundesrat, *Entwurf eines Gesetzes zur Änderung des Lieferkettensorgfaltspflichtengesetzes: Entlastung der Unternehmen durch anwendungs- und vollzugsfreundliche Umsetzung*, Bundesrat-Drucksache 422/25, 5 September 2025, https://dserver.bundestag.de/brd/2025/0422-25.pdf.

[38] Bundesministerium für Wirtschaft und Energie (BMWE), 'Sofortige Entlastung für Unternehmen – BMWE weist BAFA zur Zurückhaltung beim Lieferkettengesetz an', BMWE, 26 September 2025, https://www.bundeswirtschaftsministerium.de/Redaktion/DE/Pressemitteilungen/2025/09/20250926-bmwe-bafa-zurueckhaltung-lieferkettengesetz.html. Contrary to this press release by the Federal Ministry for Economic Affairs and Energy (BMWE), the press release already published on 3 September 2025 by the Federal Ministry of Labour and Social Affairs (BMAS) emphasised that this new legislative initiative does not imply a lowering of human

thus been further weakened. BAFA officially announced that it would temporarily suspend the review of corporate reports and terminate ongoing administrative fine proceedings until the planned reform of the *Supply Chain Act* is completed. At the same time, only particularly serious violations of human rights or environmental standards are to be pursued from now on.[39]

These developments highlight that the effectiveness of the GSCA ultimately depends on the state's willingness to enforce it. Yet even before the reform, the law relied on administrative oversight. While companies and BAFA must provide complaint mechanisms, affected workers have no direct legal standing and no guaranteed right to information about the outcome of their complaint. Moreover, the GSCA does not provide for collective enforcement or association-based actions, even though collective rights such as freedom of association and the right to strike are explicitly protected under Section 2(2)(6) GSCA.[40] In practice, the Gräfenhausen case illustrates that collective action itself became the decisive mechanism for rights enforcement. Collective action, understood here as the organised and solidary mobilisation of workers and their supporters to claim rights that would otherwise remain inaccessible, translates the abstract protection of collective rights into practice. Solidary practices and the collective rights that safeguard them thus serve as enablers for the enforcement of individual rights[41] and for ensuring compliance with the law more generally.

The Success of the Lorry Strike

The Gräfenhausen strike was successful on two fronts: not only were the strike's objectives met, but it also significantly heightened public awareness about the working conditions faced by migrant workers in the transportation industry. The strike's success rested on three interlinked factors: strong internal solidarity among

rights protection. See Bundesministerium für Arbeit und Soziales, 'Lieferkettensorgfaltspflichtengesetz gilt nahtlos weiter', BMAS, 3 September 2025, https://www.bmas.de/DE/Service/Presse/Pressemitteilungen/2025/lieferkettensorgfaltspflichtengesetz-gilt-nahtlos-weiter.html.

39 Bundesamt für Wirtschaft und Ausfuhrkontrolle, Vereinfachungen für Unternehmen beim Lieferkettengesetz', BAFA, 1 October 2025, https://www.bafa.de/SharedDocs/Kurzmeldungen/DE/Lieferketten/20251001_Vereinfachung_LksG.html.

40 Section 11 of the GSCA provides a procedural mechanism allowing trade unions and NGOs to litigate on behalf of affected individuals, but it does not create an independent civil cause of action.

41 E Kocher, 'Individual Rights as a Critique of Labour Law Collectivity. Looking at Labour Law from the Perspective of its Outsiders', in E Von Adamovich and M Zernikow (eds.), *Philosophical and Sociological Reflections on Labour Law in Times of Crisis*, Cambridge Scholars Publishing, London, 2022, pp. 115–130.

the drivers, external support networks, and the strategic use of the *GSCA* as a legal and political lever.

Work-related Migration and Public Discourse

The public and political discourse surrounding work-related migration in Germany has been ambivalent: while policies aim to attract high-skilled workers, they simultaneously seek to restrict other forms of migration and to limit migrants' access to welfare benefits. The living and working conditions of migrant workers have historically received little public attention. This changed somewhat during the COVID-19 pandemic, when the German meat industry faced public scrutiny after high numbers of COVID-19 infections among migrant workers revealed their inadequate living and working environments.[42] It also became evident that closed borders could severely impact the German agricultural sector, which relies heavily on migrant seasonal workers.[43] In these instances, the issues surrounding migrant labour were primarily framed as either health or economic concerns. However, the Gräfenhausen case stands out by directly spotlighting the poor working conditions. Although it was not the first instance of self-organised migrant strikes or protests,[44] the Gräfenhausen strike succeeded in generating significantly more public attention than its predecessors. This increased visibility helped raise awareness about the deplorable working conditions in the transportation industry.[45]

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42 In response to that, the German legislature enacted the *Act to Improve Enforcement in Occupational Health and Safety* (*Arbeitsschutzkontrollgesetz*) in 2020.

43 This was particularly discussed in connection with the asparagus harvest. See M Sanches, 'Corona: Gefährdet Omikron die deutsche Spargel-Ernte?', *Berliner Morgenpost*, 27 January 2022, https://www.morgenpost.de/panorama/article401884772.ece; S Kinkartz, 'Spargelstechen unter Corona-Bedingungen', *Deutsche Welle*, 17 March 2021, https://www.dw.com/de/erntehelfer-spargelstechen-unter-corona-bedingungen/a-56904351.

44 As early as the 1970s, there were a series of strikes by migrant workers, then referred to as 'guest workers' (*Gastarbeiter*), which also addressed issues of discrimination. However, these workers received little support from their German colleagues. Instead, they were often criminalised and, in some cases, even deported. See E Kızılay, 'Migration und Arbeitskämpfe: Ein Blick zurück in die Zeit der "Gastarbeiter*innen" und ihre Kämpfe in der BRD der 1970er Jahre', Rosa Luxemburg Stiftung, August 2020, https://www.rosalux.de/publikation/id/42811/migration-und-arbeitskaempfe. There have also been protests by migrant workers in recent times, such as in the case of the 'Mall of Berlin' aka 'Mall of Shame', in which the workers involved in the construction of the shopping centre did not receive wages and organised themselves in the anarcho-syndicalist Free Workers' Union (FAU). See E Ghamsharick, L Saadna, and N Ünsal, 'Mall of Shame – Pay your workers! — An Interview with Bogdan Droma', *movements. Journal for Critical Migration and Border Regime Studies*, vol. 3, issue 1, 2017.

45 In response to the Gräfenhausen strike, BAFA organised an exchange on due diligence obligations in the transport industry with companies from the sector. See Bundesamt

It also offered a rare moment in which migrant workers appeared in public discourse as organised collective actors capable of asserting their rights and mobilising solidarity across national boundaries. Their calm and persistent protest, carried out under difficult conditions, reinforced the unusually broad and sympathetic media response, which became part of the strike's success by temporarily adding an alternative narrative to dominant anti-migrant discourses and demonstrating that exploited workers can become active rights holders through collective action.

How to Successfully Fight Exploitation

The drivers successfully advanced their strike demands by compelling the companies at the end of the supply chain to pay the outstanding wages. The companies complied and settled the payments without awaiting a court decision.

Labour strikes require a high level of organising power and strategic capacity, typically orchestrated by trade unions rather than by precarious and individualised migrant workers.[46] Empirical research shows that key figures in trade union organising often possess formal qualifications and stable positions within the workplace. Migrant workers are generally considered difficult to organise and at best may act as passive supporters.[47] Additionally, organising labour typically relies on physical spaces that facilitate social relations among workers, a necessary precondition for effective collective action. In environments where workers are isolated or constantly moving—such as in truck driving—creating and maintaining these social bonds becomes significantly more challenging. This physical separation complicates communication and reduces the opportunity for developing the solidarity and collective identity that are crucial for a successful strike or labour action.

The success of the drivers in the Gräfenhausen strike, despite seemingly unfavourable conditions, is an intriguing example of overcoming barriers to collective action among migrant workers, particularly in the transportation industry. Here are several factors that likely contributed to their successful organisation and strike.

für Wirtschaft und Ausfuhrkontrolle, 'Bessere Arbeitsbedingungen in der Transportbranche: Austausch zu Sorgfaltspflichten in der Praxis', BAFA, 16 October 2023, https://www.bafa.de/SharedDocs/Pressemitteilungen/DE/Lieferketten/2023_17_arbeitsbedingungen_transportbranche.html.

46 In Germany, the formal call to strike by a trade union is even a precondition to legally qualify an action as a strike.

47 K Dörre, T Goes, S Schmalz, and M Thiel, *Streikrepublik Deutschland? Die Erneuerung der Gewerkschaft in Ost und West*, Campus Verlag, Frankfurt am Main, 2016, pp. 125–130.

Building Social Relations and Communication Networks

The drivers leveraged existing informal networks to foster a common understanding of their situation and coordinate meeting places. At first, the protest was not concentrated in one place. Some drivers attempted to gather in Switzerland and Northern Italy but had to leave following police intervention. The drivers were in contact via shared social media and chat groups and then shifted the location of their protest to the Gräfenhausen rest area, where several drivers had already stopped their trucks.[48] Seemingly, the particular rest area was not strategically chosen from the outset, but became the central location of the protest as drivers regrouped there. These communication tools played a key role in organising and executing the strike. While on strike, the drivers endured significant hardship; not only did they spend weeks at the rest area, but they also resorted to a hunger strike as a final measure to protest and express solidarity with their families, whom they could not support due to unpaid wages.[49] Their readiness to engage in conflict and make extreme sacrifices helped convey the gravity of their situation to the public and authorities, gaining wider understanding and support.[50] The drivers showed a high level of solidarity among each other, as even those who had already received their wages refused to leave the strike until everyone received theirs.[51]

Allies and Support Structures

The drivers were supported by a network comprising various actors, primarily from the trade union sector. Over the last decades, a significant shift has taken place in German trade unions' approach towards migrant workers.[52] Historically,

48 Interview with RTDD.

49 Interview with RTDD.

50 During the strike, the precarious living conditions of the drivers were highlighted. Some drivers, despite suffering from severe and worsening health problems, had not had the opportunity to see a doctor for months or longer, leading to life-threatening situations in some cases. B Schäder, 'BAFA-Chef zu Lkw-Streik in Gräfenhausen: "Ich hatte Angst, dass es Tote gibt"', *Frankfurter Allgemeine Zeitung*, 21 March 2024, https://www.faz.net/aktuell/rhein-main/wirtschaft/bafa-chef-zu-lkw-streik-in-graefenhausen-hatte-angst-dass-es-tote-gibt-19600868.html.

51 K Koerth, 'Streik an der A5 bei Gräfenhausen: Lkw-Fahrer bekommen ihren Lohn', *Der Spiegel*, 3 April 2023, https://www.spiegel.de/wirtschaft/streik-an-der-a5-bei-graefenhausen-lkw-fahrer-bekommen-ihren-lohn-a-0fabaf50-1860-404c-9d8c-856c61cd2f30.

52 T Seitz, *Between Guardian and Punisher – The Role of the German Inspectorate Finanzkontrolle Schwarzarbeit for Migrant Workers*, Master's Thesis, Linköping University, 2022, pp. 8–9, retrieved 27 November 2025, https://liu.diva-portal.org/smash/get/diva2:1707636/FULLTEXT01.pdf.

unions often framed migrants—particularly those with irregular status—as competitors rather than as fellow workers deserving solidarity. However, from the late 1990s to the early 2000s, union rhetoric and strategies began to change. Migrant workers increasingly came to be seen not as threats but as vulnerable colleagues or victims of exploitation. Over the past decade, major German trade unions, traditionally focusing on their core demographic of German male workers, began to establish specialised counselling services for migrant workers. Since 2011, the Fair Mobility network has been offering advice to Eastern European workers, making site visits, and distributing labour rights information in multiple languages. Funded by the state since August 2020, these support structures were well-developed by the time of the strike in 2023, enabling them to provide active, on-the-ground support for the workers. Additionally, the trade union-affiliated Road Transport Due Diligence Foundation (RTDD) played a significant role. Edwin Atema, the head of RTDD and a former truck driver himself, served as a mediator and spokesperson for the drivers.[53] The church was also involved and acted as an intermediary for the money between the companies and the drivers.[54]

Strategic Use of the Law

The drivers successfully based their claim for unpaid wages on a new legal foundation provided by the GSCA. Previously, they would have had to rely on individual legal enforcement through labour or civil law proceedings. However, the GSCA redefined responsibility along the supply chain, which had been obscured by transnational work arrangements, thereby enabling the drivers to hold German companies at the end of the supply chain accountable, despite lacking direct contractual relationships with them. To leverage this legal framework effectively, the RTDD meticulously gathered data to map out the entire supply chain up to the German companies. In the initial Gräfenhausen I strike, the German companies were informed but denied knowledge of the Polish subcontractor's legal violations. However, with the occurrence of Gräfenhausen II just a few months later, these companies could no longer plead ignorance.[55] The robust documentation of legal breaches within the supply chain, combined with heightened public scrutiny, compelled BAFA to intervene. This pressure prompted the companies to take corrective measures, demonstrating the effectiveness of strategic action under the new law. It is important to note, however, that the tracing of the supply chain was possible without the cooperation of the companies involved. For instance, companies receiving deliveries could be identified through the cargo loaded on

53 Interview with RTDD.

54 *Ibid.* The specific church was not identified by key informants, but its role emphasises the significance of the support of faith-based organisations in successful workers' struggles.

55 Deutsches Institut für Menschenrechte, *Menschenrechtssituation*, p. 82.

the trucks.[56] This level of transparency will not be feasible in all supply chains without information provided by the companies themselves.

Technically, there is significant potential to use digitally recorded data along transport supply chains to monitor and verify compliance with due diligence obligations.[57] However, it was not the transport companies or receiving companies who tracked the supply chain and its risks—it was the drivers and their supporters themselves.

From the perspective of workers, the case underscores that relying solely on legal mechanisms offers limited assistance on its own. Instead, collective solidarity and support structures remain essential for successfully combating rights violations. Nonetheless, the new supply chain regulation allows for claims to be asserted beyond the traditional boundaries of company liability in civil law. In the Gräfenhausen II strike, it was already evident that the Polish subcontractor might be insolvent.[58] Consequently, a successful civil lawsuit was unlikely to result in the drivers being compensated. The introduction of the GSCA enabled actions against the more solvent German contractors. This shift from traditional civil liability allows rights holders to set shared objectives that previously would have been unattainable. Ideally, this could foster greater solidarity among rights holders. The link between achieving common goals and the readiness to engage in solidarity is profound. For workers to mobilise for collective action, they require not only a shared understanding of a problem but also the belief that they can resolve it together. The experience of overcoming a 'seemingly omnipotent authority'[59] and reaching a shared objective can significantly bolster solidarity. This sense of shared victory not only unites individuals but also strengthens their collective resolve to tackle future challenges.[60] Even in 2025, lorry drivers in Germany and other European countries were once again on strike—this time, the majority of the drivers were from Zimbabwe and employed by a Slovakian hauling company. Once again, the client at the top of the supply chain is a major German corporation.[61]

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56 Interview with RTDD.

57 Helwing-Hentschel, Franz, and Verfürth, p. 4.

58 Interview with RTDD.

59 R Fantasia, *Cultures of Solidarity: Consciousness, Action, and Contemporary American Workers*, University of California Press, Los Angeles, 1988, p. 145, cited in J Jungehülsing, *Transnational Migration and International Labor Solidarity: On Migrant Union Members' Impact on Unions' Cross-Border Work*, Rainer Hampp Verlag, Augsburg, 2018, p. 67.

60 Jungehülsing, p. 67.

61 N.A., 'Wilder Streik: Lkw-Fahrer wehren sich', *ver.di*, 4 February 2025, https://www.verdi.de/themen/nachrichten/++co++79aaea30-e2ec-11ef-8509-937fe2dfd641; N.A., 'Proteste von LKW-Fahrern aus Simbabwe für slowakische Tochter der Spedition Hegelmann auf verschiedenen Raststätten in Deutschland, Frankreich und Italien',

Typically, it is not individuals who utilise the BAFA complaint mechanisms but rather collective actors. Hardened corporate social responsibility through instruments like the GSCA provides new significant resources for social actors combating exploitation. They potentially open a collective sphere of action with new normative categories,[62] transforming exploited workers into rights holders within the context of human rights without forcing them into the victim regime of criminal law. Framing the situation as a human rights problem also helped to overcome legal technicalities that could have been invoked to classify the strike as unlawful. The question of whether the drivers' actions were illegal or met the legal requirements of a labour strike under German law was never relevant, as BAFA treated the case as a human rights matter from the outset.

Conclusion

The Gräfenhausen strike demonstrates how new supply chain laws, despite their limitations, can be strategically leveraged to contest systemic labour exploitation. While the *GSCA*'s legal mechanisms are still in their early stages and rely heavily on proactive engagement from civil society, the case reveals their potential to shift responsibility back upstream and frame exploitation as a human rights issue. Crucially, it was not legal reform alone but the interplay of solidarity, documentation, and public pressure that enabled the workers' success. This underscores the necessity of combining legal instruments with collective action and support structures, if such laws are to meaningfully empower exploited workers and challenge the structural conditions that sustain their exploitation.

