

# **JOURNAL of MODERN SLAVERY**

*A Multidisciplinary Exploration of Human Trafficking Solutions*

Volume 9, Issue 1, 2024

**Access to Remedy for Survivors of All Forms of  
Slavery, Trafficking and Forced Labour**



## **Access to Remedy – Our Greatest Failure, Our Biggest Opportunity**

**Heather Moore**

Royal Melbourne Institute of Technology (RMIT) University,  
Business and Human Rights Institute

**Cover Art: Md Mahmudul Hoque**

# **Access to Remedy – Our Greatest Failure, Our Biggest Opportunity**

**Heather Moore**

Royal Melbourne Institute of Technology (RMIT) University  
Business and Human Rights Institute

Access to remedy has recently come to the fore of public debates around contemporary forms of slavery. This is particularly so in the context of business responses to labour abuses in global supply chains, propelled mainly by ‘modern slavery’ and mandatory human rights due diligence laws, as well as increasing shareholder activism and now measures to stop the importation of goods made with forced labour (i.e. import bans). Despite the focus on business and supply chains, this fundamental right has long been enshrined in numerous international frameworks addressing the myriad forms of what we now call modern slavery and the rights of workers vulnerable to labour exploitation and indecent work. Individually, these aim to address the uniqueness of different forms of serious labour exploitation, from forced labour to human trafficking to slavery. Other instruments target related issues, including indecent work, unfair recruitment and the need to protect distinct groups who are vulnerable to exploitation, such as domestic workers.

While it is positive to have the right to remedy so strongly and consistently asserted across these different instruments, it may have unintentionally caused confusion about what the term means and to whom it is owed. Thus, it is an opportune time to revisit key questions regarding this often overlooked, but absolutely critical component of any effective response to modern slavery and related practices: What do we mean by remedy? What constitutes effective remedy? Who decides? Moreover, who *should* decide and do they have a seat at the proverbial table? How do we deploy remedy as more than just a correction of harm, but as a strategy in itself to deter and prevent future exploitation and mistreatment? And how do we know if we have accomplished that?

The intention behind this Special Issue was to critically examine remedy across contexts; however, as readers will see, the majority of our articles focus on slavery, human trafficking and labour exploitation in business supply chains. While this is a limitation, this collection still adds much needed clarity and depth to the conversation about remedy. These articles offer firsthand accounts from the perspective of people impacted by modern slavery and provide critical analyses of various anti-exploitation/anti-slavery instruments, suggesting feasible ways to reshape these instruments to improve access to remedy for affected parties.

The articles in this collection give an excellent overview of remedy at multiple points across the continuum of exploitation and provide a fresh reminder of the possibilities for prevention if remedy is applied before inappropriate workplace conditions devolve into more serious, criminal forms of exploitation. Several articles accentuate the role of the State to ensure meaningful access to remedy and to ensure laws are designed and enforced to hold lawbreakers

to account and ensure meaningful access to judicial and non-judicial grievance mechanisms and remedy.

We are also reminded that regardless of our involvement in the struggle against human exploitation, the right of harmed individuals to receive remedy, is something that unites and connects us. Without remedy, there can be no justice; and it is, after all, a just world that we are all seeking.

### ***What is remedy?***

The definition of remedy can be confusing, particularly for those confronting these issues for the first time. Stakeholders of different persuasions use the word interchangeably with terms such as ‘response’ and ‘address’. Sometimes these terms relate to the harm caused; other times they relate to the causes of harm. In other contexts, the notion of remediation is taken as something much more abstract, particularly in business contexts, where firms respond to modern slavery as a broad challenge or as regulatory requirement. Even within the academic scholarship, we see great variation in how researchers frame the term—a point we will return to in a moment. Similarly, when we talk about those who are entitled to remedy, we use a range of terms such as ‘rightsholders’, ‘workers’, ‘affected parties’, ‘victims’, and ‘survivors’. The latter two terms are often joined as ‘victim-survivors’ to simultaneously recognise different types of modern slavery as victim-based crimes; and the triumph of survivors over adversity. These are not necessarily mutually exclusive, and it is important to acknowledge that someone who has experienced slavery or slavery-like conditions may identify as any or all of the above. Indeed, taking this into due consideration may illuminate not only what is remedy, but the various points along the continuum of exploitation that remedy may be delivered.

Remedy is defined and scoped in several primary international frameworks concerned with the rights of people affected by modern slavery and the responsibilities of States and business to respect and protect those rights. Beginning with the former, the UN Office of the High Commissioner for Human Rights’ Recommended Principles and Guidelines on Human Rights and Human Trafficking<sup>1</sup> (**OHCHR Recommended Principles**) and the Dhaka Principles for Migration with Dignity (**Dhaka Principles**) both set out the rights of victim-survivors of human trafficking and migrant workers.

