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New Models for an
Equitable Economy **Lab**

Commercial Contracts and Sourcing

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The Center for Human Rights and International Justice at Stanford University equips a new generation of leaders with the knowledge and skills necessary to protect and promote human rights and dignity for all. humanrights.stanford.edu

The Gilder Lehrman Center for the Study of Slavery, Resistance and Abolition at the MacMillan Center at Yale University is dedicated to the investigation and dissemination of knowledge concerning slavery and its legacies across all borders and all times. glc.yale.edu

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About

This work is part of a series of Forced Labour Evidence Briefs that seek to bring academic research to bear on calls to address the root causes of the phenomenon in global supply chains and catalyse systemic change. To do so, the briefs consolidate evidence from recent academic research across several disciplines, including political science, law, sociology, business and management, identified through literature reviews in Web of Science and other academic databases.

At a critical moment when COVID-19 has led to an increased focus on conditions in global supply chains and growing calls for systemic change, these briefs seek to inject new knowledge from academic research into ongoing debates about how practical reforms can be achieved. They focus on six themes: mandatory human rights due diligence and transparency legislation; commercial contracts and sourcing; investment patterns and leverage; the labour share and value redistribution; ethical certification and social auditing; and worker debt. Each brief presents new ideas and examples of how business models and supply chains can be restructured to promote fair, equitable labour standards and worker rights.

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Executive Summary

Forced labour in supply chains is usually not an anomalous crime perpetrated by shadowy criminals. Rather, it is a stable and predictable feature of common business models and commercial dynamics associated with contemporary supply chains.

Business models configured around forced labour have been documented in a range of sectors and are especially common in those that are labour intensive — and where labour costs comprise a high proportion of costs — and characterised by high levels of subcontracting and intermediaries. They often arise in portions of supply chains that focus on low-value added activities.

As corporations at the helm of supply chains source goods, their sourcing practices and contracts agreed with suppliers can easily hard-wire demand for illegal labour practices into supply chains. Academic research has highlighted that forced labour is a logical consequence of common sourcing practices of brands and retail chains, which include: sourcing beneath the costs of production and demanding goods and inputs for less than production cost; late payments to suppliers; high pressure on ship dates and speed to market; heavy financial penalties for delays; refusal to adjust prices in light of improvements to minimum wages; unpredictable ordering patterns; allowing workers to bear recruitment costs; and paying very low wages.

Sourcing practices and contracts agreed with suppliers can easily hard-wire demand for illegal labour practices into supply chains.

Fortunately, there are potential solutions. Corporations can innovate their business models to prevent forced labour in supply chains, such as by benchmarking living and minimum wage costs in purchase orders and contracts and ensuring that their own commercial practices do not undermine labour standards, policies, and commitments. Binding and enforceable agreements with worker organizations and unions can create valuable, long-term commercial momentum towards eradicating forced labour across sectors and ensuring that suppliers are paid enough to cover the costs of compliance with labour standards. Forced labour should be given greater prominence in commercial contracts and broader corporate governance reforms can ensure that the social dimensions of purchasing agreements are robustly upheld.

These innovations are unlikely to take place voluntarily, and need to be spurred on by governments. Governments should outlaw commercial practices like below-cost selling and sourcing, which perpetually and predictably lead to forced labour in supply chains. Additionally, the regulation of the production, trade, and financial dimensions of the global economic system should be reformed and strengthened to prohibit forced labour and introduce economic incentives for goods produced through decent work.

Problem

Forced labour has long been presented as a hidden crime that surfaces unpredictably in supply chains. In such narratives, shadowy criminals driven by moral failings or greed to amass “immense profits” infiltrate otherwise pristine and harmonious supply chains to introduce forced labour.¹ In this view, it is individual perpetrators rather than businesses, management systems, or supply chain dynamics — and the government policies and consumer practices that enable them — that give rise to forced labour. This common understanding also enables lead firms at the top of supply chains to present themselves as separate from criminal actors and activities whose illegal behaviour they are unaware of and do not condone. But these depictions are highly misleading, and skew attention away from the real problem: that forced labour seems to be present almost everywhere in supply chains because it continues to be a normal and important aspect of business practice.²

As a wide and growing body of research demonstrates, forced labour does not occur randomly within supply chains.³ Nor does it tend to be linked to organized criminal networks. Rather, forced labour is a stable and predictable feature of common business models and commercial dynamics associated with contemporary supply chains.⁴ Forced labour is used within business models configured to maximise profits by evading legal minimums and continually reducing operating costs, and in asset leveraging models wherein exploited workers are overcharged for necessities like accommodation or transportation, among other costs.⁵ Forced labour business models do not arise in a vacuum but are shaped by global economic structures that encourage “the relentless pursuit of low cost manufacturing to maximize profits and the pressures on suppliers to deliver their products as cheaply as possible.”⁶ Forced labour business models have been documented in a range of sectors and are especially common in those that are labour intensive — and where labour costs comprise a high proportion of costs — and characterised by high levels of subcontracting and intermediaries. They often arise in portions of supply chains that focus on low value-added activities.⁷