The case ultimately suggests that rights enforcement in transnational subcontracting contexts depends not only on legal innovation but on the capacity to build solidarity infrastructures that sustain mobilisation over time. Supply chain law can provide a framework for accountability, yet it remains inert without collective agency and communicative coordination among workers and supporters. In times of increasing hostility towards both migration and regulatory oversight, such instances of organised transnational solidarity reveal the fragile yet tangible possibilities for reclaiming rights within fragmented labour regimes. However, these possibilities remain uncertain, as current policy debates in Germany and at the EU level risk curtailing the transformative potential of supply chain regulation

LabourNet, 13 March 2025, https://www.labournet.de/interventionen/asyl/arbeitsmigration/migrationsarbeit/proteste-von-lkw-fahrern-aus-simbabwe-fuer-slowakische-tochter-der-spedition-hegelmann-auf-verschiedenen-raststaetten-in-deutschland-frankreich-und-italien.

62 L Israël, 'Recht und soziale Bewegung: Wege zu einem neuen Dialog', *Zeitschrift für Rechtssoziologie*, vol. 39, no. 2, 2019, pp. 158–176, https://doi.org/10.1515/zfrs-2019-0010.

before it can fully unfold. At the same time, the Gräfenhausen case reminds us that collective organisation and solidarity have long enabled workers to claim rights even in adverse political environments. In that sense, it also points to the resilience of organised labour in adapting to changing economic structures and finding new forms of collective responses.

Marie Diekmann is currently an Interim Professor of Social Law at RheinMain University of Applied Sciences. She previously worked as a researcher and policy advisor at the German Institute for Human Rights. She holds a PhD in Law from Goethe University Frankfurt. Her research focuses on social inequality, labour relations, and critical legal theory. Email: Marie.Diekmann@hs-rm.de

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Local Worker Representation as a Catalyst for Effective Grievance Mechanisms: A collaborative case study of the Dindigul Agreement

Mareike Standow, Nandita Shivakumar, and Thivya Rakini

Abstract

Non-judicial grievance mechanisms are integral to corporate human rights due diligence, yet they often fail to fulfil their promise. Too frequently, grievance mechanisms do not effectively serve the workers and communities they are designed to protect, despite their potential to drive life-changing improvements. This article examines how integrating local worker representation can create effective grievance mechanisms, using the Dindigul Agreement to End Gender-Based Violence and Harassment as a case study. With a community-based trade union at its core, the Dindigul Agreement grievance mechanism functions as an equitable enforcement tool that strengthens company–community relations, promotes human rights, and provides a framework for preventing and remedying forced labour risks within supply chains. This article is meant to provide an instructive example of how meaningful stakeholder engagement can act as a catalyst for more effective grievance mechanisms. Furthermore, it can serve as inspiration for practitioners and scholars seeking to confront forced labour and other systemic labour rights abuses by prioritising local voices and lived realities in the implementation of due diligence obligations.

Keywords: due diligence, non-judicial grievance mechanisms, meaningful stakeholder engagement, remedy, unions

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Introduction

Non-judicial grievance mechanisms are an integral part of corporate human rights due diligence that feature in mandatory due diligence legislation, as well as in the United Nations *Guiding Principles on Business and Human Rights* (UNGPs) and the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Guidelines). Such mechanisms can be particularly important for forced labour cases, where the fear of retaliation, economic dependence, or lack of legal access can prevent victims from pursuing judicial remedies. Unfortunately, in many instances non-judicial grievance mechanisms fall short of their potential. They remain nebulous,[1] under-regulated by states,[2] under-developed by corporations,[3] untransparent,[4] and often fail to offer rights holders remediation.[5] Scholarship often focuses on what grievance mechanisms *should* do, rather than what they are actually doing;[6] their role and effectiveness in delivering remedy for workers and communities remain under-researched.[7]

In this article, we use the grievance mechanism of the Dindigul Agreement to End Gender-Based Violence and Harassment (Dindigul Agreement or Agreement) as a case study to argue that the integration of local worker representation can be one avenue to create more responsive and effective grievance mechanisms. The article draws its data and insights directly from the Tamil Nadu Textile and Common Labour Union (TTCU), the local trade union leading the on-the-ground implementation of the Agreement. The data provides unique and practitioner-driven insights into the implementation of a local, context-sensitive, worker-driven grievance mechanism that has rarely been featured in academic literature before.

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1 B Grama, 'Company-Administered Grievance Processes for External Stakeholders: A Means for Effective Remedy, Community Relations, or Private Power?', *Wisconsin International Law Journal*, vol. 39, no. 1, 2022, pp. 71–143.

2 L J Laplante, 'The Wild West of Company-Level Grievance Mechanisms: Drawing Normative Borders to Patrol the Privatization of Human Rights Remedies', *Harvard International Law Journal*, vol. 64, no. 2, 2023, pp. 311–384.

3 KnowTheChain, *Apparel and Footwear Benchmark Report 2023*, Know the Chain, 2023.

4 J Harrison, M Wielga, and M Parejo, 'In Search of Effective Corporate Grievance Mechanisms: Can Mandatory Due Diligence Laws Be a Progressive Force?', *Journal of Human Rights Practice*, vol. 16, issue 3, 2024, pp. 819–835, https://doi.org/10.1093/jhuman/huae011.

5 J Harrison and M Wielga, 'Grievance Mechanisms in Multi-Stakeholder Initiatives: Providing Effective Remedy for Human Rights Violations?', *Business and Human Rights Journal*, vol. 8, issue 1, 2023, pp. 43–65, https://doi.org/10.1017/bhj.2022.37.

6 Grama.

7 Harrison, Wielga and Parejo. See also K Lukas *et al.*, *Corporate Accountability: The Role and Impact of Non-Judicial Grievance Mechanisms*, Edward Elgar Publishing, Cheltenham, 2016.

The data was collected using two methods: an extensive survey that TTCU participated in, and a discussion held by the authors of this article on the key concepts embodied in the Dindigul Agreement grievance mechanism. One of the authors is employed by TTCU and is thus directly involved in implementing the grievance mechanism. The intent is not to present an independent evaluation or performance review of the Agreement's grievance mechanism. Instead, we hope to contribute to the literature surrounding the interplay of worker representation, community organising, and effective remedy, as well as inspire practitioners and scholars to engage with local trade unions and community representatives as they research and implement non-judicial grievance mechanisms.

The article proceeds as follows. The next section provides an overview of literature regarding effective grievance mechanisms and the involvement of unions in their implementation, followed by an introduction to the Dindigul Agreement. The article then focuses on the case study to present and discuss different elements of the Dindigul Agreement's grievance mechanisms. Finally, it outlines TTCU's organising model to underscore the importance of freedom of association in the implementation of the grievance mechanism and provides a brief conclusion.

Effective Grievance Mechanisms: Finding a needle in a haystack?

Effective non-judicial grievance mechanisms can complement and even strengthen judicial remedies to form a more comprehensive and effective remedy ecosystem for workers and other rights holders in supply chains.[8] This article focuses on non-state-based, non-judicial grievance mechanisms that are administered by a business enterprise alone or with stakeholders, an industry association or a multi-

[8] United Nations Office of the High Commissioner for Human Rights (OHCHR), *Access to Remedy for Business and Human Rights: An Interpretive Guide*, OHCHR, 2024; Organisation for Economic Co-operation and Development (OECD), *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, OECD Publishing, 2023; K Buhmann, 'Confronting Challenges to Substantive Remedy for Victims: Opportunities for OECD National Contact Points under a Due Diligence Regime Involving Civil Liability', *Business and Human Rights Journal*, vol. 8, issue 3, 2023, pp. 403–426, https://doi.org/10.1017/bhj.2023.9; E Kocher and S Zajak, 'Die Selbstregulierung von Arbeits- und Sozialstandards in transnationalen Wertschöpfungsketten – Rechtsschutz in privaten Beschwerdeverfahren?', *Kritische Justiz*, vol. 50, issue 3, 2017, pp. 310–326, https://doi.org/10.5771/0023-4834-2017-3-310; U Gläßer *et al.*, *Außergerichtliche Beschwerdemechanismen entlang globaler Lieferketten: Empfehlungen für die Institutionalisierung, Implementierung und Verfahrensausgestaltung – Forschungsbericht*, Europa Universität Viadrina Frankfurt (Oder), 2021; M Miller-Dawkins, K Macdonald, and S D Marshall, *Beyond Effectiveness Criteria: The Possibilities and Limits of Transnational Non-Judicial Redress Mechanisms*, Corporate Accountability Research, 2016.

stakeholder group as part of a wider due diligence process within the context of corporate supply chains.[9]

Grievance mechanisms are essential to human rights due diligence, as they are part of the obligations outlined, *inter alia*, in the UNGPs and the OECD Guidelines. They enable business enterprises to identify adverse human rights impacts that they have caused or contributed to, and engage with affected stakeholders to develop effective risk mitigation strategies.[10] However, many non-judicial grievance mechanisms also remain nebulous, under-theorised and ineffective,[11] with private companies enjoying 'full discretion in determining the designs, operations, and outcomes of these company-level remedies, often below the radar and with little transparency, Wild West style'.[12] A significant number of complaints filed with grievance mechanisms do not result in a substantive remedy that is satisfactory to the claimants or their communities.[13] Given that workers' trust in grievance mechanisms is likely influenced by the outcomes a mechanism can provide, this is an especially relevant observation that might explain the limited effectiveness of some mechanisms.[14] The 2023 *Apparel & Footwear Benchmark Findings Report*

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9 United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, OHCHR, 2011.

10 OHCHR, 2024; OECD, 2023; Lukas *et al.*; M Rogge, 'Understanding Unilateral, Bilateral, and Multilateral Approaches to Meaningful Stakeholder Engagement in the Design and Implementation of Operational Grievance Mechanisms', in K Buhmann *et al.* (eds), *The Routledge Handbook on Meaningful Stakeholder Engagement*, Routledge, 2024; B Choudhury (ed.), *The UN Guiding Principles on Business and Human Rights: A Commentary*, Edward Elgar Publishing, 2023.

11 Grama; Rogge.

12 Laplante, p. 317. See also R Maher, D Monciardini, and S Böhm, 'Torn between Legal Claiming and Privatized Remedy: Rights Mobilization against Gold Mining in Chile', *Business Ethics Quarterly*, vol. 31, issue 1, 2021, pp. 37–74, https://doi.org/10.1017/beq.2019.49 and J Kaufman and K McDonnell, 'Community-Driven Operational Grievance Mechanisms', *Business and Human Rights Journal*, vol. 1, issue 1, 2016, pp. 127–132, https://doi.org/10.1017/bhj.2015.17.

13 Harrison and Wielga; M Wielga and J Harrison, 'Assessing the Effectiveness of Non-State-Based Grievance Mechanisms in Providing Access to Remedy for Rightsholders: A Case Study of the Roundtable on Sustainable Palm Oil', *Business and Human Rights Journal*, vol. 6, issue 1, 2021, pp. 67–92, https://doi.org/10.1017/bhj.2020.33. See also A Afrizal *et al.*, 'Unequal Access to Justice: An Evaluation of RSPO's Capacity to Resolve Palm Oil Conflicts in Indonesia', *Agriculture and Human Values*, vol. 40, 2023, pp. 291–304, https://doi.org/10.1007/s10460-022-10360-z.

14 C Freeman and E de Haan, *Using Grievance Mechanisms: Accessibility, Predictability, Legitimacy and Workers' Complaint Experiences in the Electronics Sector*, SOMO (Centre for Research on Multinational Corporations), Amsterdam, 2014; M Scheltema, 'Assessing the Effectiveness of Remedy Outcomes of Non-Judicial Grievance Mechanisms', *The Dovenschmidt Quarterly*, 2013, pp. 190–197.

by KnowTheChain found that remedy was the lowest scoring theme across the benchmark, with a sector average score of only 7/100.[15] Merely 22 per cent of companies disclosed remedial outcomes for supply chain workers, which were in most cases limited to only *one* example of an awarded remedy. Of the assessed companies, only one reported checking with workers whether they were satisfied with the remediation provided.[16] These findings illustrate a pattern in companies' reporting and communication about grievance mechanisms: what they should do—provide remedy—is hardly referred to, and very little information, if any, is provided on how they are actually being implemented on the ground.[17]

One way to address this issue is to see the effectiveness of grievance mechanisms and effective remedy as an on-going agenda, rather than just a fixed normative standard derived from legislation and soft law. A key question to ask is how grievance mechanisms can move away from being 'concerned about the legitimation of privatized remedy, the wielding of corporate power, and the stifling of alternative forms of community mobilization'[18] towards an approach that is community-centred, empowering, and protective of the human rights of workers and community members alike.

Grievance mechanisms can be 'as important for establishing a meaningful dialogue between companies and local communities as they are for addressing specific grievances'.[19] However, only 8 per cent of analysed companies in the 2023 *Apparel & Footwear Benchmark Findings Report* mentioned that they had involved workers or worker unions in the design or performance of their grievance mechanism.[20] Unions play an important role in preventing labour law violations from occurring, issues from escalating, and in the event of any violations, they ensure that workers have access to remedies.[21] Their role in grievance processes can be as advocates and representatives; if unions are located where the grievances have occurred, they

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15 KnowTheChain. The KnowTheChain methodology is based on the UNGPs and covers policy commitments, due diligence, and remedy. The methodology uses the ILO core labour standards as a baseline. The methodology has been developed through consultation with a wide range of stakeholders and a review of other benchmarks, frameworks, and guidelines such as the OECD Due Diligence Guidance for Responsible Business Conduct.

16 KnowTheChain.

17 See also Grama.

18 Grama.

19 Choudhury.

20 KnowTheChain.

21 A McQuade, *Grievance Mechanisms, Remedies and Trades Unions: A Discussion Document*, Ethical Trading Initiative, 2017, https://www.ethicaltrade.org/sites/default/files/shared_resources/grievance_mechanisms_remedies_and_trades_unions._eti._aidan_mcquade._dec_2017_final.pdf.

can offer invaluable insights both to the persons filing the grievances and those administering the process.[22] Therefore, companies should always be required to provide unions an active and prominent role in the design and implementation of grievance mechanisms.[23] Regrettably, many companies still refuse to engage with worker representation.[24] This is unfortunate given that worker representation and collective bargaining significantly improve working conditions in the supply chain.[25]

However, it is important to recognise that in many countries not all trade unions are capable of fulfilling this role. For example, in the state of Tamil Nadu in India, most mainstream trade unions are part of political parties, which can result in a balancing of workers' needs against party or electoral interests.[26] Given this context, we believe that grassroots trade unions, community organisations, and worker collectives, both registered and unregistered, can be legitimate representatives of workers' interests.

In the following section, we use a case study of the Dindigul Agreement to show how grievance mechanisms can become effective tools for local workers and their representatives to provide their community with individualised, adaptive pathways to remediation. We furthermore argue that the involvement of organised worker representation in the form of unions or local community organisations can ensure that these grievance mechanisms are utilised to the fullest to improve the situation for workers and rightsholders on the ground.

The Dindigul Agreement: An overview

The Dindigul Agreement was signed in April 2022 to end gender-based violence and harassment (GBVH) at Eastman Exports factories in Dindigul, Tamil Nadu. The Agreement was the result of the Justice for Jeyasre campaign. Jeyasre

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22 *Ibid.*

23 S Velluti, 'Labour Standards in Global Garment Supply Chains and the Proposed EU Corporate Sustainability Due Diligence Directive', *European Labour Law Journal*, vol. 15, issue 4, 2024, pp. 822–850, https://doi.org/10.1177/20319525241239283.

24 See also S Marshall *et al.*, *Mandatory Human Rights Due Diligence: Risks and Opportunities for Workers and Unions*, RMIT University Business and Human Rights Centre, TraffLab ERC, and Labour, Equality and Human Rights (LEAH) Research Group, Monash Business School, 2023.

25 S Kuruvilla and C Li, 'Freedom of Association and Collective Bargaining in Global Supply Chains: A Research Agenda', *Journal of Supply Chain Management*, vol. 57, issue 2, 2021, pp. 43–57, https://doi.org/10.1111/jscm.12259.

26 K Kalpana, 'Defending Informal Workers' Welfare Rights: Trade Union Struggles in Tamil Nadu', *Global Labour Journal*, vol. 10, issue 3, 2019, pp. 209–228, https://doi.org/10.15173/glj.v10i3.3706.

Kathiravel, a 21-year-old Dalit garment worker at a local facility, was murdered by her supervisor in January 2021, which led to global outcries for better protection from GBVH across the region and global supply chains.[27] The Dindigul Agreement is the first enforceable brand agreement (EBA) in India and Asia with a specific focus on addressing gender and caste discrimination and violence and most closely resembles the Lesotho Agreement.[28] The Agreement fosters a cooperative remediation system involving workers, unions, and management through structured activities and pre-defined procedural guidelines. The close involvement of TTCU, a local community-based union, is a distinctive feature of the Agreement that differentiates it from the Lesotho Agreement (the first enforceable brand agreement to address gender-based violence in garment supply chains) and has been lauded as pioneering an entirely new approach to remediation.[29]

One key element of the Dindigul Agreement is the establishment of the Shop Floor Monitor (SFM) system. SFMs are workers that have completed peer educator training and work on the shop floor of the factories.[30] They are tasked with talking to all the workers on their line to monitor for issues and support workers who raise grievances. SFMs are provided with additional protections against retaliation under the Agreement and receive special training. In addition to the SFMs, there are three more reporting channels for grievances: contacting TTCU, the Dindigul Agreement staff, or the Internal Complaints Committees required under India's *Prevention of Sexual Harassment (POSH) Act* (for cases involving GBVH only). After a complaint has been filed, there are several remediation channels depending on the severity of the reported issue. As a last resort, the Oversight Committee can trigger the enforcement of outcomes vis-à-vis the corporate partners of the Agreement.

The outcomes of the Dindigul Agreement grievance mechanism are impressive. An independent progress report by Cornell University found that *all* workers who were interviewed, including those who were not directly trained, were aware of

27 Asia Floor Wage Alliance (AFWA), Tamil Nadu Textile and Common Labour Union (TTCU), and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), *Dindigul Agreement: Year 1 Progress Report*, 2023, https://laborrights.org/sites/default/files/publications/DINDIGUL%20AGREEMENT%20YEAR%201%20PROGRESS%20REPORT%202023_0.pdf.

28 J Fudge and G LeBaron, 'Regulatory Design and Interactions in Worker-Driven Social Responsibility Initiatives: The Dindigul Agreement', *International Labour Review*, vol. 163, issue 4, 2024, pp. 575–598, https://doi.org/10.1111/ilr.12440.

29 *Ibid.*

30 AFWA, TTCU, and GLJ-ILRF.

the grievance mechanism and how to access it.[31] Furthermore, 'workers express no hesitation in raising their grievances and believe that their grievances will be handled confidentially and without negative consequences'.[32] The mechanism is also perceived as 'equitable, with no discrimination based on caste, migration status, or other factors'.[33] In 2022, 98 per cent of the grievances raised were resolved.[34] While most grievances were resolved within two weeks, 20 percent of the cases were resolved within one day.[35]

Learning from the Dindigul Agreement: Observations on effective grievance mechanisms

This article employs a qualitative case study approach to examine the role of freedom of association and meaningful stakeholder engagement in enhancing grievance mechanisms. The data was collected through document analysis and via an extensive survey answered by TTCU, which was drafted with the UNGP 31 effectiveness criteria for grievance mechanisms as a baseline.[36] The survey results served as the foundation for an in-depth discussion by the authors on key concepts of effective grievance mechanisms to determine patterns, insights, and learnings from the Dindigul grievance mechanism. One of the authors is employed by TTCU and is directly involved in implementing the grievance mechanism, which emphasises local perspectives and a participatory approach to research. However, it should be noted that some aspects of the case study therefore potentially convey a subjective interpretation of the Agreement's implementation.

The following section highlights the general findings of our research. The 'Local Voices' sections showcase specific cases and/or direct quotes from TTCU representatives to provide examples of the local implementation of the grievance mechanism.

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31 P Jerrentrup and S Kuruvilla, *Dindigul Agreement to Eliminate Gender-Based Violence and Harassment: Year 2 Progress Report*, Global Labor Institute, 2024, https://asia.floorwage.org/wp-content/uploads/2024/09/Dindigul-Year-2-Final-9-4-24-1.pdf.

32 *Ibid.*, p. 11.

33 *Ibid.*, p. 12.

34 AFWA, TTCU, and GLJ-ILRF.

35 Jerrentrup and Kuruvilla.

36 OHCHR, 2011.

Trust and Accountability

It can be difficult for workers to trust grievance mechanisms. Many perceive them as impersonal boxes on walls or forms that need to be filled in. They have little belief that a submitted complaint will be taken seriously.[37] One of the key learnings of implementing the Dindigul Agreement grievance mechanism is that workers need to be convinced that a person involved in the process cares about their overall well-being. Workers' trust in the grievance mechanism is cultivated by union representatives who understand that workplace issues cannot be separated from personal or community issues, something that has remained largely undiscussed in academia so far. Often, companies will ask claimants to categorise their claims to determine eligibility of a grievance; these categories cover types of harms that are linked exclusively to the workplace. However, such a categorisation can feel superficial to workers. TTCU, as the union placed at the centre of the worker communities and grievance mechanism, has ensured a home-community-workplace linkage strategy, which has resulted in an anonymous grievance mechanism that nonetheless feels personal and rights-based to claimants. All grievances can be raised to the SFMs or TTCU staff present at the factories, without an immediate categorisation or waiving of responsibilities if the claim does not directly concern a workplace issue.

Local Voices

In one village, TTCU supported a worker, a single mother who was facing challenges with her child's education. The school started at 8 AM, but the only public bus from the village to the school arrived at 8:30 AM. Since the child could not arrive at school on time, they faced regular punishment and were on the verge of dropping out of school. The mother's factory bus came at 7 AM and dropped her off at 7 PM, leaving her unable to address the situation on a daily basis. After being asked for support, TTCU negotiated with the school, ensuring the child could arrive late without facing shame or reprimand from the school management. This small but impactful solution demonstrated to other workers that TTCU genuinely understood their daily struggles. That one successful intervention inspired five other factory workers in the village to join the union and become active members.

TTCU's independence from political parties, as well as their secured funding by members, also allows the union to prioritise workers' needs and push back against violations without fear of losing funding or political support. This results in TTCU being able to truly ensure accountability under the Dindigul Agreement vis-à-vis the supplier and even the buyer companies. As Fudge and LeBaron note, 'A large part of the distinctiveness and strength of the Dindigul Agreement is the way that it layers different types and scales of governance in

[37] Miller-Dawkins, Macdonald and Marshall.

a complementary manner.'[38] What ultimately helped build accountability is that the mechanism combines formal power (the EBA and sourcing relationships) with cultural power (public accountability and community awareness as part of grievance handling) and organisational power (union oversight). These multiple layers of accountability ensure that the grievance mechanism is not perceived as a 'punishment mechanism', but as a tool to create a culture where all grievances are taken seriously and where agreed-upon outcomes have a certain enforcement guarantee.

The Dindigul Agreement has also helped to change the power dynamics of decision-making processes in the factories by shifting them from a private, exclusionary approach to a public forum that allows for participation and transparency. Decisions affecting the factory or workers, including those originating in submitted grievances, are now discussed publicly, offering opportunities of engagement for all workers.

Local Voices

Let me tell you about the neem tree—it's become a powerful symbol of accountability. After the Agreement was signed, senior management insisted that cases involving them—unlike those concerning low- or mid-level management—had to be discussed behind closed doors. But TTCU insisted that everyone comes together under the neem tree outside the factory building for discussions about on-going cases. This public space sends a message that justice should be equal and transparent. Now that senior management faces this public accountability, it has helped to drive significant change—they don't want to be 'under the neem tree'.

Awareness and Barriers of Access

Accessibility and trust are deeply intertwined. The first step, of course, must always be to create awareness of a mechanism's existence; however, only if the mechanism is trusted to reduce and address actual barriers of access and fear of reprisals will this awareness lead to greater accessibility.[39] TTCU's outreach activities under the Dindigul Agreement have therefore been rooted in personal connections and creating community understanding of the mechanism.

Some measures proved more successful than others in building trust and encouraging workers to use the grievance mechanism. Worker-to-worker communication played an important role: when workers with successfully resolved issues shared their experiences in the villages and with co-workers, others took this into consideration. For example, when a worker received help with a sexual harassment case, she quietly told three other workers, who then felt confident to

38 Fudge and LeBaron.

39 OHCHR, 2024.

come forward with their own issues at the workplace. Community-based outreach further strengthened trust, as holding meetings in workers' villages—not just factories—ensured they felt safe to approach TTCU to discuss everything, from workplace harassment to community and family issues. Similarly, home visits proved critical, especially for more marginalised workers. In the privacy of their homes, they could speak freely about sensitive issues. Home visits also ensured that women who could not attend public meetings could still access the mechanism, while family members learnt both about their rights more broadly and the mechanism specifically. TTCU's presence at factories during regular, predictable times meant that workers always knew where to find them, allowing for quick conversations during shift changes. These encounters not only provided simple, clear information about rights but also helped build recognition and familiarity. Finally, weekly union dialogues with factory management offered workers a consistent opportunity to attend, share experiences, and be part of creating solutions, while also allowing smaller issues to be resolved before they escalated.

By contrast, some approaches were less effective. Formal-only approaches, such as one-time training sessions without follow-up, failed to build trust. Presentations about workers' rights that relied on legalistic language did not connect with the realities of workers' daily lives and therefore did not resonate. Similarly, the work-home dynamic created challenges: treating workplace issues as separate from domestic or community issues felt artificial to workers, particularly when caste-based discrimination or gender-based violence affected them across both domains.

Local Voices

The key difference to other mechanisms is that we build awareness through relationships and practical problem-solving, not just information sharing. Workers need to see that we understand and can help with their real-life challenges before they trust us with more serious workplace issues. We had a case of a worker who lost money at the workplace that she had saved for her children's school fees. In a traditional grievance system, this might not even be considered a workplace issue. But let me break down how we handled it and why it mattered: first, she was too scared to make a formal complaint, thinking she would be blamed for carelessness. We helped her document exactly when and where she last had the money and worked with management to make an announcement that the CCTV footage will be checked, and within 30 minutes the money was found lying close to her production line. After this case was resolved, a few women workers from her area became more active in the union. They saw that we take every worker's problem seriously, no matter how small, stay with an issue until it is resolved and protect workers from potential blame or retaliation.

TTCU has also worked with the other stakeholders under the Agreement to ensure that the grievance mechanism addresses barriers of access. For example, through the SFMs, it is possible for non-literate workers to submit complaints. There is also support for workers who speak other languages, especially Odia and Hindi. Additionally, grievances can be submitted to TTCU outside of working hours.

The risk of retaliation is particularly heightened when grievances are filed against higher-ranking officials like human resources or production managers, given their significant power within the factory hierarchy. Therefore, a key strategy in preventing retaliation is maintaining worker anonymity whenever possible. Unless personal information is essential to address a specific case, worker identities are protected by TTCU. In official records shared with the other stakeholders of the Dindigul Agreement, worker names and identification numbers are withheld—this sensitive information is accessible only to TTCU, creating an additional layer of protection that a community-based union is uniquely positioned to provide.

Local Voices

A pivotal early test of the Agreement's ability to protect workers from retaliation came shortly after it was signed, when seven workers faced retaliation for attending a union meeting. On the next working day, management had arbitrarily transferred them from their original production lines and units—a classic form of workplace retaliation. We immediately engaged directly with senior management, resulting not only in the workers' reinstatement to their original positions but also in a joint statement between union and management. This statement, read to all factory workers and management, explicitly affirmed workers' Freedom of Association rights and declared a zero-tolerance policy for retaliation. The incident proved transformative. By addressing retaliation head-on and securing a public commitment from management, with a joint statement read in Tamil, Odia, and Hindi during work hours to all workers by a representative from the union and the management, TTCU established a powerful precedent. Since then, instances of retaliation have significantly decreased, particularly for workers raising issues through union channels. The success of this case demonstrated that with strong union protection, clear agreements in place, and robust confidentiality measures, workers can exercise their rights without fear of punishment. It also highlighted the importance of addressing retaliation attempts immediately and publicly to create lasting cultural change in workplace dynamics.

Once workers see complaints being addressed effectively and fairly, it creates a positive ripple effect throughout the workplace. The visible success stories help break down initial hesitation or scepticism about the grievance process, as workers can see tangible evidence of the mechanism delivering results. When workers share their experiences informally with colleagues, it creates organic awareness through peer networks, as workers often trust the experiences of their peers more than formal communication. The combination of visible and successful resolutions and peer validation creates a self-reinforcing cycle where increased trust leads to greater utilisation of the mechanism, which in turn leads to more positive resolutions and further strengthens accessibility and awareness.

Clarity on Procedures and Outcomes

The Dindigul Agreement Year 1 Report appendix details the formal grievance policies and processes of the mechanism, providing a template for handling

complaints based on severity.[40] However, TTCU realised that the issues raised through the mechanism are diverse and complex, requiring flexible application of these guidelines. The actual resolution process involves collaborative decision-making between the different stakeholders of the Agreement, who work together to determine appropriate responses based on each case's specific context.

There is also an adaptation to workers' preferences for verbal communication over written procedures. Rather than expecting workers to navigate written policies, the system operates primarily through trusted intermediaries who are trained to communicate clearly and consistently about the procedure and outcomes of the grievance mechanism. The SFMs serve as the first point of contact, explaining processes and potential remedies in workers' preferred language, whilst senior union leaders provide guidance on grievance procedures and potential outcomes. A dedicated documentation officer keeps detailed written records, which are reviewed by the Agreement's oversight committee. This dual approach—verbal accessibility for workers combined with rigorous documentation for oversight—creates a system that is worker-friendly, but nevertheless maintains standardised, and thus predictable, procedures. TTCU's structured weekly presence and dialogue with management allows for a framework for swift grievance resolution, ensuring that all complaints are addressed in a timely manner. Even in more complex cases involving GBVH that require longer investigation periods or involvement of the Agreement signatories, the system ensures immediate protective measures are implemented promptly. When serious complaints arise, support structures are activated, such as the transfer or suspension of alleged perpetrators.

Workers are informed about potential remedial outcomes of the mechanism through a system that prioritises verbal communication while maintaining robust documentation. The Dindigul Agreement categorises violations by severity, with categories 1–3 addressing sexual harassment under the POSH Act and Category 4 covering Freedom of Association issues. This structured approach helps workers understand the severity of different violations and the available remedial outcomes. Through regular training on the Dindigul Agreement and its remedial actions for different types of grievances, workers can understand what to expect while having consistent access to trusted representatives who can explain outcomes in accessible terms. While workers are encouraged to express their desired outcomes freely, TTCU also plays an important role in managing expectations and facilitating realistic solutions. The focus remains on finding constructive solutions that address workers' legitimate concerns while ensuring the mechanism's practical sustainability and support from the factory management.

[40] AFWA, TTCU, and GLJ-ILRF.

Regarding outcome enforcement, there are clear escalation pathways in the Agreement to handle potential resistance to implementation of agreed-upon outcomes, including the involvement of senior company management and the Agreement's Oversight Committee.[41] As a final measure, though not yet required so far, the Agreement includes the ultimate deterrent—brands potentially reconsidering their sourcing relationships if supplier factories fail to implement agreed outcomes.[42]

Addressing Power Imbalances

A key challenge for grievance mechanisms is the inherent power imbalances between (potential) claimants and those administering the grievance mechanism, as well as the power imbalances inherent to the claim (e.g., complaining about a supervisor's behaviour).[43]

TTCU believes that many critical workplace issues, particularly those involving verbal harassment and favouritism, would likely never be addressed without the Dindigul Agreement, as traditional human resources departments often dismiss these as minor concerns despite their serious impact on workers' mental well-being.

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TTCU confronted a subtle but pernicious form of gender-based harassment involving a manager, who had established a discriminatory system where workers who displayed submissive behaviour were rewarded with preferred job assignments. Workers who maintained professional boundaries and refused to engage in this inappropriate dynamic faced punishment through constant reassignment to different roles, creating instability and stress in their work lives. This case was especially important because it exemplifies a form of harassment that traditional grievance mechanisms often fail to capture or address. The behaviour wasn't overt sexual harassment or explicit abuse, but rather a sophisticated form of power manipulation that exploited gender dynamics. TTCU's intervention was to recognise and name this behaviour as a form of gender-based harassment, address the subtle power dynamics that often go unchallenged in factory settings, and establish that maintaining professional boundaries shouldn't result in workplace punishment.

In another case, a worker raised a grievance that a line leader was scolding workers for bringing up complaints. TTCU ensured this was handled constructively by the Human Resources manager without causing undue conflict. The line leader was given an oral warning and educated on

41 AFWA, TTCU, and GLJ-ILRF. See also Fudge and LeBaron.

42 AFWA, TTCU, and GLJ-ILRF.

43 Gläßer *et al*. See also F Haines and K Macdonald, 'Nonjudicial Business Regulation and Community Access to Remedy', *Regulation & Governance*, vol. 14, issue 4, 2020, pp. 840–860, https://doi.org/10.1111/rego.12279.

workplace harassment policies, specifically emphasising the prohibition of verbal harassment and the importance of respectful communication. The involvement of TTCU, alongside the SFMs, provided workers a safe and accessible channel to voice their concerns independently of the line leader without fear of retaliation. This balanced the inherent power disparity between workers and their supervisor, allowing the grievance to be heard and addressed.

When workers are dissatisfied with either the procedure used to address their grievance or the outcome of a grievance handling process, they have access to several levels of appeal through the Dindigul Agreement's multi-tiered set-up. This results in workers not being dependent on one person or process to have their grievances addressed, thus reducing power imbalances or dependencies that might arise from TTCU's central role in implementing the grievance mechanism. The first step allows workers to bring their concerns back to the union-management dialogue, where the case can be reviewed and discussed with fresh perspectives. Workers can also approach Human Resources directly with their concerns, bypassing the union structure completely, or address their complaint to the Dindigul Agreement staff. Additionally, workers retain their full rights to pursue grievances through government-established processes and legal mechanisms. By providing multiple independent pathways for raising concerns, the system ensures that scepticism or concerns about any available channel, including TTCU, do not prevent workers from seeking support. This reduced workers' dependence on a single entity or person to have their grievances addressed in an equitable manner.

Access to Information

While workers technically have access to documentation and information about their grievances submitted at any time, the reality is that the mechanism under the Dindigul Agreement operates primarily through verbal communication and relationships. This reflects the cultural context and workers' comfort levels with documentation. Most workers prefer to receive updates through direct conversations with their SFMs or union leaders during factory visits. Formal documentation and paper-based systems are still relatively new concepts for many workers in Tamil Nadu, where most employees are first-generation industrial workers with limited prior exposure to formal grievance processes. Historically, workplace interactions and dispute resolution in the Tamil Nadu garment industry have been rooted in trust-based relationships rather than formalised systems (even employment contracts in many garment factories continue to be based on verbal agreement). Written records and technology-based grievance systems remain secondary to these personal interactions. Many workers, particularly those with limited literacy or digital access, find documentation unfamiliar or even intimidating. Instead, they rely on these informal yet structured networks of communication, where grievances are tracked and followed up on through in-person conversations during factory visits, tea breaks, or at union meetings.