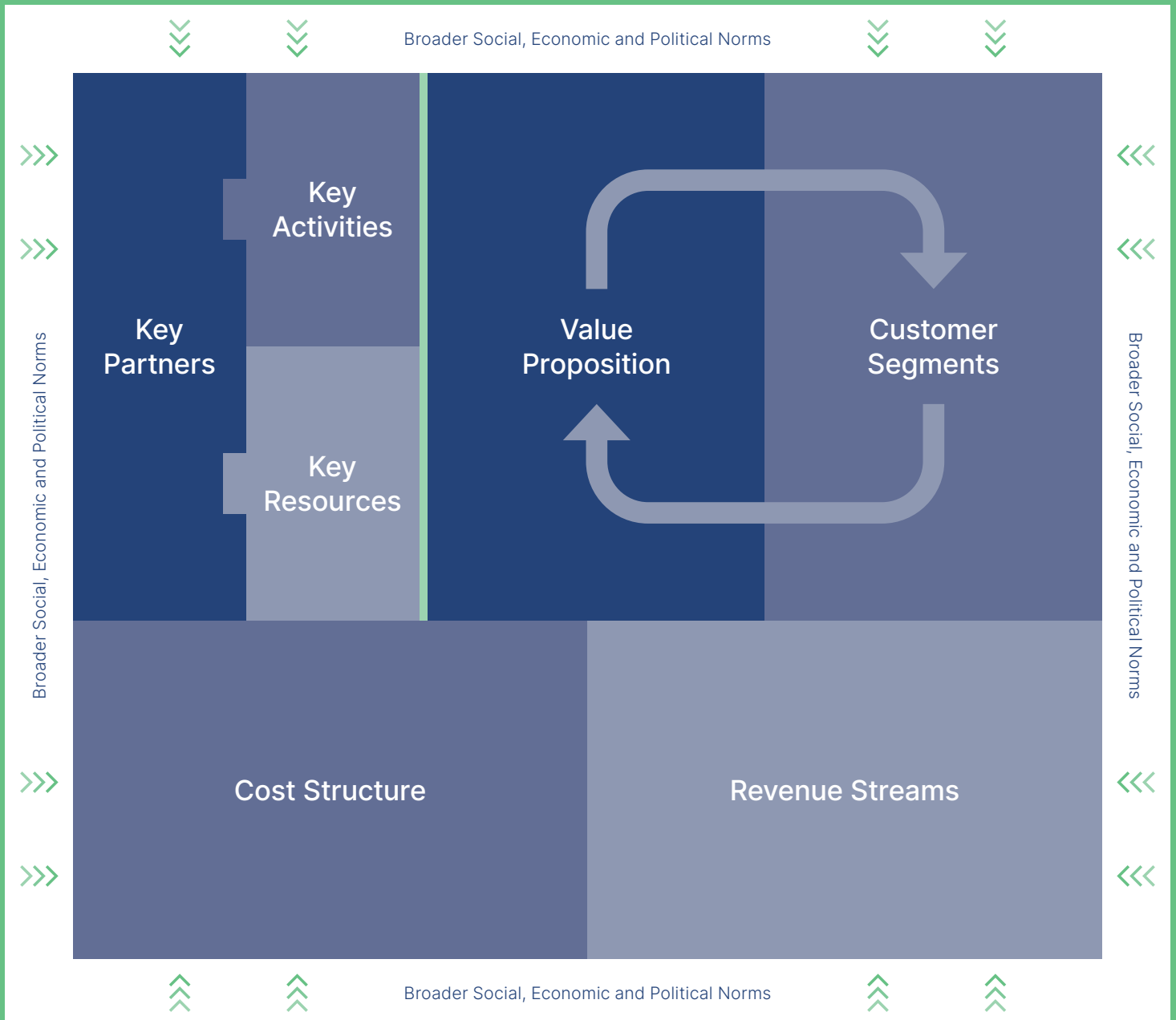
Forced labour is a stable and predictable feature of common business models and commercial dynamics associated with contemporary supply chains.

There should be no doubt those who hold others in forced labour are committing a crime. Yet more often than not, these criminals are not shadowy characters at the fringes of supply chains, but are rather the otherwise legitimate enterprises that comprise modern day capitalism's core.⁸ As business scholar Andrew Crane puts it, modern slavery is a contemporary "management practice" in which enterprises "attempt to underprice a key resource (labor) through illegitimate means."⁹ And in another business scholar Steve New's words, it is "an endemic feature of the socio-economic systems which is in part constituted by firms themselves."¹⁰



Figure 1:
What is a business model?

Business models “describe in a holistic manner how corporations create, deliver and capture value through their production approach, convince customers to pay for value, and convert those payments into profit.”¹¹ Business models are shaped by broader dynamics of corporations and the supply chain relations they establish.