This shows how grievance mechanisms need to adapt to local cultural contexts and worker preferences rather than imposing formalistic systems that might feel alien or intimidating to workers. However, this more informal system does carry the risk of over-reliance on individual SFMs or union staff, which in turn might result in data being lost or not communicated consistently. TTCU tries to maintain a balance between formal documentation for accountability and the verbal, relationship-based communication that workers trust and prefer. The role of the documentation officer is an important addition to the Agreement, ensuring that information is collected and stored centrally and can be used for independent assessment and the compilation of the annual progress reports. The documentation officer also assists workers in writing down a complaint when they are uncomfortable doing so themselves.[44]

Local Voices

TTCU prioritises communication in workers' preferred languages and local dialects, making sure updates and information are easily understood. Sometimes, this means explaining things multiple times or in different ways to ensure clarity. We have learnt that using relatable examples and simple terms is more effective than formal language. We believe that the strength of our system lies in its informality and accessibility. Workers do not need to schedule formal meetings or file paperwork to get updates—they can simply speak to their SFMs during their regular workday or approach union leaders during their weekly factory visits. This constant availability of trusted points of contact helps workers feel supported throughout the grievance process.

Human Rights-compatible Outcomes and Empowerment

The Dindigul Agreement grievance mechanism has adopted the definition of GBVH from ILO Convention 190 and integrated the requirements of India's POSH Act to safeguard employees from harassment and violence and thus aligns with prevalent human rights standards in the area of GBVH.[45]

The Agreement furthermore takes a comprehensive approach to the evaluation of grievance outcomes that goes beyond individual satisfaction to consider broader workplace and community impacts on human rights. While the claimant's satisfaction with the resolution is important, the evaluation process applies a wider lens that considers multiple dimensions: the immediate needs and safety of the affected worker, potential implications for the broader worker community, and the effectiveness of outcome enforcement. This evaluation approach ensures that resolutions not only address individual grievances but also contribute to creating safer, more respectful workplace environments overall.

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44 Jerrentrup and Kuruvilla.

45 *Ibid.*

The potential of grievance mechanisms to advance human rights beyond an individual case has so far been rarely discussed in academia.[46] The above-mentioned home-community-workplace linkage strategy employed by TTCU has resulted in human rights violations being not just recognised and addressed in the workplace, but in the wider lives of the workers at the production sites. Whilst we do not believe that this should be a (mandatory) assessment criterion for effectiveness of a grievance mechanism, we nevertheless share this perspective. If grievance mechanisms can be 'rights-advancing' in addition to 'right-compatible', they could become powerful engines of social transformation.

Local Voices

One of the most powerful examples of the broader impact of the grievance mechanism is in addressing domestic, gender-based violence. This was evident when a worker faced violence at home from her husband. An SFM not only helped her navigate the legal system but demonstrated true solidarity by sharing her workload during her crisis. When her husband's behaviour threatened the woman's job security, the SFMs intervened with management on her behalf, helped file a police complaint, and ensured she and her children could live in their house without facing harassment.

In another case, when a worker revealed she was being drugged and repeatedly assaulted by her husband, the response also demonstrated how workplace protections can extend into domestic spaces. An SFM mobilised comprehensive support—providing shelter at the union office, arranging legal support, coordinating counselling services, and working with factory management to ensure safe transportation. This allowed the claimant to continue working, showing how workplace support systems can provide crucial assistance in personal crises.

The confidence gained through the grievance mechanism has also empowered women to challenge broader social discrimination. After years of being forced to sit on the factory bus floor because of her caste, a Dalit[47] worker successfully challenged this discrimination with union support, ensuring no other Dalit woman would face similar treatment on that route. In another case, a worker who had been barred from her family temple for ten years after marrying across caste lines used her knowledge and confidence gained as an SFM to successfully appeal this discrimination through legal channels.

Women who have gained confidence through the SFM system now also approach community leaders with the same assurance they show on the factory floor. This was powerfully demonstrated in one remote village facing severe water scarcity. Women workers, already managing factory work and household duties, used their organising skills to demand change from village authorities regarding their accessibility to water. When initial demands went unheard, they strategically threatened to escalate the issue to district level authorities. The water supply improved within

[46] For a discussion on how grievance mechanisms can lead to societal changes through the adoption of a continuous system of learning, see Gläßer *et al.*

[47] The lowest stratum of castes in the Indian subcontinent.

two days, transforming their daily lives and reinforcing their collective bargaining power.

Systemic Learning and Improvement

The union leaders at the factory maintain work diaries where they record feedback from workers who have used the grievance mechanism. This grassroots data collection happens naturally through their regular interactions with workers in villages and at the workplace. During weekly sessions at the union office, these leaders bring their diaries and share the feedback they have collected. Additional insights are also gathered during regular village meetings, where workers often feel more comfortable speaking openly about their experiences with the grievance process.

As part of its monitoring practices, TTCU systematically evaluates worker experiences with the grievance mechanism through regular check-ins. These assessments capture a range of indicators, including the extent to which workers felt comfortable filing complaints and whether they understood the procedural steps involved. Attention is also given to whether workers received timely updates on the progress of their cases, and whether confidentiality was perceived as adequately protected. Monitoring further addresses potential negative consequences, such as experiences of retaliation, alongside positive outcomes, such as levels of satisfaction with the resolution. Finally, TTCU assesses workers' willingness to use the mechanism again in the future and solicits suggestions for improvement. Together, these measures provide valuable feedback for ensuring that the mechanism remains both effective and trusted.

Local Voices

An example of how data and experiences inform improvements to the grievance mechanism comes from the case of migrant worker representation. Through regular monitoring and feedback, it was discovered that the SFMs were not effectively able to represent Jharkhandi Adivasi[48] *workers, creating a gap in the grievance mechanism's accessibility. This insight led to a significant structural change: the implementation of a more inclusive selection process for SFMs ensuring representation from each migrant community.*

Social Dialogue and Stakeholder Engagement

Local Voices

Social dialogue can be difficult, particularly when engaging with the local management of the supplier factories in the aftermath of sensitive and intense campaigns or serious human rights violations. The process of building trust between non-unionised workers and the union, and then

[48] Workers from an indigenous community from Jharkhand state.

the union and the factory management, is gradual but fundamental to success. Initially, workers were reluctant to voice their concerns in meetings with management, fearing potential retaliation. We began by organising small group discussions in their villages, creating safer spaces where they felt comfortable sharing their thoughts. We then took these concerns to the management without sharing the names and details of the workers. We solved many grievances in this manner. This approach steadily built their confidence and now many women who previously remained silent even in village level settings actively participate in factory negotiations 'under the neem tree', directly engaging with the management. One of the most fascinating aspects of this work is observing how our personal backgrounds and individual characters influence workplace dynamics. Our upbringing and deeply embedded patriarchal attitudes create patterns that resist quick change. Initially, male supervisors found it challenging to accept feedback from women workers or union representatives. However, through sustained dialogue and awareness sessions, we've witnessed significant attitude shifts, with some of these supervisors now actively seeking input from women workers on how to run their units. Some managers used to think Dalit women could not do any 'intellectual' work around planning production, but the dialogue process made them understand the depth of knowledge that Dalit women have about running the factory, and this has challenged supervisors' casteist assumptions.

Clear communication with workers plays a vital role in all social dialogue processes, not just those relating to the grievance mechanism. Prioritising local dialect and simple, accessible language when engaging with workers ensures meaningful participation can occur as part of the daily exchange between local management, the unions, and the workers. Maintaining the delicate balance between worker solidarity and constructive management dialogue also requires careful calibration. TTCU has learnt to advocate firmly for important issues while always prioritising a respectful approach towards the factory leadership. This balanced strategy has enabled the union to achieve significant improvements in working conditions while preserving positive industrial relations with the local supplier.

Local Voices

Our experience has shown that social dialogue must primarily function as a local process rather than being solely top-down. The Dindigul Agreement exemplifies this approach, prioritising local engagement while limiting higher-level processes with brands, supplier owners, and international non-governmental organisations to quarterly reviews. This locally focused system proves both more effective and more economical than top-heavy alternatives. Community-based trade unions understand the daily experiences, cultural nuances, and specific challenges their members face. The workplace reflects our society's complex social dynamics—caste, class, and gender hierarchies are all present and impact how people interact and how problems are addressed. Companies must be sensitive to these intersecting identities and power structures. For instance, in our experience, a woman worker from a marginalised caste faces different challenges than others in accessing a grievance mechanism, and these nuances must be understood for meaningful dialogue. She might hesitate to report harassment to a grievance committee member who belongs to a dominant caste, fearing her complaint won't be taken seriously or might be dismissed. She might face additional intimidation if the perpetrator is from a dominant caste. Even within worker groups or in an

interaction with a Human Resources manager, these social dynamics can affect who speaks up in meetings, whose opinions are valued, and how problems are prioritised.

The Dindigul Agreement has created a meaningful bridge between workers and global buyer companies. First and foremost, workers now know which brands are sourcing from their factory, which is not very common in Tamil Nadu garment factories. This transparency is crucial because it fundamentally shifts power dynamics in the workplace. When workers know which brands they are producing for, and understand these brands' commitments to ethical sourcing, they have stronger leverage in workplace negotiations and greater confidence in asserting their labour and human rights. Through the grievance mechanism, workers know they have a channel to reach these global companies if serious issues arise. This access is not just theoretical—workers understand the practical steps they can take to escalate issues when necessary. The mechanism creates a clear line of communication that extends from the factory floor to global boardrooms, making workers feel less isolated and more connected to the broader supply chain.

Local Voices

Sustainable change comes from empowering local actors. When workers and local management develop their own solutions, they are more likely to be effective and lasting. For companies in the Global North, this means shifting from a controlling to a supporting role. Their resources and influence should strengthen local capacity rather than replace it. This might include providing training requested by local unions and suppliers, supporting documentation of local best practices, or helping create spaces for worker-management dialogue.

The TTCU Organising Model as a Catalyst for an Effective Grievance Mechanism

The positive track-record of the Dindigul Agreement grievance mechanism is not just the result of having formalised processes in place, and neither can the involvement of any union or community organisation ensure these successes will be automatically replicated in another setting. TTCU's model integrates grievance redressal into broader systems of worker organisation, trust-building, and collective advocacy, which in turn can result in a mechanism that develops organically to fulfil many criteria for grievance mechanisms found in due diligence legislation. Any union or organisation involved in a mechanism needs to face some scrutiny themselves, since they are not immune to reproducing the discrimination or dependencies prevalent in the supply chain and wider society. TTCU's background and standing needs to be considered when reflecting on the implementation of the grievance mechanism examined in this article.

As mentioned above, the recognition of the interconnections between the workers' domestic, workplace and social realities is crucial to the success of the

Dindigul Agreement grievance mechanism. Building legitimacy through a culture of community care and engagement has proven essential to build awareness of and reliance on the mechanism. Ultimately, this integration has led not just to workplace improvements, but to a wider societal change regarding discrimination and GBVH across Tamil Nadu. TTCU's decade-long presence in Dindigul has cultivated organic trust among workers, enabling the union to act as a credible and legitimate intermediary between workers and employers. TTCU's emphasis on participatory dialogue ensures that grievance resolution is not a top-down bureaucratic process but a collaborative and evolving practice. The mechanism is embedded in continuous learning, using each case as an opportunity to refine processes and build institutional capacity for addressing future challenges. Its funding through workers' membership fees creates a sense of ownership and accountability for workers, as well as an independence from external sources of funding. Additionally, since TTCU leadership comes directly from the garment worker community, they can ensure that they and their representatives share the lived experiences of the workers they represent. This proximity encourages workers to engage with the union and the mechanism. It also means grievances are addressed in ways that reflect workers' priorities and their realities, rather than being filtered through external intermediaries.

Unlike many mainstream unions, TTCU is explicitly committed to gender and caste equity within its internal structures, promoting Dalit women into leadership roles and enforcing a zero-tolerance approach to discrimination. This not only reflects internal accountability but also signals to workers, particularly those historically excluded from union spaces, that the grievance mechanism is designed to serve their needs fairly and transparently.

Conclusion

TTCU's organising model and their involvement in the implementation of the Dindigul Agreement grievance mechanism can be viewed as agenda-setting,[49] where the grievance mechanism represents an equitable enforcement tool that is backed by the local supplier company and achieves tangible and positive outcomes for workers and their wider community. The Agreement also showcases how grievance mechanisms can foster company-community relations, acting as an engagement tool, a means of conflict management, and part of company–community agreement-making[50] that can serve as an example of how to implement meaningful stakeholder engagement in the supply chain. Indeed, 'the Dindigul Agreement is […] capable of meeting the labour rights requirements of the most

[49] Grama.

[50] Marshall *et al.*

robust MHRDD laws'[51] and thus provides an intriguing case study not just for scholarly debate, but also for corporate practice and advocates for more effective remedial justice in supply chains.

In and of itself, the involvement of worker representation does not resolve all challenges experienced in the process of designing and implementing grievance mechanisms, nor do we wish to present the Dindigul Agreement grievance mechanism as one without flaws. Our analysis is meant to highlight how grievance mechanisms operate in local realities and how our understanding of them can be deepened by carefully studying the cultural and local contexts they operate in, and most importantly, the outcomes they produce for workers.[52]

Creating an environment where workers feel safe enough to use a mechanism, where local factory management sees value in supporting it, and everyone trusts that it will be fair and effective seems a dauntingly difficult task. No such mechanism can be created out of a vacuum and be perfect at inception. Implementing a grievance mechanism is an iterative process;[53] simply copying written policies or procedures cannot replicate an effective mechanism, even though such an action can indeed provide a mechanism with a strong basis. We argue that having a local community organisation or union involved at the heart of the mechanism can also provide a stable foundation from where the grievance mechanism can grow and evolve with the agenda of providing effective remedial outcomes and fostering company-community relationships.

One important contribution that companies can make to strengthen the impact of grievance mechanisms and their outcomes is to establish long-term sourcing relationships with local suppliers. Without them, suppliers have little incentive to make or maintain improvements in working conditions or maintain an effective grievance mechanism.

Creating effective grievance mechanisms can be challenging, but this should not lead to neglecting their potential both as a driver and a source of societal transformation and human rights activism. We hope that this article provides an instructive example of how stakeholder engagement can be a catalyst for effective grievance mechanisms and serve as inspiration for scholars and practitioners to prioritise local voices and realities.

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51 Fudge and LeBaron.

52 See also Harrison and Wielga.

53 See also Gläßer *et al*.

Mareike Standow is a research fellow and PhD student at European University Viadrina, where she leads a research project funded by the German Research Foundation (DFG) on non-judicial grievance mechanisms and access to justice for vulnerable groups. Email: standow@europa-uni.de

Nandita Shivakumar is a researcher from India, specialising in the intersection of labour rights, technology, and fashion supply chains. Email: nanditashiva@gmail.com

Thivya Rakini is the State President of the women-led Tamil Nadu Textile and Common Labour Union (TTCU). Email: info.ttcu@gmail.com

Labour Movement Ecosystems and Gendered Bargaining: Learning from agreements to prevent gender-based violence and harassment in Asian garment supply chains

Anannya Bhattacharjee

Abstract

This article highlights two global supply chain agreements to tackle gender-based violence and harassment in the garment industry—the Dindigul Agreement to Eliminate Gender-Based Violence and Harassment in India (2022), and the Central Java Agreement for Gender Justice in Indonesia (2025). The article is grounded in my experience negotiating and implementing both agreements. Drawing on and contributing to feminist theoretical advances in industrial relations, I argue that effective anti-GBVH supply chain agreements in the garment industry must be founded in freedom of association and embedded within *labour movement ecosystems*. I introduce the concept of *labour movement ecosystem* as a framework for analysing labour movement organisations and interrelationships, and the resulting impact and interactions within global supply chains, leading up to the signing and implementation of such agreements.

Keywords: labour movement ecosystems, gender-based violence and harassment, Dindigul Agreement, Central Java Agreement, garment industry, global supply chains, freedom of association, collective bargaining, industrial relations

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Introduction

Addressing gender-based violence and harassment (GBVH) in garment global supply chains requires a transformative reworking of traditional unionism and industrial relations theory and practice. Both these transformations require *labour movement ecosystems*, a concept that I introduce and elaborate in this essay through the analysis of two global supply chain agreements.

The Dindigul Agreement to Eliminate Gender-Based Violence and Harassment in India, signed in 2022, and the Central Java Agreement for Gender Justice in Indonesia, signed and publicly announced in 2024-2025, two anti-GBVH global supply chain agreements in the garment industry, are discussed in this essay.[1] Recent scholarship shows that the Dindigul Agreement (DA) provides a powerful methodology, based in freedom of association, for the remediation and prevention of GBVH in garment factories.[2] Furthermore, when women workers trust a workplace's genuine commitment to prevent GBVH, other workplace issues get addressed as well and factories benefit from reduced attrition and increased productivity.[3]

In addition to the contents of the agreements, it is important to study ecosystems and processes that surround them. The article begins by outlining how gender and violence are pervasive aspects of global garment supply chains. It then defines the term *labour movement ecosystem* and lays out in some detail how the DA and the Central Java Agreement (CJA) are institutional innovations in the labour movement. This is followed by a reflection on how the learnings from the agreements can revitalise the labour movement and its practices, and a conclusion.

1 Since there have been three assessment reports of the impact of the Dindigul Agreement, the article focuses on it more than the Central Java Agreement, which is newer. However, the implications can be extended to it too.

2 J Fudge and G LeBaron, 'Regulatory Design and Interactions in Worker-driven Social Responsibility Initiatives: The Dindigul Agreement', *International Labour Review*, vol. 163, issue 4, 2024, pp. 575–598, https://doi.org/10.1111/ilr.12440.

3 Asia Floor Wage Alliance (AFWA), Tamil Nadu Textile and Common Labour Union (TTCU), and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), *Dindigul Agreement: Year 1 Progress Report*, 2023; P Jerrentrup and S Kuruvilla, *Dindigul Agreement to Eliminate Gender-based Violence and Harassment: Year 2 Progress Report*, Global Labor Institute, 2024; S Kuruvilla, *The Dindigul Agreement to End Gender-based Violence and Harassment: Has it worked?*, Global Labor Institute, 2025.

Gender and Violence in Global Garment Supply Chains

In the twentieth century post-colonial world, while 'developing' countries focused on advancing industrialisation, 'developed' countries focused on maintaining advantages secured during the welfare state era. The 'Global North' multinationals discovered the gains of outsourcing to the cheaper 'Global South', leading to global capital mobility radically re-structuring corporate and financial practices.[4] This paradigm of global outsourcing from the North and export-led industrialisation in the South resulted in global supply chains (global production networks).

Taking advantage of a brand's exclusive and dual access to consumers in high-income home regions and to cheap labour in low-income production regions, apparel brands from the United States and Europe established their global garment supply chains.[5] By suppressing retail prices and production costs, fashion brands encouraged consumers to buy often and more while underpaying production workers and violating their freedom of association.[6] Presently, Asia is the largest garment production region, and the garment industry is one of the top employers.[7]

While the apparel industry has created millions of jobs, especially for women, in the Global South, instead of lives of dignity and decency most garment workers endure penury and debt.[8] As Asian governments and supplier companies compete

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4 I use 'developing' and 'developed' as historical references, while noting their contestations by scholars. See, for example, W Rodney, *How Europe Underdeveloped Africa*, Bogle-L'Ouverture Publications and Tanzanian Publishing House, London and Dar-Es-Salaam, 1973. I use more frequently 'Global North' and 'Global South'—terms that gained currency later.

5 A Bhattacharjee and A Roy, 'Bargaining in the Global Commodity Chain: The Asia Floor Wage Alliance', in K van der Pijl (ed.), *Handbook of the International Political Economy of Production,* Edward Elgar Publishing, Cheltenham, 2015; A Bhattacharjee and A Roy, 'Bargaining in Garment GVCs: The Asia Floor Wage', in D Nathan, M Tewari, and S Sarkar (eds.), *Labour in Global Value Chains in Asia*, Cambridge University Press, 2016, pp. 78–93, https://doi.org/10.1017/9781316217382.006.

6 D Nathan *et al.*, *Reverse Subsidies in Global Monopsony Capitalism. Gender, labour, and environmental injustice in garment value chains*, Cambridge University Press, 2022; M Anner, 'Squeezing Workers' Rights in Global Supply Chains: Purchasing practices in the Bangladesh garment export sector in comparative perspective', *Review of International Political Economy*, vol. 27, issue 2, 2020, pp. 320–347, https://doi.org/10.1080/09692290.2019.1625426.

7 ILO, 'Asia still "garment factory of the world" yet faces numerous challenges as industry evolves', International Labour Organization, June 2022, https://www.ilo.org/resource/news/asia-still-garment-factory-world-yet-faces-numerous-challenges-industry.

8 S Barrientos, *Gender and Work in Global Value Chains: Capturing the gains?*, Cambridge

for global brands' cost-suppressive manufacturing contracts, supplier factories pass on their financial deficit to workers through poverty wages, coercive supervisory and managerial practices, and retaliation against unions.[9] Governments respond to brands' imposed race to the bottom through competitive de-regulation and weakening of labour laws and standards.[10] The poor quality of these jobs and the fragility of workers' survival, starkly exposed during the Covid-19 pandemic, demonstrate the exploitative structure of global supply chains.[11]

The contracting practices imposed by fashion brands on their suppliers are sustained by suppliers' coercive industrial relations, exemplified by GBVH against the predominantly female workforce, which enable suppliers to meet tight production deadlines. GBVH-driven supervisory practices include physical, sexual, and mental abuse, use of sexual favours, and punitive restrictive access to toilets and drinking water (which particularly torment pregnant or menstruating women).[12] The manufacturing contracts between brands and suppliers shape the employment contracts between suppliers and production workers.[13] In short, brands in global garment supply chains determine labour relations in supplier factories.

Labour relations in garment supply chains leverage social relations in the labour market, further enabling coercive control by having management and supervisors from socially dominant groups supervise shopfloor workers recruited from vulnerable communities.[14] In an industry that primarily employs women as sewing machine operators, men are typically supervisors and machinists (who can wield power by refusing to repair a woman's machine without favours). Patriarchal power

Gender-Based Violence in Asian Garment Supply Chains', in S Saxena (ed.), *Labor, Global Supply Chains, and the Garment Industry in South Asia: Bangladesh after Rana Plaza*, Routledge, New York, 2020; N Kabeer, *The Power to Choose: Bangladeshi Women and Labour Market Decisions in London and Dhaka*, Verso, London, 2000.

9 Nathan *et al.*

10 AFWA, *Garment Workers Under Threat from Labour Deregulation in Asia*, AFWA, 2021.

11 AFWA, *Money Heist: Covid-19 wage theft in global garment supply chains*, AFWA, 2021.

12 AFWA *et al.*, *Gender Based Violence in the H&M Garment Supply Chain*, AFWA, 2018; AFWA *et al.*, *Gender Based Violence in the Walmart Garment Supply Chain*, AFWA, 2018; AFWA *et al.*, *Gender Based Violence in the GAP Garment Supply Chain*, AFWA, 2018.

13 AFWA, *Joint Employer Liability Legal Strategy. Holding global apparel brands legally liable for labour rights violations in their supply chains in Asia*, Legal Brief, 2021; GLJ, AFWA, and Portland JWJ, *Complaint to the Oregon Bureau of Labor and Industries: Wage and employment violations in the global supply chains on Nike Inc.*, 29 May 2025.

14 Burawoy observes: 'Capitalism no longer homogenizes identity (if it ever did), but exploits and recreates heterogeneities, differences, whether ethnic, racial, or gender.' M Burawoy, 'Marxism after Communism', *Theory and Society*, vol. 29, no. 2, 2000, pp. 151–174, https://doi.org/10.1023/A:1007065023741.

dynamics involving GBVH-based supervisory practices amplify management control over women. This GBVH on the shop floor is often bolstered by male company drivers during commutes, domestic violence in the home, and company surveillance in the community.

The contracting practices of brands lead to 'industrial and factory-level practices that drive informal employment', which, in turn, undermine laws and standards for millions of women workers, and increases the risk of GBVH.[15] The twin phenomena of brand-driven global supply chains and intentional workforce recruitment that leverages oppressive social relations (such as patriarchy) results in institutionalisation and normalisation of oppressive gendered industrial relations practices.

Labour Movement Ecosystems: Beyond traditional unionism

In the context of the two agreements discussed in this essay, I argue that effective anti-GBVH supply chain agreements in the garment industry must be grounded in freedom of association and embedded within *labour movement ecosystems.* Both agreements are the products of relatively new (as in, from the last few decades) phenomena in labour movements, exemplifed in the global garment industry. I introduce the term *labour movement ecosystems* to refer to these phenomena.

The term *labour movement ecosystems* captures the evolution of constellations of diverse labour and allied organisations, and their collaborative practices within an intersectional frame.

This essay provides a multi-scalar analysis of *labour movement ecosystems* in global supply chains, which includes unions, labour and human rights organisations and alliances, and transnational labour allies. Such ecosystems are critical to the building of necessary movement power for achieving these agreements in the context of garment supply chains.

These *labour movement ecosystems* point the way for meaningful tackling of GBVH in the garment industry. The two agreements show that GBVH prevention in garment global supply chains requires two transformations to which *labour movement ecosystems* contribute: an understanding of the labour movement that goes beyond traditional unionism and the development and deployment of intersectional perspectives.

[15] AFWA, *Threaded Insecurity: The spectrum of informality in garment supply chains*, AFWA, 2024.

I use the term *labour movement ecosystem* to draw attention to and provide insights into the ecosystems of manifold labour movements and allied institutions that interact and collaborate, are responsive to workers' complex inter-connected realities, and have a shared goal of strengthening worker and union power in the context of global industry dynamics and economic structures. Such ecosystems have the potential to build a refreshed, expansive, and inclusive labour movement that can also become a force for social movements beyond the workplace.[16]

The Dindigul and Central Java Agreements as Institutional Innovation

In the context of globalised capitalism, employment relations at the enterprise level cannot be understood in isolation from business and production strategies and methods of corporate governance.[17] The challenge is 'to take into account the increasing importance of multinational corporations and supply chains that extend beyond national boundaries and that challenge the authority of international institutions to provide regulatory frameworks'.[18] In the absence of effective international regulatory frameworks, brands have nurtured an unprecedented multi-billion dollar industry of audit firms, consultancies, and public relations to project their compliance with laws and standards, despite repeated findings that these voluntary arrangements do not resolve the problem.[19] For this reason, labour-led enforceable supply chain agreements, including the Bangladesh Accord,[20] the Lesotho Agreement,[21] and the Dindigul and Central Java agreements, discussed herein, are critically important and worthy of study.

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16 Erickson and Kuruvilla state, 'The extent and nature of system "transformation" cannot be evaluated by considering the changes in particular institutions (such as bargaining structure) in isolation, or without consideration of the *process* driving these changes.' C L Erickson and S Kuruvilla, 'Industrial Relations System Transformation', *ILR Review*, vol. 52, no. 1, 1998, pp. 3–21, https://doi.org/10.2307/2525240.

17 R D Lansbury, 'Varieties of Transformation in Industrial Relations: An international perspective', *ILR Review*, vol. 69, no. 5, 2016, pp. 1288–1294.

18 *Ibid.*

19 G LeBaron, *Combatting Modern Slavery: Why labour governance is failing and what we can do about it*, Polity Press, Cambridge, 2020.

20 J Donaghey and J Reinecke, 'When Industrial Democracy Meets Corporate Social Responsibility: A comparison of the Bangladesh Accord and Alliance as responses to the Rana Plaza disaster', *British Journal of Industrial Relations*, vol. 56, issue 1, 2018, pp. 14–42, https://doi.org/10.1111/bjir.12242.

21 Workers' Rights Watch, *Agreements to Eliminate Gender-Based Violence and Harassment in Lesotho*, WRW, 2023.

Although the DA and the CJA are signed at a particular moment in time, crystallising what has occurred and what needs to occur going forward, the labour movement ecosystems out of which these agreements emerged extend beyond that moment. The labour movement ecosystem within which these agreements are won, implemented, and replicated are 'multi-scalar' in keeping with the multi-scalar industrial relations that cut across 'numerous levels and locations in a given GVC [global value chain], ranging from the workplace to the transnational, and is dependent on the leveraging of structural labour power'.[22]

The DA and CJA illustrate the need for new bargaining structures fuelled by labour movement ecosystems characterised by multi-level, multifarious, and multi-organisational cooperation and coordination. In both cases, the labour movement ecosystems represent production workers' needs by supporting diverse and emergent modes of unionism and new labour leaders. They build Global South, labour-led, multi-level bottom-up bargaining in global supply chains along with North-South partnerships based on reciprocity and integrity.

Methodology

I write this essay as a feminist and migrant rights activist, a labour organiser and union leader across different industries (including the garment industry), a founding member and International Coordinator of the Asia Floor Wage Alliance (AFWA), an Asia-based labour alliance in eight production countries and party to both agreements, and as someone who has helped develop and implement both agreements. I have had opportunities to reflect on the diverse compositions of labour movement ecosystems and what it takes for unions to win such agreements.

My positionality as first a participant and an independent scholar reflecting on the implications of the Dindigul and Central Java agreements provides a unique vantage point for understanding the internal dynamics, tensions, and innovations within these labour movement ecosystems. The analysis is based on triangulating data and being grounded in documentation, reflection, and peer review within the broader movement over a period of time. My methods include engaged participant observation and analysis of documentation concerning the negotiation and implementation of the agreements.

In my leadership role within AFWA, I have strategised and worked with AFWA's member unions and labour organisations, such as AFWA's strategic ally Global

[22] E Josserand and S Kaine, 'Labour Standards in Global Value Chains: Disentangling workers' voice, vicarious voice, power relations, and regulation', *Relations Industrielles/ Industrial Relations*, vol. 71, no. 4, 2016, pp. 741–767, https://doi.org/10.7202/1038530AR.

Labor Justice (GLJ), and broader allies such as the Worker Rights Consortium (WRC), both of whom are relevant to the agreements under discussion. The documents relating to the two agreements were produced by AFWA and other signatories to both agreements and include meeting minutes, training curricula, grievance data, implementation reports, and communication with brands and suppliers.

AFWA and Anti-GBVH Supply Chain Agreements as Institutional Innovation

AFWA emerged as the first Global South-led labour alliance for garment unions across production countries in Asia, where most of the world's clothing is manufactured.[23] AFWA has built a union-led alliance in Asia from a wide spectrum of political traditions[24] within a shared framework—bringing together emerging, established, and independent unions, alongside aggregating and supporting labour rights organisations.

Since apparel brands base their sourcing decisions on regional rather than national considerations, AFWA builds trade union unity through its member unions in Asia's production countries to project globally a regional labour voice with unified demands for bargaining. AFWA's goal has been to build the broadest union alliance possible to demonstrate unity and power nationally and regionally, and facilitate diversity of experience, history, and leadership. It is important to note that from the time of its inception, AFWA made a political decision to not register as an International NGO. AFWA is a representative alliance of member garment unions expressed through its structures, bargaining bodies, and decision-making.

In 2019, AFWA's Women's Leadership Committee (WLC)[25] began dialogues with fashion brands on GBVH prevention after AFWA's publications demonstrated

[23] Asia Floor Wage Alliance (AFWA) is an Asia-based labour-led international alliance of unions and labour rights organisations. AFWA works across eight Asian production countries and has allied partners in Europe and US. Founded in 2007, AFWA has established precedents for the Asian and global labour movement and changed the terms of global labour organising, representation, and bargaining at an industrial level in the garment industry. A women-centred approach has been at the core of AFWA's work on living wages, GBVH, freedom of association, and global supply chain accountability.

[24] Political traditions across Cold War divisions, affiliations across the International Trade Union Congress (ITUC) and the World Federation of Trade Unions (WFTU); and independent unions.

[25] AFWA's Women's Leadership Committee is composed of women garment trade union leaders from the production countries.

GBVH in supply chains, coinciding with the first International Labour Conference on violence at work in 2018.[26] The WLC members, with AFWA support, collected evidence to show that brands' factory training programmes and voluntary initiatives achieved little by way of GBVH prevention and remediation. Most workers were unaware of such trainings, faced management disapproval for their attendance, and those who attended did not find lasting impact.

It was then that AFWA, with the WLC, began to pursue an outcome-driven bargaining methodology for a remediation and prevention system at the workplace and in the industry, based on a strategic analysis of GBVH in garment factories. The DA and the CJA are based on this methodology of GBVH prevention and remediation called the 'Safe Circle Approach' which prescribes multi-level grievance mechanisms from the shop floor to the factory-level. It also includes the concept of 'Escalation Ladder', which is based on the understanding that GBVH in the workplace escalates in intensity over time and it brings together the learnings of the women's movement and the labour movement.[27]

Key Elements of the Dindigul Agreement (India) and Central Java Agreement (Indonesia)

The Dindigul Agreement (DA) could not have been won and sustained without the labour movement ecosystem comprising the Tamil Nadu Textile Common Labour Union (TTCU), AFWA, and GLJ, spanning local, regional, and global levels. The three orgganisations were already in a collaborative relationship prior to the tragedy—the murder of Jeyasre Kathiravel, a 21-year-old Dalit woman worker at Natchi Apparel, by her supervisor[28]—that led to the agreement. In addition, during the implementation of the agreement, a key Tamil Nadu-based women's organisation, Vaanam, became part of the ecosystem and provided invaluable trainings, capacity building, investigative support for GBVH cases, and counselling for local and migrant workers and management. Labour movement ecosystems have the potential for building cross-movement synergies.

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[26] AFWA *et al.*, *Gender Based Violence in the H&M Garment Supply Chain*; AFWA *et al.*, *Gender Based Violence in the Walmart Garment Supply Chain*; AFWA *et al.*, *Gender Based Violence in the GAP Garment Supply Chain.*

[27] AFWA, *AFWA's Step-by-Step Approach to Prevent Gender-Based Violence*, AFWA, 2019. These agreements also incorporate learnings from the Lesotho Agreement won in 2019.

[28] A Kelly, 'Worker at H&M supply factory was killed after months of harassment, claims family', *The Guardian*, 1 February 2021, https://www.theguardian.com/global-development/2021/feb/01/worker-at-hm-supply-factory-was-killed-after-months-of-harassment-claims-family.