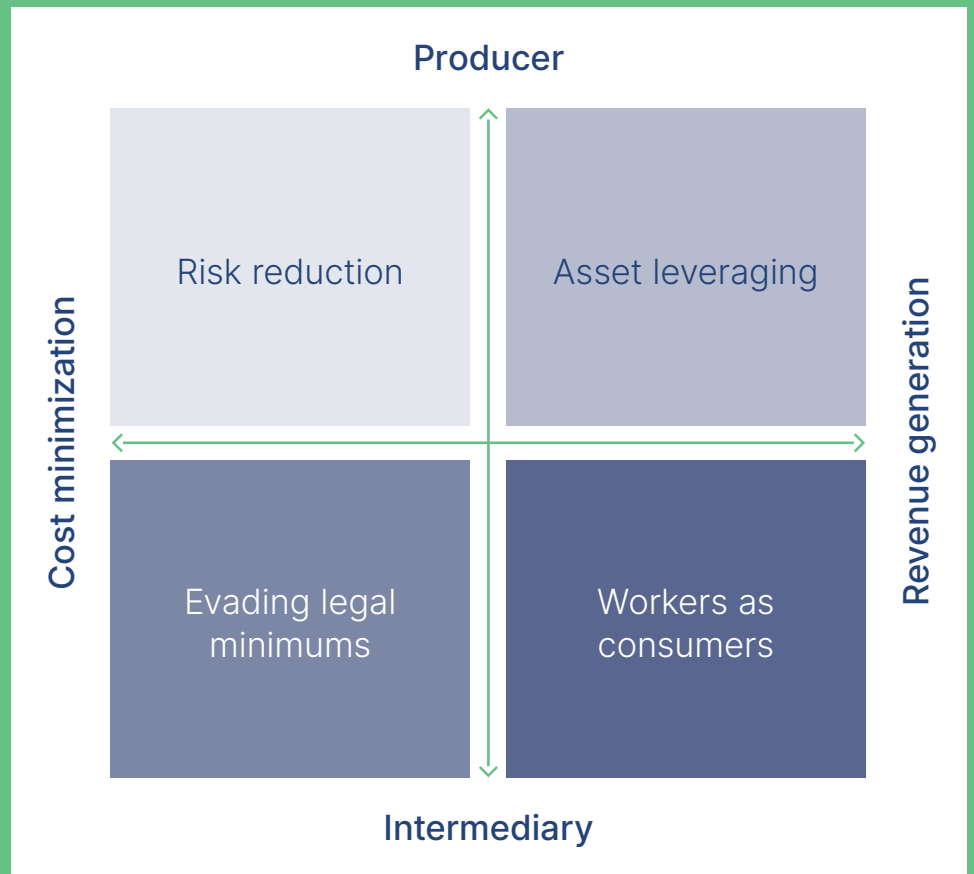
The contemporary business models of forced labour are propelled by broader commercial dynamics, including those used by the corporations and investors that steer global supply chain dynamics. As research from across the social sciences has demonstrated over the last two decades, chief among these are the dominant sourcing practices enshrined in commercial contracts that corporations use to buy their goods. Sourcing practices and contracts often reflect and intertwine with a myriad of dynamics internal to firms including institutional culture and buyers' incentive structures.

Corporate sourcing practices and contracts agreed with suppliers can easily hard-wire demand for illegal labour practices into supply chains.

- **Forced labour and overlapping forms of exploitation have been persuasively linked to common sourcing practices of brands and retail chains including:** sourcing beneath the costs of production and demanding goods and inputs for less than production cost; late payments to suppliers; high pressure on ship dates and speed to market; heavy financial penalties for delays; refusal to adjust prices in light of improvements to minimum wages; unpredictable ordering patterns, with high fluctuation month to month; allowing workers to bear recruitment costs; and paying wages that fail to cover basic necessities, such that workers have little choice but to take on high risk debts.¹²

- **Other actors within supply chains, such as suppliers and their sub-contractors, tend to respond to such pressures through strategies that increase the risk of forced labour and exploitation to workers, including:** unauthorised and excessive sub-contracting along both labour and product supply chains (often to informal and unlicensed actors);¹³ mandatory, excessive, and unpaid overtime; compressing labour costs below legal minimums, such as through wage theft, fraudulent deductions, underpayment, and the use of intermediaries; intimidation, coercion, and harassment;¹⁴ entrenching informality and precarity; and a variety of other strategies to shift costs and risks further down the supply chain.¹⁵

Figure 2:
Business models of forced labour



Risk reduction: Producers seek to minimize costs as well as risks through illegal labour practices, such as coercing workers not to report illegal activities to authorities.

Asset leveraging: Producers use modern slavery to generate revenue, such as by charging workers to use their assets (e.g. housing) or co-opting worker benefits.

Evading legal minimums: Labour market intermediaries introduce forced labour to compress labour costs below legal minimums.

Workers as consumers: Intermediaries seek to generate revenue not only from providing labour to clients at rates compressed below legal minimum wage, but also by charging workers for services such as accommodation and food.

As one recent study concludes, “the business models of slavery enterprises are shaped at least in part by the business models of corporate actors forcing low prices through the supply chain in order to enhance their own value capture.”¹⁶ In the highly financialized global economy (see briefs on Investment Patterns and Leverage and Labour Share and Value Redistribution) where there is immense and constant pressure to cut costs and drive up returns, there are powerful systemic pressures towards these business models.

Within academic literature, these dynamics have been established across a wide range of industries, ranging from apparel to seafood. They have also been well documented in the grey literature. For instance, one global survey of 1,454 suppliers spanning over a dozen industries across 87 countries found that 39% of suppliers are receiving prices that “did not allow them to cover their production costs,” and this dynamic leads directly to “difficulties in paying workers’ wages and/or overtime pay.”¹⁷ In another study of 17 suppliers in one buyer’s supply chain in Vietnam, Hong Kong, Japan, and the United States, purchasing practices such as late payments and high-pressure cost negotiations led to worker layoffs, increased worker overtime, increased use of temporary labour, increased reliance on subcontracting, and declines in worker productivity.¹⁸

In some supply chains, industry-specific pressures intensify these dynamics. For example:

- In food, the perishable nature of the product combined with the unpredictability of factors such as weather and demand drives hyperflexibility. In the case of distant-water fisheries, for example, these dynamics are exacerbated by legal ambiguities around liability on the high seas and workers’ lack of connection to and communication with any potential support networks. Furthermore, overfishing has resulted in declining fish stocks, meaning vessels are under increased pressure to lower costs while ensuring the additional worker effort required to meet demand and remain competitive.¹⁹
- In apparel, massive power asymmetries between buyers and suppliers combined with pressures associated with financialisation (see briefs on Investment Patterns and Leverage and Labour Share and Value Redistribution) enables buyers to implement predatory purchasing practices such as a “pricing squeeze” in which prices paid to suppliers are reduced over time, in spite of the fact that labour and other costs

are progressively climbing.²⁰ Pricing squeezes often correspond with declining wages paid to garment workers, in part because they incentivise suppliers “to pursue union avoidance strategies.”²¹

- In electronics, continual technological innovation means shorter lifecycles and falling prices for consumer products, which leads retailers to order small, frequent shipments of products to avoid dated inventory. These dynamics, combined with buyer price masking, necessitate “lean” production and low labour costs, and suppliers tend to respond to volatile ordering by cyclically hiring and firing migrant workers.²²

Amidst these pinpointable and predictable pressures, forced labour emerges as a rational element of the business model, particularly amongst business entities in portions of the supply chain that experience low value capture – such as in labour intensive industries – and where high elasticity of demand for goods intersects with low elasticity of the labour required to produce them.²³

Although many corporations have social responsibility programs that emphasise policies to combat forced labour and other human rights violations, there is considerable evidence that they undermine these stated priorities through their own sourcing practices.

- For instance, a major study of an athletic apparel company’s supply chain, including data on over a hundred suppliers across 12 countries and territories, established a negative association between compliance and purchasing, wherein supplier non-compliance with agreed standards tended to lead to suppliers receiving *more* rather than less orders.²⁴ The authors concluded that the “timing and value of purchases appeared insensitive to factory compliance”;²⁵ in other words, not only did the athletic apparel company fail to source less from trade partners with high levels of labour non-compliance, they also did not increase orders where labour standards improved.
- Although garment companies have made widespread commitments to ensure that living wages are paid in their supply chains in the aftermath of the 2013 Rana Plaza garment factory collapse, a recent study of the actions taken since then by 20 garment companies found very little evidence of progress.²⁶ The key barrier identified was companies’ own purchasing practices.

→ During the Covid-19 pandemic, corporate sourcing practices, including order cancellations, invocation of *Force Majeure* clauses, refusal to pay for orders already produced, and demands for discounted prices on existing and new orders, unleashed a domino effect in supply chains, leading to widespread factory closures and bankruptcy, mass worker layoffs, and a deterioration of working and living conditions, including increased exposure to forced labour.²⁷

Even where supply chains are ethically certified, cutthroat purchasing practices make it impossible for suppliers to meet relevant social standards. One large study of the patterns of forced labour in global tea and cocoa supply chains — which included worksites ethically certified by Rainforest Alliance and Fairtrade, amongst others — found that there was widespread labour exploitation, including forced labour, on ethically certified tea plantations.²⁸ Tea and cocoa producers explained that the combination of rising input costs, including for labour as wages rise, and stagnant or falling prices from buyers make it impossible to produce according to the standards set by certifiers (eg. no child labour, no forced labour, payment of minimum wage) (see also the brief on Social Auditing and Ethical Certification).²⁹

Even where supply chains are ethically certified, cutthroat purchasing practices make it impossible for suppliers to meet relevant social standards.