The DA is composed of two interlocking agreements covering three levels of industrial relations in the global garment supply chain. One agreement is between the union and management (TTCU and Eastman Exports) witnessed by regional and global labour organisations (AFWA and GLJ). The other is a global agreement between all labour parties (TTCU, AFWA, GLJ), global brands (H&M, Gap, PVH), and supplier (Eastman).

Many of the workers in the Natchi Apparel factories (the set of Eastman factories covered by the DA) are Dalit and/or migrant workers from Eastern India. Therefore, the DA addresses the intersection of gender, caste, and migration. TTCU is a women-led majority Dalit union representing the local factory garment workers in the Agreement. TTCU is deeply rooted in the local community, drawing its strength and legitimacy from long-standing relationships with women workers and their families. It is part of the local union-management dialogue, the Implementation Committee and the Oversight Committee, which are structures in the Agreement. AFWA's role in the Agreement is both at the local and regional levels. AFWA-India (National Committee of AFWA in India), of which TTCU had already been a member, represents garment unions in India. AFWA-India is part of the Implementation Committee and is represented by a national trade union leader. AFWA-Regional represents garment unions regionally through its National Committees of member unions across production countries. AFWA-Regional is part of the Oversight Committee. GLJ, a US-based NGO, is a strategy hub supporting transnational collaboration among worker and migrant organisations to expand labour rights. It is a member of the Oversight Committee.

Prior to the agreement, there were significant freedom of association (FOA) violations at the covered factories such as management ban on union access to factories and retaliation against union members. Leading up to the demand for an agreement, TTCU and AFWA worked closely on navigating and resolving multiple local impediments and attacks mounted by local actors to block the negotiations. TTCU's credibility in the community was crucial in overcoming challenges. During the later stages of the DA negotiations, TTCU, AFWA, and GLJ negotiated TTCU's first formal visit to the factory where TTCU leadership and management made a joint announcement that workers had FOA rights and that management would respect them. It is DA, through its structures and practices, that seeded, established, and facilitated labour–management dialogue and by the third year, it began to function with sufficient maturity. As Thivyarakini, President of TTCU, said in 2023: 'The agreement has created a space of social dialogue between union and management. This has enabled us to help both workers and management improve working conditions as well as efficiency of production.'[29]

[29] AFWA, TTCU, and GLJ-ILRF, 2023.

The DA provides a multi-scalar governance structure and grievance mechanism encompassing three levels of industrial relations.[30] The bottom is the shopfloor, where worker shopfloor monitors (SFMs) (one shopfloor worker for every twenty-five workers) are selected and trained by TTCU with support from AFWA, trainers, and independent women's rights experts, as first responders who identify and respond to GBVH occurring on production lines. The middle level comprises the weekly union-management dialogue between TTCU and the local factory management; and the regularly convened Implementation Committee (IC). The IC brings together TTCU, AFWA-India, Eastman's corporate leadership, and Natchi management—an ecosystem of actors who, together, helped shape the industrial relations mechanism of the DA. Given the long history of strain between Eastman and TTCU, moving towards constructive dialogue required time and careful support. The national union leader representing AFWA-India on the IC, with decades of experience in union-management relations, contributed to fostering the trust and confidence that made this gradual shift possible. The top level is the Oversight Committee of brands, labour, and supplier, where labour is represented at the local (TTCU), regional (AFWA), and global (GLJ) levels that allow for multi-layered roles.

These agreement structures resonate with Russell Lansbury's identification of three levels of industrial relations activity: the bottom, 'the workplace level, [that] involves worker-supervisor relations on a daily basis', a middle functional level where agreements are negotiated and administered, and a top level which he identifies as 'the strategic level, [that] involves both managerial and union strategies and structures' which have long-term influence on how collective negotiations between the parties are shaped.[31] The structures also reflect the brand-driven global supply chain split but conjoined governance mechanism: the Oversight Committee ensures overall governance enforcement while the Implementation Committee, union-management dialogue, and worker SFMs are focused on the day-to-day execution of the agreement at the workplace levels.[32]

Moreover, the DA approach, based on AFWA's Safe Circle approach to combatting GBVH, is grounded in three key elements. The first is FOA and the importance of engaging a union and providing a non-retaliatory workplace for workers to join a union. The second is developing the agency and collective leadership of worker SFMs (women union members and not supervisors), as first-level responders due to their proximity to the daily occurrences of GBVH. The third is an understanding of GBVH as a heterogenous phenomenon ranging from low-

[30] For a detailed discussion of the governance structure and grievance and remediation mechanisms, see Fudge and LeBaron and Jerruntrup and Kuruvilla.

[31] Lansbury.

[32] The DA also provides for an independent DA Programme, based locally, to support the implementation.

intensity harassment to death or murder, and the importance of timely resolution of lower-intensity harassment to prevent escalation to higher levels of violence.[33] As Jeeva, General Secretary of TTCU in 2023 pointed out, 'A lot of times, big issues arise when the small misunderstandings between management members and workers are not resolved immediately. This is what we try to address through our weekly meetings with management.'[34]

The Central Java Agreement (CJA) has significantly more parties and is signed between four Indonesian unions,[35] regional and global labour organisations (AFWA, WRC, and GLJ) and Fanatics (including both Fanatics' own products and, under licence, Nike branded apparel) and Korean-owned supplier company Ontide. The structures and the programme are more complex due to increased number of parties and licensing agreements of WRC-affiliated universities, but overall, they too cover the three levels of industrial relations and are attentive to the three key concepts described above. CJA covers two factories, one with one union, and the other with three unions representing the workers.

Whereas in Dindigul, the Agreement helped to establish industrial relations (as described above), in CJA, the unions at the two factories already had collective bargaining agreements (CBA). It is beyond the scope of this article to analyse the interactions between CBAs and anti-GBVH supply chain agreements (also called enforceable brand agreements—EBAs); however, the necessity of an anti-GBVH supply chain agreement (CJA) embedded in labour movement ecosystems to complement the local CBA, is worthy of note. The CJA also has worker shopfloor monitors (called Satgas in Bahasa) and the GBVH Elimination Committee, which is the main local implementation body for CJA in Indonesia and has a majority of women members.

The CJA could not have been won and implemented without the labour movement ecosystem comprising Indonesian unions, AFWA, WRC, and GLJ, all of whom had already been collaborating together for several years, again spanning local, regional, and global. Here too, Perempuan Mahardika, a women's organisation in Indonesia, has been valuable in documenting and exposing GBVH in the garment sector and shaping women-centred worker organising approach, as well as the Local Initiative for Occupational Safety and Health Network (LION) that has

[33] See 'Chapter 2: The GBV Escalation Ladder' in Safe Circle Approach: AFWA's Step-by-Step Approach to Prevent Gender-Based Violence, AFWA, 2019, https://asia.floorwage.org/safe-circle-approach-afwas-step-by-step-approach-to-prevent-gender-based-violence/.

[34] AFWA, TTCU, and GLJ-ILRF, 2023.

[35] Serikat Pekerja Nasional (SPN), Konfederasi Serikat Pekerja Seluruh Indonesia (SPSI), and Kongres Aliansi Serikat Buruh Indonesia (KASBI) at factory PT Batang Apparel Indonesia, and SPSI at factory PT Semarang Garment Indonesia.

contributed through its feminist education programme to strengthen women workers' leadership. Collaborations with both organisations have added cross-movement synergies within the already-existing labour movement ecosystem.

Both agreements have adopted the 2019 International Labour Organization's *Violence and Harassment Convention* 190 (C190) and Recommendation 206's expansive definition of GBVH and approach to eradicating it. The DA also satisfies and goes beyond India's *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act*—a powerful legislation that provides for Internal Complaints Committees composed by equal numbers of members drawn from workers and management with a majority of women members, chaired by a senior woman employee and an independent member, at every enterprise with over 10 employees. Although hard won by India's social movements, it is often misused by garment factory management as the committees are not truly independent of the management. The CJA is embedded in Indonesian labour laws and the *Sexual Violence Crime Act* (Tindak Pidana Kekersan Seksual (TPKS)) (which unlike India is not workplace-based). Both agreements integrate international and national standards and laws even if an ILO convention is not ratified or an important national law is inadequately implemented.[36]

Negotiating Power and Legitimacy Across Scales

A critical feature of the DA and CJA is to develop governance and grievance structures that address the twinned phenomena of brand-driven governance of global supply chains and the consequent leveraging of oppressive social relations at the workplace. These agreements are based on the idea that effective industrial relations for global supply chains require new bargaining structures and practices that are multi-scalar, involving actors at the local, regional and global levels. They also require scrupulous documentation of the labour abuses in global supply chains to bring pressure on brands to change their contracting practices.

Bargaining across scales

AFWA's strategy and team typically traverse three levels to organise in global supply chains and move towards bargaining: the local and national through member unions and labour organisations in AFWA's national committees, the regional (Asia) through regional committee of leaders nominated from the national, and the global with allies from brands' home regions.

[36] Fudge and LeBaron.

The negotiation process for the two agreements involved two parallel channels. One is the global channel of actors representing industry (brands and suppliers) and labour (local/ national, regional, and global labour organisations). This global channel is recognised in literature and is externally visible. The other channel, equally important, traverses the local/national and regional levels of AFWA's internal structures. This channel is often invisible to external view as it is the internal work of AFWA and member unions. Lack of recognition of this work can lead to an incomplete understanding of what it takes to build new practices and capacities in the labour movement for anti-GBVH, gender-focused and global bargaining.

This internal channel requires AFWA to ensure meaningful integration and representation of local unions in the global negotiation process. It requires adapting industrial relations concepts, issues, and frames to union leaders' lexicon and local contexts. It involves continual creation of internal multilingual strategy documents, and conducting numerous trainings, socialisation and consensus-building sessions in several languages, whose distilled contents percolate upward to the top layers of negotiation.

In the DA, AFWA's strategic alliance with GLJ, which has experience in movement lawyering and labour organising, has been critical in developing multi-level circular practices during negotiations. In this process, unions' needs are distilled into movement-sensitive legal drafting and circled back to local and national unions to check and adapt. In the CJA, AFWA worked with GLJ and WRC to engage in such a process with the four Indonesian unions in which the global allies brought their distinct expertise to the multi-level circular process.

These strategic, intentional, and long-term alliances that form labour movement ecosystems attempt to build structural power commensurate with the global supply chain structure. They maintain union and women workers' primacy and integrity while co-creating a labour movement ecosystem spanning local to regional to global. The labour movement ecosystems can respond in a context-sensitive manner to the diversity of needs for building bargaining power in global supply chains.

Documentation as Power

Documentation and evidence-building that carries legitimacy in the global discursive space is central to lending credibility to labour's demands. Unlike quantifiable issues such as wages, which are relatively easier to document, documenting GBVH in the field is very challenging.

In 2018, AFWA developed a 'spectrum theory' that goes beyond restricted definitions of GBVH based on sexual assault to include broader gendered industrial relations practices on a women-dominated workforce.[37] Therefore, documentation involves integrating this broader perspective to include not only behavioural practices but also factory-wide policies targeting women's vulnerabilities that contribute to the perpetuation of GBVH.

Although GBVH is a collective phenomenon, it manifests individually, most often with fearful or no witnesses. The broader culture of social stigma and victim-shaming is a powerful deterrent against survivors speaking out. Indeed, the International Labour Organization reports that only one in two people share their experience of violence and harassment at work out of fear of reputational damage and lack of trust in authorities.[38]

Given the historical gap in the broader labour movement to identify, let alone tackle, GBVH, most garment unions do not possess GBVH documentation systems or skills. Therefore, embedding documentation of GBVH as a core activity requires a political re-orientation within unions towards valuing documentation as part of their organising practice. Such practices require: knowledge of how to identify GBVH, the will and capacity to creatively and sensitively collect stories while supporting courageous survivors, analysis of the evidence in terms of soft and hard legal norms, and presenting the results of this documentation to a global audience. In AFWA, this has been a multi-layered and multi-skilled activity within a labour movement ecosystem spanning the local to the global involving intensive field work with unions and women workers, survivor support, analysis for regional convergence and power-building among member unions, and global discourse building and promotion with global allies.

The documentation of GBVH is made more challenging by the auditing industry utilised by global brands, since such audits fail to detect GBVH or to report on their findings.[39] At the same time, global brands demand transparency and independent investigations when faced with reports of labour abuse. In this context, investigators who are seen as legitimate by brands and labour are critical, although rare. The WRC fills this valuable role by providing credible and rigorous worker-centred investigations. In India, all parties to the DA agreed to have WRC investigate the workplaces to satisfy brands' demand for an independent report.

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37 AFWA, *Violence Against Women and Men in the World of Work*, AFWA, 2018.

38 International Labour Organization (ILO), *Experiences of Violence and Harassment at Work: A global first survey*, ILO, Geneva, 2022.

39 Human Rights Watch, 'Obsessed with Audit Tools, Missing the Goal: Why social audits can't fix labor rights abuses in global supply chains', Human Rights Watch, 15 November 2022.

WRC's findings confirmed what labour had already extensively reported earlier.[40] In Indonesia, the CJA was created in response to a pattern of GBVH investigated by WRC in response to women workers' complaints.

In DA, oversight processes required skilful documentation and data gathering on mandated meetings, trainings, grievance resolution, worker SFM development, and dialogue outcomes at union-management and Implementation Committee levels. The grievance documentation process involved ground-level evidence collection to detailing, framing, and distillation to meet evidentiary requirements and legal frames in the agreement. Moreover, to be legible to industry and reviewers, it required multi-organisational work and coordination, building the skills of DA programme's staff, and processing the evidence from the local to the global level by the TTCU, AFWA, and GLJ. This again demonstrates the power of the labour movement ecosystem that allows labour to draw on multiple skills and knowledge where the sum is greater than the parts.

Revitalising the Labour Movement and its Practices: Learnings from the anti-GBVH supply chain agreements

The anti-GBVH agreements suggest that to revitalise the labour movement to meet the challenges of global value chains, we have to discard commonly held images of masculine industrial trade unions—an image that never completely reflected the labour movement in the past either. Organising in the garment industry has taken diverse forms in Asia. New unions and organising efforts led by present-day women leaders in countries such as India and Sri Lanka are distinct from national federation-led unions by recognised leaders in Indonesia or Cambodia. In India, where the mainstream labour movement has ignored the export garment industry,[41] new garment unions with few financial resources, often led by women leaders, have emerged. In contrast, in Indonesia with a different historical trajectory, established national federations have unionised across the garment industry but continue to struggle with sufficient women's leadership.

As organising strategies have unfolded in the global garment industry, the labour movement has expanded beyond unions, which remain the anchoring force to include diverse forms of labour organisations that augment and strengthen union

[40] Worker Rights Consortium, *Worker Rights Consortium Factory Assessment: Natchi Apparel (India). Findings, Recommendations and Corrective Actions*, WRC, Washington DC, 2022.

[41] Traditional union leaders have noted to me that garment workers are 'hard to organise'. Forrest theorises 'hard to organise' and draws attention to gender-bias in industrial relations and the union world. A Forrest, 'Women and Industrial Relations Theory: No room in the discourse', *Relations Industrielles / Industrial Relations*, vol. 48, no. 3, 1993, pp. 409–440.

power locally, regionally, and globally. These organisations add power through research and investigation, legal theorising and support, knowledge and capacity development, campaigns, advocacy, bargaining support, and alliance building. The expanded cross-disciplinary labour movement extends to the global and is building new forms of North-South partnerships that go beyond traditional global union structures. Labour movement ecosystems are formed out of this broader labour movement and these ecosystems, in turn, enrich the broader movement.

Engendering Intersectional Perspectives in Organising and Bargaining

Gendered power relations[42] and GBVH percolate through brand-driven business models, policies, and behaviours in garment supply chains. Centring gendered power relations entails foregrounding GBVH, access to FOA for women workers, and nurturing of women leaders.

Both new and established unions are often ill-equipped to address gendered power relations and the pervasive nature of GBVH in a labour movement that has been historically male-led and focused more on quantitative matters of wages (the daily bread) in organising and bargaining. As Anne Forrest noted, '[c]onventional industrial relations thinking implicitly sets gender consciousness apart from, and positions it in competition with, worker/union consciousness.'[43]

Feminist scholarship and activism have challenged the sidelining of gendered power relations and GBVH in the workplace and industrial relations. As Ardha Danielli explains:

> Early attempts to delineate the legitimate concerns of industrial relations researchers made a distinction between personal and industrial relations…The relegation of some behaviors as merely personal has of course been challenged by the feminist dictum, 'the personal is political' and has been instrumental in showing how relationships which had previously been dismissed as 'trivial', as part of the 'natural' order, have contributed to the maintenance of gender inequality both within and outside the workplace.[44]

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42 I use 'gender' not as a binary or a biological term but as a field of power and relations. Gender has been theorised by feminists across political thought and geography (e.g. Judith Butler, Patricia Hill Collins, Gayatri Chakravorty Spivak, Susie Tharu, Raewyn Connell).

43 A Forrest, 'Connecting Women with Unions: What are the issues?', *Relations Industrielles / Industrial Relations*, vol. 56, no. 4, 2001, pp. 647–675.

44 A Danieli, 'Gender: The missing link in industrial relations research', *Industrial Relations Journal*, vol. 37, issue 4, 2006, pp. 329–343, https://doi.org/10.1111/j.1468-2338.2006.00407.x.