One reason for the gap between standards and practices on the ground is that there is widespread and persistent tension, and lacking communication and collaboration, between social responsibility departments, compliance departments, and sourcing teams within corporations. Whilst some have worked towards better integrating these priorities, they remain separate in many cases, and sourcing team incentives (eg. pay, bonuses) are tied only to profit and lowering costs rather than social or other performance outcomes, which generally remain off the table for change given structural pressures

towards profits, shareholder wealth maximisation, short-termism, and quick returns on investment.³⁰ In order to deliver returns to shareholders, corporations are often legally required and designed to prioritise profit over social commitments and leverage their disproportionate power, and geographic and legal distance from suppliers to their advantage. This corporate architecture results in predictable business demand for forced labour in supply chains.³¹ Simply put, there is a gap between what companies say and what they do, and models of corporate organization and hierarchy tend to reflect and reinforce this.

At present, contractual governance structures empower lead firms and disadvantage workers. Particularly key are the ways in which contracts:

- Render private and proprietary socially relevant information, such as the terms between buyers and suppliers;³²
- Afford low prominence to forced labour clauses, which tend to be soft and aspirational rather than binding, and high prominence to cost and speed clauses, which tend to carry penalties;³³
- Uphold value distribution dynamics that leave suppliers unable to cover the costs of compliance (see Labour Share and Value Distribution brief);³⁴
- Rely increasingly on purchase order forms, which are single business transactions; by contrast, contracts are used for longer term arrangements between buyers and sellers. Purchase orders include issues such as quantities and prices of the products ordered, and reflect short-term sourcing practices;
- Impose human rights obligations only on the contracted supplier and not on the buyer;
- Are based on a system of warranties and representations rather than human rights due diligence; and
- Entrench the challenges of holding business accountable for sustainability standards, since contractual terms around forced labour can only be enforced by the contracting parties.³⁵

Contracts enshrine the undercutting of social standards in favour of commercial considerations and ensure that corporations are rarely held accountable for the consequences. Although in some jurisdictions laws exist that allow third parties (eg. workers, NGOs) to make claims, contracts tend to make exclusions around these claims so they cannot be enforced by the intended beneficiaries of these clauses, such as the employees of suppliers.³⁶ The inability or unwillingness of host states to address human rights violations at the bottom of supply chains greatly contributes to what is often referred to as the 'governance gap' in global supply chains.³⁷

Solutions

Fundamentally, the solution to these problems is for corporations to stop sourcing goods in ways that violate their own social commitments and go against the spirit of national labour laws – for example, to stop exploiting loopholes and gaps, to differing degrees and with varying levels of awareness – and to end the persistent business demand for forced labour within supply chains. It will require corporations to innovate how they operate and overhaul prevailing business models within supply chains. It will also require economic systems change to modify persistent financial pressures towards constant returns.

Contractual governance throughout supply chains needs to be strengthened to give greater primacy to forced labour; promote labour practices that protect supply chain workers from exploitation, such as living wage pricing; and remove the commercial pressures that undermine these in practice. Public governance of trade, production, and consumption needs to be strengthened to ensure exploitative business models are no longer viable or profitable. Worker organizations and trade unions have been pioneering new models of supply chain governance to render exploitative business models unviable; these should be widely adopted by corporations.



Figure 3:
*Buyer-Driven Business Model Innovation
 to Address Forced Labour*



Changes to sourcing practices

Addressing the business demand for forced labour in supply chains triggered through purchasing practices requires a “profound reappraisal of fundamental business models.”³⁸ Just as business model innovation can be harmful to workers — such as the innovations enabling businesses to keep profiting from forced labour following legal abolition of slavery³⁹ — so too can business models be innovated to prevent forced labour. Innovative practices related specifically to sourcing⁴⁰ are already being implemented by leaders across a range of industries and sectors. These include:

- Use of tools that promote decent work, such as living wage benchmarks and ringfenced labour costs in purchasing agreements.
- Integration of sourcing, compliance, and sustainability teams to ensure considerations around price and labour standards are balanced and sourcing practices support rather than undermine social commitments.
- Long-term partnership with suppliers characterised by honest dialogue about the impact of purchasing practices on their business and action to address negative impacts, for instance, through longer-term contracts, fair price negotiations, and advanced order planning.
- Ensure meaningful representation and rights of workers within sourcing strategies.⁴¹

Ending the business demand for forced labour ultimately depends on reforming corporate purpose and governance to enable vastly more equitable forms of value distribution in the global economic system.⁴² Far-reaching changes to sourcing practices and corporate structures will not happen voluntarily. Three decades of research on forced labour and labour standards in supply chains, corporate ownership and governance patterns, and the effectiveness of corporate social responsibility suggests that socially minded business model innovation rarely occurs voluntarily. It needs to be mandated and buttressed through government, consumer, and investor pressure, and worker-led civil society efforts to demand accountability.⁴³ However, some corporations are beginning to innovate voluntarily to capture commercial benefits. Research suggests that better working conditions and wages can lead to higher productivity, reduced absenteeism and higher worker retention,⁴⁴ better financial performance, and greater resilience.⁴⁵

(Continued on page 23)

In Focus

Establishing Binding and Enforceable Sector-based Agreements

The establishment of binding and enforceable sector-based agreements serves as a key strategy to bring about the changes necessary to alter purchasing practices. In such agreements:

- Worker organisations sign legally binding agreements directly with brands;
- Brands are required to cover the costs to suppliers of meeting the labour standards established by the program; and
- Suppliers that violate the standards face commercial consequences, as brands cut off their business.⁴⁶

These agreements are often described as worker-driven social responsibility agreements; their main principles are captured in [Figures 4–5](#).