Feminists have long emphasised the dangers of shoring up of the distinction between the public and private realms that promote domination and control. However, feminists across race and nationalities have also cautioned against a singular and totalising feminism. Instead, they have called for a feminist theory and practice that reflects the ground realities shaped by gender, caste, religion, migration, colonialism, and imperialism.[45] Feminism is 'a process, a collective and individual construct that is constantly renewed in the present. Feminists are not born, they are made.'[46]

Making gender and GBVH central to the labour movement and to industrial relations has wider implications for infusing our work with soul-fulfilling spirit. A male-centred outlook on gender and GBVH as 'women's issues' that is seen as opposed and secondary to broader 'workers' (bread and butter) issues must be rejected. Centring gender is not only about women workers, but about understanding the social fabric of all workers to build robust union power.[47] Ultimately, workers are agents of change in the workplace and beyond and not un-social figures in agreements.

Women's Trade Union Leadership

Women labour leaders often experience an alienation akin to homelessness—the women's movement may be unaware of them and the labour movement may not recognise them. Women leaders may also be survivors of abuse and violence. They often struggle between victimhood shaped by injustice that robs their sense of agency, survivor consciousness, and power and responsibilities of leadership. Supporting such leaders requires critical empathy, which demands solidarity and support, but also difficult and critical conversations as collective builders of alternate realities and as menders of internal injuries.

As the women's movement has shown, it is naive to ascribe women-centredness or male-centredness to biology. Shortcuts such as hiring a few women supervisors surrounded by male supervisors without organisational culture change, electing one woman leader in an otherwise male-led trade union, or for women activists, researchers or leaders to uncritically assume a biologically awarded self-righteousness are unlikely to yield transformative results.[48]

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45 C T Mohanty, 'Under Western Eyes: Feminist scholarship and colonial discourses', *Boundary 2*, vol. 12/13, no. 3, pp. 333–358, https://doi.org/10.2307/302821.

46 G E Damián, 'The Fruitful and Conflictive Relationship between Feminist Movements and the Mexican Left', *Social Justice*, vol. 42, no. 3/4, 2015, pp. 74–88.

47 C T Mohanty, 'Transnational Feminist Crossings: On neoliberalism and radical critique', *Signs*, vol. 38, no. 4, 2013, pp. 967–991, https://doi.org/10.1086/669576.

48 As Sayce argues, 'Feminist theorists have argued that gender is less about being what one is but more about what one does in interaction with others, in other words "doing

AFWA's work with women leaders and workers and in building a diverse labour alliance with men and women has demanded difficult but essential relational practices that are often considered unimportant by the traditional labour movement but awarded a high place in the women's movement. This work is an integral part of AFWA's role in implementing the two supply chain agreements. Such relational work is never 'done', but provides an ever unfolding of learnings and corrections. It necessarily involves a continual trust-building and trust-repairing process at different levels: personal, political and ideological, and constituency-wide. This work is never-perfect, never-complete, and ever-changing, and that is what one must be continually open to.

In AFWA's experience, we have had to engage with member unions and women leaders in a continuous process of identification and documentation of GBVH in workplaces through creative means, seek out the expertise of leaders in the women's movement to support survivors, and generate learning spaces for women workers and leaders to move from individual narratives to collective negotiation. The Safe Circle Approach provides opportunities for embarking on the journey from narratives to negotiation.

Deploying Intersectional Perspectives in Organising and Bargaining

Reshaping the labour movement to meet the challenges of global garment supply chains requires cultivating skills at the intersection of the women's movement and the labour movement. The principles and skills in the women's movement can be transformative, not just for women workers but also men workers. Dominant approaches in the mainstream labour movement and industrial relations that make the male worker the gender-neutral norm, end up as a disservice to not just women workers but also men workers. As Anne Forrest reminds us: 'The narrow construction of the industrial relations system as a "web of rules" … separate the institutions and processes of collective bargaining from the working lives of … workers … The men themselves never appear...'. This denial of workers' complex social identities that impact their experiences in the workplace cannot be strategic because it 'conveniently forget[s] that the underside of managerial authority is workers' obedience.'[49]

It is important to nurture new unions, varied organising styles, and women leaders to develop pathways for a refreshed labour movement. This requires an ecosystem of relational organising that challenges transactional modes of organising, requires organisers to contend not only with objective external conditions but also with internal subjectivities, and paying close attention to individuals as well as the collective.

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gender'". S Sayce, *Gender change? Locked into industrial relations and Bourdieu*, Bournemouth University Business School, Dorset, 2005.

[49] Forrest, 1993, p. 430.

Local stories and individual narratives must inform macro-level research, policy formulation, and formulation of labour's demands. In the context of bargaining, the journey of abstraction from the local and the individual to the macro is essential for formulating workplace and industrial demands. An intersectional journey from the local and individual to the business model and structure of the industry is required to shape effective bargaining structures and demands in brand-driven global supply chains. However, this still requires more study.

Labour movement ecosystems which also incubate cross-movement synergies are required to bring an understanding of intersectionality into labour organising and bargaining. As described above, women's organisations have greatly enriched the impact of the DA and the CJA.

North-South Dynamics

The multidimensional labour movement ecosystem needed for effective and sustainable collective bargaining in global garment supply chain must span the Global North and South. In this sector, but also in social movements more generally, North-South relations have evolved and are in the process of moving from colonial-style paternalism to partnerships. The term partnership signals equality and reciprocity, and it is essential for building sustainable political communities as agents for transforming the global order into a just and equitable world.

However, the locus of power in an organisation or partnership is typically determined by the internal flow of power and financial resources. Since unions emerged with industrialisation, initially in the Global North, their patterns and practices have dominated. Moreover, the concentration of financial resources in the North results in unequal powers: a Global North organisation can convene organisations in the Global South with greater ease and thus can project their practices onto their Southern counterparts.

North-South partnerships are powerful vehicles for global campaigning and bargaining. However, it is important to appreciate the difference between campaigning and bargaining. A campaign may result in an agreement at the global level or at the national level without necessarily transforming union power at the workplaces. But the ultimate test of bargaining is the transformation of relations between the local union and management at the level of the workplace. Vigilance is required to manage the three levels of industrial relations (local, regional, and global) so that union power is built on the ground through labour movement ecosystems.

AFWA's strategic alliance with GLJ has provided valuable learnings on the North-South dynamic. These include understanding the different roles of the organisations, avoiding overreach, cultivating complementarity, developing a solidarity as opposed to a transactional framework, and trust building and repairing in order to pursue a shared goal of invigorating union power in a globalising world. Building such partnerships is always work in progress.

Conclusion: Centring gender, building labour movement ecosystems, and scaling results-based bargaining

This essay has introduced the term *labour movement ecosystem* as a model to describe multi-purpose, multifarious, and multi-scalar collaborations between diverse labour-centred organisations and the development of layered bargaining structures spanning local/national, regional, and global levels in the garment industry. These ecosystems span movements. It is not a fortuitous convergence of organisations, but a systematic knitting together of strategic intentions and practices based on a solidarity framework as opposed to a transactional framework.

Centring gender and GBVH at the workplace provide a rich opportunity for cross-movement collaboration. The historic passage of C190, which embraces the full scope of GBVH through the inclusion of 'economic harm' and expands the geography of 'world of work' to include locations outside and related to the workplace such as transportation, company-controlled hostels, home, and community, has brought into global prominence the decades-long concerns raised by the women's movements and women leaders in the labour movement. The implementation process of agreements such as the DA and CJA that integrate C190 has shown the potential to magnify intersectional collaboration between labour and women's organisations.

The labour movement ecosystems required to organise towards, achieve, and implement anti-GBVH supply chain agreements push us to go beyond the commonly held perceptions of collective bargaining between the union and management. In Dindigul, the DA reversed an intensely union-hostile workplace by seeding and bringing to stability union-management dialogue. Brand-driven global garment supply chain governance is characterised by an obscure layering of responsibilities and decision-making that influences shop-floor practices and control. Meaningful and transformative interventions require a high degree of alignment across multiple levels, organisations, roles, and activities—from the local and the regional to the global. For labour activists envisioning labour movement as an expansive social movement, the labour movement ecosystems around the anti-GBVH supply chain agreements provide valuable learnings.

Brands continue to promote what they claim as 'scalable' activities, such as training modules, hotlines, and app-based complaint mechanisms. However, these initiatives have demonstrated little, if any, improvements in identification, remediation, or prevention of labour violations and violence.[50] Brands enter into global framework agreements that have, to date, produced insufficient results.[51] The most important factor that can block 'scalability' of anti-GBVH supply chain agreements from select factories to the industrial level is brands' aversion to genuine results, FOA, and preference for performative non-results-based initiatives.

The two anti-GBVH supply chain agreements discussed in this article challenge brand-driven exploitative supply chains, and coercive gendered industrial relations. Such agreements have the potential to reverse the imbalance in global supply chains and women's loss of dignity and power at the workplace and in the industry. Hard evidence from the results of the DA show what is possible. As builders of labour movement ecosystems, we must continue to demand results-based agreements, globally and locally framed and executed, as the pathway towards violence-free, law-abiding, rights-honouring, and dignified workplaces in the global garment industry.

Anannya Bhattacharjee is the International Coordinator of Asia Floor Wage Alliance. Email: anannya.b@asia.floorwage.org

[50] AFWA has worked closely with member unions in production countries to evaluate the efficacy of brands' training initiatives and app-based complaint mechanisms. Workers belonging to our member unions have repeatedly asserted their lack of impact. The results consistently show that even good training modules rolled out efficiently, at scale, across factories have achieved almost no meaningful reduction, remediation or prevention of GBVH. These documents are internal to AFWA.

[51] AFWA has had several consultations with member unions on the effectiveness of GFAs. Notwithstanding the potential of GFAs, in reality, they have proven difficult to implement for a multitude of factors. See M-A Hennebert, I Roberge-Maltais, and U Coiquaud, 'The effectiveness of international framework agreements as a tool for the protection of workers' rights: A metasynthesis', *Industrial Relations Journal*, vol. 54, issue 3, 2023, pp. 242–260, https://doi.org/10.1111/irj.12398.

Short Articles

ANTI-TRAFFICKING REVIEW 26 (2026): 182-186

Worker Voice in the Fight Against Forced Labour: The role of multinational enterprises in supply chain accountability

Sandar Linn

Abstract

This paper discusses worker-centred approaches to the identification of and response to labour violations in the supply chains of multinational enterprises (MNEs). Drawing on examples from Southeast Asia, it highlights how meaningful engagement with workers and collaborative partnerships benefit both business and workers by fostering learning and systemic improvements. The paper concludes that MNEs should move beyond traditional audit-based models and adopt strategies that prioritise worker involvement, transparency, and long-term accountability.

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Introduction

Global supply chains are receiving growing attention from researchers and policymakers because of their substantial involvement in enabling forced labour and human trafficking. In response, governments in the Global North have introduced human rights due diligence (HRDD) standards and laws aimed at holding multinational enterprises (MNEs) accountable for abuses within their supply chains, such as the European Union's Corporate Sustainability Due Diligence Directive (CSDDD).[1] However, the effectiveness of these frameworks is increasingly limited. Recent developments—such as the rollback of Germany's S*upply Chain Act* and the delayed and diluted implementation of the CSDDD—do not just raise questions about long-term impact, they are actively weakening the

[1] The EU CSDDD requires large European Union companies to conduct due diligence to prevent adverse human rights and environmental impacts in their value chains.

obligations companies must meet, reducing accountability in the present and undermining the intended purpose of these laws.[2]

Forced labour persists in global supply chains because businesses often prioritise cost and speed over workers' rights. Legal requirements alone are not enough; their impact depends on how MNEs apply them in practice. This commentary piece argues that meaningful action must begin with reliable abuse detection using trusted, worker-centred methods developed in collaboration with civil society. This requires ongoing engagement and continuous monitoring to capture real conditions and worker experiences.

The Limits of Traditional Approaches

Traditional monitoring tools such as social audits and corporate feedback mechanisms have proven largely ineffective in detecting labour abuses within global supply chains. Social audits are the main tool for monitoring labour conditions in global supply chains. However, research shows audits often miss serious violations, especially when controlled by businesses[3] and in informal or migrant-heavy supply chains, where risks like debt bondage and illegal fees are common. Audits are usually announced in advance, allowing suppliers to hide abuses. Workers may fear retaliation and audits often lack transparency and independence. MSI Integrity found most audit-based initiatives are 'not fit for purpose',[4] while Human Rights Watch reports audits frequently overlook forced labour in high-risk sectors like seafood, garments, and electronics.[5]

Other business-commissioned tools, such as hotlines and grievance mechanisms, also suffer from significant limitations. Research shows that workers—particularly migrants—often avoid using company-managed hotlines or other tools due to fear of reprisals and a lack of trust in the confidentiality of these systems.[6] As a

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2 A Fillmann, 'Germany's Supply Chain Law at a Crossroads: The Implications of the Proposed Shift to the CSDDD', *National Law Review*, 17 April 2025, https://natlawreview.com/article/germanys-supply-chain-law-crossroads-implications-proposed-shift-csddd.

3 MSI Integrity, *Not Fit for Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights, and Global Governance*, 2020.

4 *Ibid.*

5 Human Rights Watch, *Hidden Chains: Forced Labor in Global Supply Chains*, 2021.

6 L Rende Taylor and E Shih, 'Worker feedback technologies and combatting modern slavery in global supply chains: Examining the effectiveness of remediation-oriented and due-diligence-oriented technologies in identifying and addressing forced labour and human trafficking', *Journal of the British Academy*, vol. 7, issue S1, 2019, pp. 131–165, https://doi.org/10.5871/jba/007s1.131; L Berg, B Farbenblum, and A Kintominas,

result, genuine grievances remain unreported and unresolved. These limitations highlight the need for worker-centred, collaborative approaches to due diligence.

The Case for Worker-Centred Approaches

A more effective approach shifts from compliance to ongoing collaboration with workers toiling in global supply chains. In Southeast Asia, some companies work with NGOs, trade unions, and local groups to identify risks, address abuses, and improve labour conditions.[7] Guidance by the Organization for Economic Co-operation and Development emphasises meaningful stakeholder engagement and continuous improvement, requiring active participation from affected workers and communities.[8]

The Inclusive Labor Monitoring Action Network (ILMAN), initiated by the Issara Institute in 2023, is a worker-centred collaboration connecting civil society organisations (CSOs) and trade unions in both origin and destination countries to protect migrant workers throughout their migration journey. [9] At the core of the network is the secure, cloud-based Inclusive Labor Monitoring (ILM) system, which member organisations use to log and manage cases confidentially and in real time. Worker-validated data on recruitment and working conditions guide remediation efforts and drive continuous improvement among network partners. Access to the ILM system is free for all members.

The ILM system operates across multiple origin and destination countries in Asia, such as Thailand, Myanmar, Cambodia, and Nepal, bringing together civil society organisations, trade unions, recruitment agencies, employers, and brands to address labour exploitation in global supply chains, including forced labour and human trafficking. Central to the ILM approach is the empowerment of workers through safe, trusted grievance mechanisms—such as hotlines, Facebook Messenger, and WhatsApp—operated by CSOs and trade unions in workers' own languages, ensuring confidentiality and accessibility.

'Addressing Exploitation in Supply Chains: Is Technology a Game Changer for Worker Voice?', *Anti-Trafficking Review*, issue 14, 2020, pp. 47–66, https://doi.org/10.14197/atr.201220144.

7 Issara Institute, *Collaborative Supply Chain Models in Southeast Asia*, 2024.

8 OECD, *OECD Due Diligence Guidance for Responsible Supply Chains*, OECD, Paris, 2018.

9 Founded in 2014, the Issara Institute is an independent NGO based in Asia, Europe, and the United States that tackles issues of human trafficking and exploitation. See Issara Institute, *Issara Means Freedom*, 2024, retrieved 10 December 2025, https://63971280-8a4a-4f58-b968-3dadecb1cd6f.filesusr.com/ugd/71a966_5682e2051cc84220bf37277f22b76eff.pdf.

Through a secure, cloud-based case management system, ILM enables stakeholders to collaboratively refer, track, and resolve cases while monitoring recruitment and working conditions in near real time. Employers and recruitment agencies engage with the ILM Action Network by working with CSOs and trade unions on worker orientations and remediation efforts, promoting ethical labour migration, accountability, and continuous improvement across supply chains.[10]

In 2024 alone, over 165,000 workers accessed remedies through ILMAN, reporting issues such as wage theft, recruitment fees, unsafe working conditions, and harassment. Specifically, workers have raised concerns in five key areas: working conditions (36%), employer-employee relations (21%), labour recruitment practices (21%), payment systems (13%), and living conditions (8%).

Workers are not only identifying labour violations, but they are also actively using mechanisms that connect them with real remedies. For instance, according to ILMAN's dashboard (data current as of 2025), remediation-related financial transfers to workers amount to approximately USD 1,988,760 since 2021, with an additional USD 151,665 in illegal broker fees identified and halted since 2023.[11] These figures indicate that worker-driven grievance and monitoring channels are not merely registering complaints but are functioning as effective remedial mechanisms delivering measurable material benefits to affected workers.

In one case, several workers reported sexual harassment by a manager—including sexual pressure and verbal abuse—that previous audits had missed. The issue surfaced through the worker voice channels of an ILMAN member organisation, showing how independent reporting tools can uncover hidden abuses. In another example, during a training session for migrant workers on empowerment and their rights, two participants disclosed paying recruitment fees of USD 110–330. With employer support, the Issara Institute conducted a recruitment fee survey that identified nearly 200 affected workers. Remediation and reimbursement followed, and the Issara Institute provided ethical recruitment training to company staff and recruitment agencies in the country of origin. Workers who were already working for this company were also clearly informed that they should never be charged any fees during their recruitment journey.