Binding, enforceable sector-based agreements leverage the market power of multiple brands – simultaneously reducing risks to their competitiveness – to drive improvements of labour standards through commercial practices and sanctions. Although these agreements are relatively new and thus still under-researched, the studies that have taken place emphasise the significantly higher effectiveness of these agreements in preventing and addressing forced labour compared to voluntary, industry-led corporate social responsibility efforts (see also the brief on Social Auditing and Ethical Certification).⁴⁷

Figure 4:

What are worker-driven social responsibility agreements?⁴⁸

01

Labour rights initiatives must be worker-driven. Workers and their representatives must be in charge of creating and implementing programmes designed to protect their rights.

02

Obligations for global corporations must be binding and enforceable. Worker organisations must be able to enforce the commitments of buyers as a matter of contractual obligation.

03

Buyers must afford suppliers the financial incentive and capacity to comply. Buyers need to incentivize compliance through a price premium, negotiated higher prices, and/or other financial inducements that enable suppliers to afford the additional cost of compliance with the agreed labour standards.

04

Consequences for non-compliant suppliers must be mandatory. The obligations on brands must include the imposition of meaningful, swift, and certain economic consequences for suppliers that violate workers' rights.

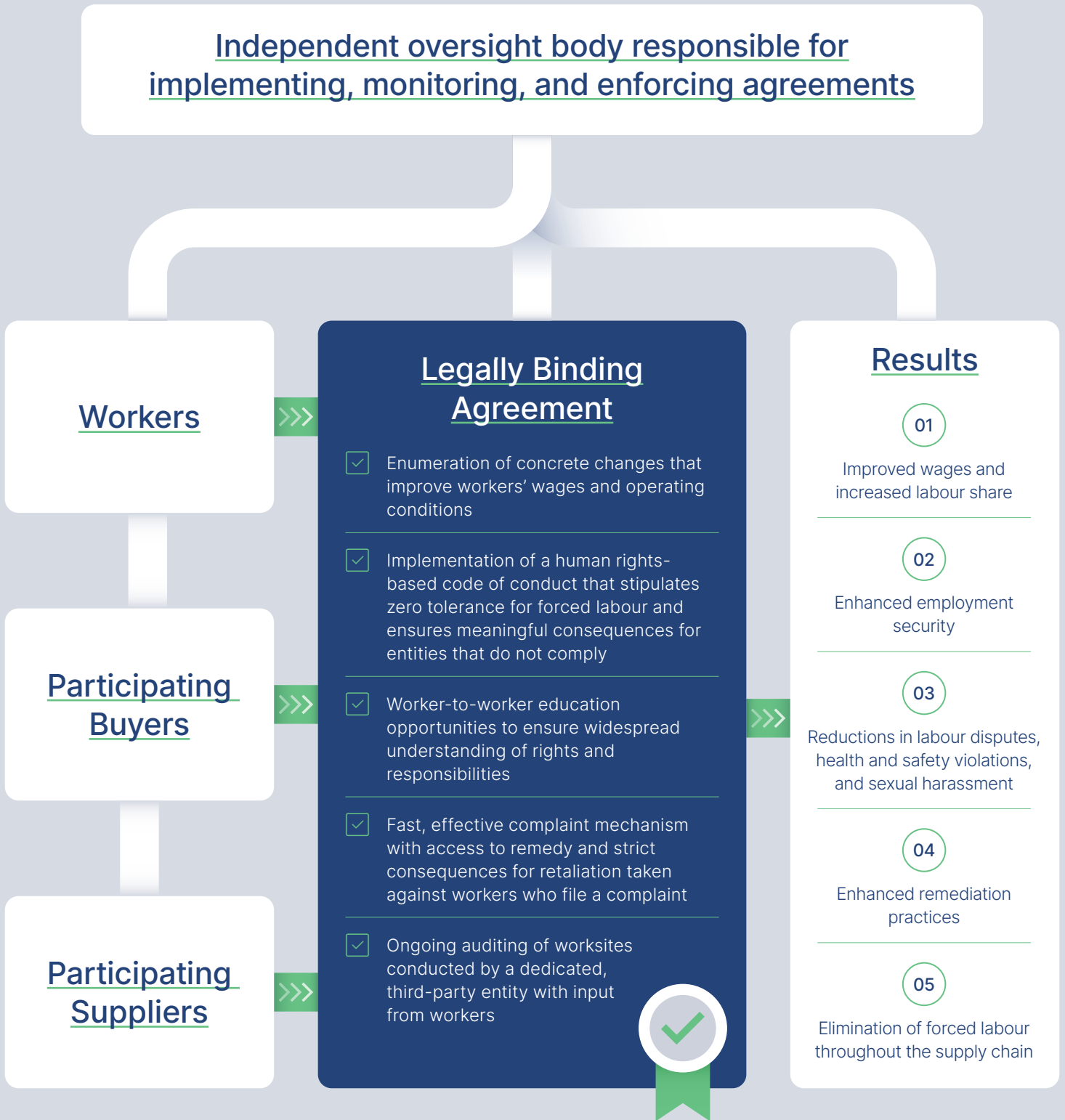
05

Gains for workers must be measurable and timely. To ensure accountability, remedial action plans to correct specific problems must include measurable outcomes and clear definitions.