[10] Issara Institute, 2024

[11] See 'Inclusive Labor Monitoring Community Dashboard', retrieved 7 December 2025. https://www.workervoices.org/responsible-recruitment.

Conclusion

Ending forced labour in global supply chains requires more than compliance with legal frameworks. MNEs cannot effectively address forced labour if they rely solely on audits and top-down tools that are not transparent and that workers do not trust. Real progress happens when MNEs prioritise collaboration with workers over formal compliance—listening to workers, supporting grassroots monitoring, and building long-term partnerships with civil society organisations and local groups.

Worker-centred mechanisms, like the Inclusive Labor Monitoring system, are more effective at surfacing abuses, as well as building systems of learning and accountability that improve over time. Suppliers who engage in remediation have told Issara Institute that they benefit from reduced staff turnover, stronger relationships, and more stable production. Brands gain real-time, actionable intelligence that traditional audits rarely provide.

Sustainable progress depends on amplifying worker voice, strengthening local accountability, and demonstrating measurable improvements in workers' conditions. By centring worker perspectives in due diligence and supply chain management, MNEs can help make human rights a consistent global standard rather than an exception.

Sandar Linn is Regional Manager for Business and Human Rights at the Issara Institute in Bangkok. Her work focuses on advancing corporate accountability and strengthening protections for vulnerable workers. She holds a Master's degree in Language and Linguistics from Mahachulalonkornrajavidyalaya University in Thailand. Email: sandar@issarainstitute.org

From 'Modern Slavery' to Modern Complicity: The corporatisation of western anti-slavery INGOs

Ayushman Bhagat

Abstract

Review of the book *Advocacy, Inc. INGOs and the Business of "Modern Slavery"* by Stephanie A. Limoncelli, Stanford University Press, 2026, ISBN: 9781503644823.

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'Modern slavery' has emerged as one of the most rhetorically powerful concepts of the twenty-first century. Despite having limited legal traction beyond the United Kingdom and Australia, the term has become a catch-all signifier to identify all categories of unacceptable exploitation—slavery, servitude, forced labour, child labour, forced marriage, slave labour, bonded labour, and human trafficking.[1] This label, which functions less as a precise legal category and more as a moral, emotional, and political device to mobilise attention and resources, has been uncritically adopted by politicians, media houses, charities, United Nations bodies, scholars, and corporations. Whilst critical anti-slavery literature has long problematised the 'modern slavery' discourse, sometimes framing it as an imperial project serving the agendas of Western states and corporations,[2] its rhetoric appears to be critique-proof.[3] It ignores, absorbs, and deflects critiques, co-opts adjacent social and political issues like conflict, county lines, cuckooing, online compound scamming, or climate change, and aligns with corporate

1 J Fudge, *Constructing Modern Slavery: Law, Capitalism, and Unfree Labour*, Cambridge University Press, Cambridge, 2025.

2 K Kempadoo and E Shih (eds.), *White Supremacy, Racism and the Coloniality of Anti-Trafficking*, Taylor & Francis, London and New York, 2022.

3 A Bunting and J Quirk (eds.), *Contemporary Slavery: The rhetoric of global human rights campaigns*, Cornell University Press, Ithaca, 2018.

governance agendas.[4] These are not accidental alignments. The 'modern slavery' rhetoric serves multiple political purposes.

It is within this landscape that Stephanie A. Limoncelli's latest book *Advocacy, Inc. INGOs and the Business of "Modern Slavery"* offers a much-needed critique of anti-slavery international non-governmental organisations (INGOs). The central argument of the book is that anti-slavery INGOs are increasingly entangled with corporate interests that reproduce the very inequalities and exploitative systems they aim to dismantle. In short, this alignment serves capitalism. By paying close attention to the 'actions, communications, and operations' (p. 13) of anti-slavery INGOs, Limoncelli persuasively argues that they are increasingly becoming 'like for-profit businesses in their strategies, communications, and operations, and their actions are doing little to address the driving forces that have created conditions for unfree labour in the global economy' (p. 3).

This beautifully written book takes the reader on an empirical journey through the transformation of anti-slavery advocacy by INGOs: from the framing of 'modern slavery' and the adoption of business-oriented, market-based strategies to becoming like businesses in their communications and operations, thereby highlighting their complicity through corporate alignment. The book opens with an anonymised case study of an anti-slavery INGO called 'Global Slavery Fighters', which provides a snapshot of this transformation and prepares the reader for what to expect from the book. Using fifty interviews with members of forty INGOs across nine Western countries, together with an analysis of 524 documents and 1,900 pages of online texts produced by these INGOs, Limoncelli guides us through their gradual transformation via six empirical chapters, each building on the previous one.

In the first chapter, Limoncelli critiques the prevailing criminal justice response to solving the problem of 'modern slavery' by arguing that: 'Portraying issues of "modern slavery" as criminal business activities obfuscates the political economy of unfree labor and stymies the potential for a more robust and broad-based civil society response' (p. 23). She argues that by focusing on crime, INGOs individualise the issue and obscure how state policies, economic precarity, and global inequalities create the conditions for unfree labour to persist. Businesses, often complicit in exploitative practices, are positioned as potential 'agents of change' which shields them from accountability for their practices.

[4] A Bhagat and A Kenis, 'The Modern Slavery–Climate Change Nexus: Resurrecting Environmental Determinism, Reinforcing Saviourism and Absolving the West', *Antipode*, vol. 58, issue 1, 2026, pp. e70125, https://doi.org/10.1111/anti.70125.

In the second chapter, she further develops the argument by examining the consequences of framing anti-slavery as a business concern: anti-slavery INGOs' advocacy not only casts businesses as saviours but also as victims vulnerable to reputational risks. By highlighting corporate vulnerability to 'modern slavery', these INGOs position exploitation as something to be managed, rather than abolished. This positioning serves business interests and allows them to thwart accountability for exploitation and deflect attention onto external actors.

The third chapter offers a diagnosis of why and what happens when anti-slavery INGOs enter into relationships with businesses. Limoncelli observes that, 'the perception that INGOs "have to" partner with businesses, weaken[s] their ability to hold them accountable […] and help[s] to shift the focus from workers to businesses; businesses in some sense become their constituents and business interests become INGO concerns' (p. 69). Whilst these anti-slavery INGOs describe themselves as 'critical friends' to business in the name of saving 'modern slaves', Limoncelli powerfully argues that they end up prioritising corporate engagement over improvements in labour conditions. This partnership not only dilutes these organisations' power to call out corporate exploitation but also compromises their integrity, thereby making them complicit in sustaining exploitative systems by placing corporate interests above those of workers. She warns that business collaborations transform these INGOs from watchdogs into consultants who prioritise business interests, such as minimising reputational harm, thereby shifting responsibility for addressing 'modern slavery' onto consumers.

In the fourth chapter, Limoncelli explores the rise of technological solutions adopted, promoted, and capitalised on by anti-slavery INGOs. She highlights a range of tools, including apps, data platforms, and blockchain technologies, and argues that although these are presented as innovative ways to address exploitation, 'they tend to reinforce simplified notions of unfree labor that can create more problems than they solve, such as increasing surveillance of workers or the public, and they rarely include workers or labor groups as partners in their development' (p. 93). She persuasively argues that this growing embrace of technosolutionism depoliticises advocacy—it increases the dependence of these INGOs on businesses and creates the impression that technological fixes can address the structural causes of unfree labour and exploitation.[5] She then effectively argues that these solutions could easily be weaponised against workers.

[5] See also J Musto, M Thakor and B Gerasimov, 'Editorial: Between Hope and Hype: Critical Evaluations of Technology's Role in Anti-Trafficking', *Anti-Trafficking Review*, issue 14, 2020, pp. 1–14, https://doi.org/10.14197/atr.201220141

The fifth chapter highlights the communication strategies of these anti-slavery INGOs. Limoncelli suggests that anti-slavery '[…] INGO communications contribute to the belief that consumers can buy their way to a less exploitative world and reinforce ideas about the efficacy of individual actions and market solutions in addressing issues of "modern slavery"' (p. 120). These communication strategies of INGOs attempt to reduce complex systems of exploitation to matters of consumer morality. This not only commodifies public engagement but also transforms political struggle into lifestyle branding, thereby depoliticising advocacy. Limoncelli argues that donors play a crucial role in this depoliticisation process, and in the high-pressure, cutthroat funding environment, INGOs choose to align with donors' priorities rather than demanding systemic reform.

Extending this argument in the final empirical chapter, Limoncelli shows how anti-slavery INGOs' adoption of businesslike structures and operations transforms them into service providers who could never stand in solidarity with workers. She concludes that this hybridisation reinforces 'the neoliberal belief in markets and private approaches to social problems, [… and] redefine[s] civil society as a space for parallel private institutions' (p. 162). This neoliberalisation of social issues depoliticises activism against severe labour exploitation, serves business interests, and makes these INGOs complicit in the very system of exploitation that they claim they are trying to dismantle. She concludes the book by emphasising that 'INGOs and the "anti-slavery" field can only benefit from reflexive and continuing critiques and analyses of these trends' (p. 175).

This statement marks the juncture at which I part ways with Limoncelli's book. After convincing us that anti-slavery INGOs' business entanglement depoliticises advocacy, serves capitalism, damages collective political action, and reproduces the very inequalities and exploitative systems they aim to dismantle, Limoncelli adopts a reformist stance and recommends that: anti-slavery INGOs should push states to uphold labour and workplace standards; partner with unions and other NGOs to protect workers and combat unfree labour; focus on addressing root causes, such as poverty, and prioritise workforce upskilling; use laws and agreements to ensure corporate accountability; and adopt more worker-centred approaches by implementing programmes led by the workers themselves. Whilst these interventions are firmly established in critical literature on unfree labour,[6] I am not convinced that anti-slavery INGOs are in a position, or even the right organisations, to implement them for at least three reasons.

[6] S McGrath, B Rogaly, and L Waite, 'Unfreedom in Labour Relations: From a politics of rescue to a politics of solidarity?', *Globalizations*, vol. 19, issue 6, 2022, pp. 911–921, https://doi.org/10.1080/14747731.2022.2095119; J Fudge and G LeBaron, 'Regulatory design and interactions in worker-driven social responsibility initiatives: The Dindigul Agreement', *International Labour Review*, vol. 163, issue 4, 2024, pp. 575–598, https://doi.org/10.1111/ilr.12440.

First, critical anti-slavery literature has long established that the 'modern slavery' paradigm is not designed to address the structural causes of labour exploitation.[7] This means that those INGOs working under the banner of 'modern slavery' are unlikely to press for structural change and, as Limoncelli herself demonstrates, may end up being complicit in the process. Second, this literature has firmly established that dominant anti-slavery interventions which rely on criminal justice responses often do more harm than good, perpetuating the proverbial 'collateral damage' on their targets,[8] while rights-based approaches have achieved only limited success.[9] So when Limoncelli, in the very first empirical chapter, establishes that the majority of these INGOs frame unfree labour as 'criminal businesses', I wonder whether it is feasible to ask organisations that have made an industry out of criminal justice responses to 'modern slavery' to relinquish their reliance on them. It is bad for their business. Third, many of these recommendations fall within the purview of trade unions and grassroots movements, and by asking anti-slavery INGOs to work in solidarity with them, Limoncelli's recommendation could be interpreted as urging anti-slavery INGOs of the minority world to capitalise on such efforts already taking place in the majority world. Hence, rather than calling for the outright abolition of these corporatised anti-slavery INGOs and the redistribution of their aid funds to the people affected by anti-slavery interventions and labour exploitation, or even advocating reparations for transatlantic slavery and colonialism, Limoncelli attempts to reform these problematic INGOs, thereby making a case for their continued existence and expansion.

Relatedly, the book ignores the discussion of race, white supremacy, and coloniality10 in its analysis of anti-slavery INGOs. It focuses primarily on organisations from the white, Western, minority world, many of which position themselves as the saviours of the global majority by forming corporate-style partnerships with national-level NGOs and advocacy groups. Whilst the introductory page signposts the neo-imperial stance of these anti-slavery INGOs by highlighting how they support 'partner organizations in countries of the global south, conducting media campaigns and awareness raising on issues of "modern slavery"' (p. 1), the book does not offer any substantive analysis of race and

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7 E Kenway, *The Truth about Modern Slavery*, Pluto Press, London, 2021; J O'Connell Davidson, *Modern Slavery: The Margins of Freedom*, Palgrave Macmillan, New York, 2015.

8 Global Alliance Against Traffic in Women (GAATW), *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*, GAATW, Bangkok, 2007.

9 K Kempadoo and J Doezema (eds.), *Global Sex Workers: Rights, resistance, and redefinition*, Routledge, New York, 1998.

10 Kempadoo and Shih; L Beutin, *Trafficking in Antiblackness*, Duke University Press, Durham, 2023; M Marmo and R Bandiera, 'Maintaining coloniality through capitalism: Benevolent state-corporate interventions in modern slavery to protract colonial status quo', *Studi Emigrazione*, vol. 62, no. 238, 2025, pp. 182–190.

coloniality despite the well-documented history of anti-slavery initiatives as tools of colonisation.[11] Rather than examining the imperial and colonising functions of these anti-slavery INGOs in disciplining NGOs of the majority world,[12] the book presents this as a gap, highlighting that 'How "anti-slavery" nonprofits headquartered in the global south navigate business influence and relationships would help to fill a gap in the literature that has often been focused on organizations in the West' (p. 169). Similarly, whilst the book briefly mentions that 'INGOs can be engaged in neocolonial agendas, perpetuating the interests of global north states' (p. 13), it does not give much attention to the role of these so-called 'global north' states in the minority world in sustaining the anti-slavery industry, both within their own territories and across the world. I understand that the book is about anti-slavery INGOs and their corporate partnerships. However, these anti-slavery INGOs operate under the aegis of minority world states,[13] work closely with states to deliver care services in their territories,[14] rely on corporations to cover the funding deficit in victim care services, contribute to transmitting the language of 'modern slavery' across the world,[15] and subscribe to a system that makes them complicit in allowing corporations to avoid accountability.[16] Highlighting this trifecta relationship between anti-slavery INGOs, Western states, and corporations would have further strengthened the book's critique.

Finally, whilst the book brilliantly critiques the corporatisation of anti-slavery advocacy, it surprisingly spares academics, many of whom engage and collaborate with INGOs and businesses, mimicking the same communication strategies under critique here to disseminate their 'impactful' anti-slavery research and advocacy. It seems that the book is written from a distance. It focuses on the entanglement of anti-slavery INGOs and businesses, but leaves out academics, many of whom

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11 J Quirk, *The Anti-Slavery Project: From the slave trade to human trafficking*, University of Pennsylvania Press, Philadelphia, 2011.

12 R Broad and N Turnbull, 'The global governance problem with framing human trafficking as "modern slavery": The experiences of international actors in human trafficking policymaking', *International Criminology*, vol. 4, 2024, pp. 358–370, https://doi.org/10.1007/s43576-024-00146-0.

13 J Findlay, 'Modern Slavery, Victim Identification and the "Victimized State"', *The British Journal of Criminology*, vol. 65, issue 3, 2025, pp. 504–520, https://doi.org/10.1093/bjc/azae061.

14 R Broad and D Gadd, *Demystifying modern slavery*, Routledge, Abingdon, 2022.

15 A Bhagat and J Quirk, 'Do We Really Need a Global Commission on Modern Slavery?', *OpenDemocracy*, 10 April 2024, https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/do-we-really-need-a-global-commission-on-modern-slavery-theresa-may-modern-slavery/; Bhagat and Kenis.

16 G LeBaron and A Rühmkorf, 'The domestic politics of corporate accountability legislation: Struggles over the 2015 UK Modern Slavery Act', *Socio-Economic Review*, vol. 17, issue 3, 2019, pp. 709–743, https://doi.org/10.1093/ser/mwx04.

operate within the same neoliberal logics and are equally entangled between these INGOs and businesses. Many anti-slavery scholars routinely take consultancy projects, collaborate with these very INGOs, using their names when pitching for grants, use their 'partner' organisations to do fieldwork in the majority world, evaluate projects for them, participate and attend their exclusive and expensive conferences, serve as their board members, receive awards, and, most importantly, change their positionality depending on their career stages. The intellectual space of 'modern slavery' also produces exclusive cliques, clubs, groups, and networks that mirror the corporate and INGO worlds under study. In other words, whilst Limoncelli's book offers a detailed critique of INGOs, it does so from a distance, leaving out the role of academics who engage with these organisations and operate within the same neoliberal logics under critique.

The book makes an important and timely contribution to the critical 'modern slavery' literature by demonstrating that the corporatisation of anti-slavery advocacy is neither accidental nor benign. The empirical richness of the book convinces us that anti-slavery INGOs' association with corporate logics reinforces the very systems they supposedly aim to dismantle. It exposes the true face of anti-slavery INGOs. It will appeal to anti-slavery scholars, students, policymakers, and practitioners interested in the political economy of anti-slavery advocacy. It should also appeal to these INGOs and their donors to correct their current paths and to chart out new ways to incrementally improve labour conditions. At the same time, the book invites critical reflection on how advocacy, scholarship, and reform intersect with structures of power, raising important questions for future research and practice.

Dr Ayushman Bhagat is a Lecturer in Political Geography at Brunel University of London. Email: ayushman.bhagat@brunel.ac.uk

ANTI-TRAFFICKING REVIEW

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P.O. Box 36, Bangkok Noi Post Office
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