06

Verification of workplace compliance must be rigorous and independent. Effective verification of supplier compliance must include: inspectors who operate independently of buyers; in-depth worker interviews carried out under conditions where workers can speak freely; worker training to enable workers to be partners in the inspection; and a complaints resolution mechanism that operates independently of business actors where worker organisations play a central role.

Figure 5:
Example of Binding Agreement to Innovate Purchasing Practices



(Continued from page 19)

Changes to sourcing practices need to be codified and upheld through changes to contracts. Corporations use contracts to flex their economic bargaining power vis-à-vis suppliers; however, they often cite the limited reach of contract law when asked to use this same power to prevent human rights abuses like forced labour in supply chains.⁴⁹ Contractual governance is a vital tool to improve working conditions and can be meaningfully reformed by:

- Expressly including clauses about forced labour in supply contracts, purchase orders, and Terms and Conditions of Purchase rather than only incorporating them through a reference to Supplier Code of Conduct, which is widespread business practice.⁵⁰
- Using more stringent language in the contractual clauses referring to forced labour to indicate that this issue is highly important.⁵¹ Too often, the wording of clauses about forced labour is aspirational, meaning the supplier can easily comply with the obligations while perpetrating exploitation.⁵²
- Ensuring that other contractual obligations — such as cost and speed — are adequate to support decent work and relevant labour standards.⁵³
- Recognising the shared responsibility of buyer and supplier companies in combatting forced labour by making it an obligation for both parties to protect human rights rather than only imposing obligations and the cost of compliance on suppliers. In this way, both parties must be required to conduct human rights due diligence before and during the duration of the contract and both parties must therefore be contractually responsible for human rights in the supply chain.⁵⁴

Changes to regulation

Governments must play a key role in driving the business model innovations described above. They must outlaw commercial practices, such as below-cost sourcing and selling, that perpetually and predictably lead to forced labour in supply chains, and institute broader changes to trade, production, and finance to promote decent work and eradicate forced labour.⁵⁵

Labour law enforcement needs to be more robust and make better use of data that enables “follow-the-money” approaches to forced labour detection

and remediation. It is fully possible to pinpoint frequently occurring characteristics of businesses that use forced labour, including: “high levels of labor intermediation in the context of low wage jobs on or around the minimum wage” and “low levels of value capture at specific levels of the value chain (thereby precipitating the cutting of corners or provision of additional revenue generating activities);”⁵⁶ companies that phoenix or change legal names and identities on a regular basis; and supply chains characterised by excessive outsourcing.

Governments should take multifaceted actions to address the systemic dynamics that drive the business demand for forced labour, including through:

- Regulating financial markets to remove the structural constraints and pressures that these markets exert around labour costs (see Investment Patterns and Leverage brief).⁵⁷
- Enacting mandatory Human Rights Due Diligence (mHRDD) legislation to address gaps between company sourcing practices and labour standards, such as by requiring companies to report on meaningful indicators of responsible sourcing, such as wage levels across their supply chains and pricing (see Due Diligence and Transparency brief).⁵⁸
- Enacting measures to address power imbalances in the supply chain, such as anti-trust reforms and worker empowerment through robust protection of freedom of association.
- Reforming trade rules to incorporate bans on forced labour; for instance, it could be added as a general exception within the General Agreement on Tariffs and Trade, and prohibiting forced labour within bilateral trade agreements with strong commercial sanctions.
- Deepening enforcement of existing labour standards and ending the impunity surrounding business models of forced labour.
- Addressing secrecy and privacy issues surrounding commercial contracts so that third parties (including workers and civil society) can access information relevant to labour standards in supply chains (e.g. contractual clauses relating to combatting forced labour in the supply chain).⁵⁹

- Enacting public procurement reforms, including preferential purchasing to support small- and medium-sized enterprises, which can positively impact labour standards as well as intersecting dynamics such as land ownership patterns and gender equality.⁶⁰

Governments must provide a first line of defence in preventing the products of forced labour from entering domestic markets.

Regulating market access provides a powerful means of disincentivising forced labour practices in global supply chains. Learning from such measures' successes in promoting environmental protection and sustainability objectives, governments should consider adopting import bans on products reasonably suspected of being produced using forced labour.⁶¹ Such measures:

- Would fundamentally disrupt existing business models incentivising the use of forced labour;
- Can be based on either positive or negative certification schemes;
- Would be consistent with governments' obligations under the World Trade Organization's General Agreement on Tariffs and Trade, as well as multilateral and bilateral trade agreements; and
- Must incorporate dialogue and collaboration with potentially affected governments and be administered transparently and with respect for due process.

Crucial to all of these proposed solutions are the meaningful involvement of workers, trade unions, and other forms of worker organisation. For decades, they have been drawing attention to the need to reform purchasing practices and commercial agreements within supply chains, developing new models to do so, and demanding a significant role in shaping and implementing solutions. It is vital that reforms reinforce these solutions and their role, rather than displace them.

Recommendations

Workers will continue to experience forced labour and overlapping forms of exploitation until prevailing business models – and the economic and social realities that govern their construction – are overhauled. It will not be possible to eliminate forced labour in supply chains without fundamental change to purchasing practices and the commercial contracts that enshrine them.

Recommendations for Lead Firms

Corporations must take action to protect workers from forced labour rather than fuelling business demand for it within supply chains. To achieve this, corporations should:

- Redesign business models to be more transparent and responsive to incentives beyond profit, such as by changing ownership and investment dynamics, shareholder roles, and level of integration.
- Innovate business models to prevent forced labour in supply chains and integrate commercial strategies and social standards, such as by changing purchasing practices, reducing levels of outsourcing along supply chains, and enacting internal governance reforms to address perverse incentive structures.
- Revisit contracts to afford greater prominence to forced labour, such as by including more stringent clauses on this issue and removing clauses guarding against third-party enforcement, as well as including human rights due diligence obligations for both buyers and suppliers.
- Form more long-term contractual relationships with supplier firms and invest in capacity building and technical training in support of operations that are less susceptible to encouraging exploitation.
- Focus on stakeholder-centred remediation for human rights harms instead of using only conventional contract remedies such as damages or termination.

- Offer precontractual signals based on relation-specific investments, promises of repeated exchange, and reassuring cheap talk.⁶²
- Drive forward business model innovation within supply chains by introducing living wage benchmarking and ring-fenced labour costs into purchasing.
- Publicly report on the outcomes of these changes.

Recommendations for Governments

Governments should act swiftly to render business models configured around forced labour – and the purchasing practices and contractual dynamics that trigger them – completely unviable. They can do so by:

- Introducing a ‘follow-the-money’ approach to forced labour detection and remediation.
- Mandating business model innovation, such as by banning outsourcing to ensure companies meet their employer and tax obligations, instituting anti-trust reforms.
- Instituting joint liability for lead firms and supply partners to strengthen lead firm accountability for supplier practices.
- Enacting mandatory Human Rights Due Diligence (mHRDD) legislation (see Due Diligence and Transparency brief).
- Pricing forced labour-made goods out of the marketplace, such as by making below-cost sourcing and selling illegal.
- Reforming national and international legal architectures surrounding trade and finance.
- Introducing general or sector-specific market access measures comprised of import bans and certification schemes requiring positive certification by exporting countries that forced labour is not employed in production or based on the blacklisting of identified problem countries of origin, producers, or importers.

Notes

¹ See, for instance: Kevin Bales. *Disposable People: New Slavery in the Global Economy* (Berkeley: University of California Press, 2004); Siddharth Kara. *Sex Trafficking: Inside the Business of Modern Slavery* (New York: Columbia University Press, 2009); Siddharth Kara. *Modern Slavery: A Global Perspective* (New York: Columbia University Press, 2017).

² Genevieve LeBaron. "The Role of Supply Chains in the Global Business of Forced Labour." *Journal of Supply Chain Management* 57 no. 2, (2021): 29-42; Jean Allain, Andrew Crane, Genevieve LeBaron, and Laya Behbahani, *Forced Labour's Business Models and Supply Chains* (York, UK: Joseph Rowntree Foundation. 2013); Andrew Crane, Genevieve LeBaron, Jean Allain, and Laya Behbahani. "Governance Gaps in Eradicating Forced Labor: From Global to Domestic Supply Chains." *Regulation & Governance* 13 no. 1, (2017): 86-106.

³ Genevieve LeBaron. "The Role of Supply Chains in the Global Business of Forced Labour." *The Journal of Supply Chain Management* 57, no. 2 (2021): 29-42.

⁴ Genevieve LeBaron and Andrew Crane. "Methodological Challenges in the Business of Forced Labour" in Genevieve LeBaron 25-43 (ed) *Researching Forced Labour in the Global Economy: Methodological Challenges and Advances* (Oxford: Oxford University Press, 2018); Genevieve LeBaron, *The Role of Supply Chains in the Global Business of Forced Labour*; Stephen J. New, "Modern Slavery and the Supply Chain: The Limits of Corporate Social Responsibility?" *Supply Chain Management* 20 no. 6, (2015): 697-707.

⁵ Andrew Crane, Genevieve LeBaron, Kam Phung, Laya Behbahani, and Jean Allain. "Confronting the Business Models of Modern Slavery." *Journal of Management Inquiry* (2021).

⁶ Bobby Banerjee. "Modern Slavery is an Enabling Condition of Global Neoliberal Capitalism: Commentary on Modern Slavery in Business." *Business and Society* 60 no. 2, (2021): 415-419.

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