The OHCHR Recommended Principles assert the international legal right of trafficked persons to adequate and appropriate remedies. They stipulate that States and, where applicable, intergovernmental and non-governmental organisations, should consider: (1) ensuring that victims of trafficking have an enforceable right to fair and adequate remedies; (2) providing information as well as legal and other assistance to enable trafficked persons to access remedies; and (3) making arrangements to enable trafficked persons to remain safely in the country in which the remedy is being sought for the duration of any criminal, civil or administrative

---

<sup>1</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, E/2002/68/Add.1 (Geneva: United Nations, 2002), <https://www.ohchr.org/documents/publications/traffickingen.pdf>.

proceedings.<sup>2</sup> This latter point is particularly crucial for migrant or seasonal workers whose right to work and remain legally in a destination country is connected to their employer. The ninth component of the Dhaka Principles provides that migrant workers should have access to judicial remedy and to credible grievance mechanisms without fear of recrimination or dismissal.

Turning to the obligations of business, the United Nations Guiding Principles (UNGPs) on Business and Human Rights<sup>3</sup> assert that business has a responsibility to ‘counteract or make good’ those human rights violations to which they contribute or which they cause directly and that remedy should be decided in consultation with affected parties. The UNGPs set out a broad scope for remedy that may involve a range of actions from a formal apology, restitution and rehabilitation to management-level changes, financial compensation and preventative measures.

Similarly, the OECD Due Diligence Guidance on Responsible Business Conduct (OECD Guidance)<sup>4</sup> stipulates that the provision of remedy is a critical process that business due diligence should enable and support. Providing practical support for the implementation of the OECD Guidelines for Multinational Enterprises (MNEs), the OECD Guidance describes methods to determine appropriate remedy and a range of remediation mechanisms, including legal processes, global framework agreements and non-judicial state-based grievance mechanisms, such as OECD National Contact Points.

Beyond obligations on business, States’ duty to ensure access to remedy is enshrined in international law, including for example, the United Nations Convention Against Transnational Organized Crime, the International Covenant on Civil and Political Rights, and the Protocol of 2014 to the Forced Labour Convention, 1930 (No 29) (Forced Labour Protocol).

Together these frameworks, supported by numerous expert guidance, provide a robust and holistic expression of effective remedy, which for clarity and simplicity, may be distilled into four key elements: agency and self-determination; safety; compensation; and economic security.

### Agency and Self-determination

The act of restricting someone’s freedom and self-determination to exploit their labour is, in itself, the deprivation of agency. Thus, it follows that the first act of remedy must be to restore that agency. Indeed, as the Global Business Coalition against Human Trafficking asserts, supporting a survivor to reclaim “autonomy, confidence, and decision-making skills [are] key components of survivor empowerment programs.”<sup>5</sup>

---

<sup>2</sup> *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 12.

<sup>3</sup> UN Office for the High Commissioner of Human Rights (OHCHR), *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, (Geneva: United Nations, 2011). [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf).

<sup>4</sup> OECD, *OECD Due Diligence Guidance on Responsible Business Conduct*, (OECD, 2018), <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

<sup>5</sup> Global Business Coalition Against Human Trafficking, *Empowerment and Employment of Survivors of Human Trafficking A Business Guide*, (GBCAT, 2020), 10, <https://www.gbcat.org/survivor-empowerment-and-employment>.

The primacy of worker agency is reflected in the Principles for Worker-driven Remedy, which are featured in this Special Issue.<sup>6</sup> The second of these Principles asserts that effective remedy places rightsholders at the core of remediation processes. This Principle further asserts the determination of appropriate remedy should not be a top-down process, but rather, should be based on the rights of those directly affected by the harm, including workers and communities. Similarly, Principle 7 asserts workers' freely chosen trade unions or other worker representatives should have a formal role in the entirety of the remedy process, including the design, governance, implementation, and monitoring of remedy mechanisms.

Focusing on another point on the exploitation continuum, IMPACTT asserts that worker agency and participation in the repayment process [of recruitment fees] are critical to any best practice approach, stating: “rather than being passive recipients of payments that have been determined by other stakeholders, it is important for workers to be involved across all key stages of the repayment process, including investigation, repayment calculation, and verification. A lack of meaningful worker agency or social dialogue limits the robustness of the repayment process and may therefore significantly limit the overall effectiveness of the intended remedy.”<sup>7</sup>

Also supporting this is the Ethical Trading Initiative's (ETI) recommended remedy process, the first step of which recommends consultation with affected workers.<sup>8</sup> Regarding child labourers, ETI recommends businesses should consult with the child and their family to understand their wishes and needs.

Speaking on grievance mechanisms, Anti-Slavery International stipulates “migrant workers, or their credible representatives, should be engaged and have agency in the grievance mechanism process – from design to oversight.”<sup>9</sup> Similarly, ETI recommends consultation with workers and with key stakeholders to effectively design, revise and monitor grievance mechanisms. Further still, the Working Group on Business and Human Rights stipulates that all grievance mechanisms should be at the service of rightsholders, who should be consulted meaningfully in creating, designing, reforming and operating such mechanisms.<sup>10</sup>

---

<sup>6</sup> Martina Trusgnach, Olga Martin-Ortega and Cindy Berman, “Towards Worker-Driven Remedy: Advancing Human and Labour Rights in Global Supply Chains,” *J of Modern Slavery* (April 2024).

<sup>7</sup> IMPACTT, *Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees and Related Costs*, (IMPACTT, 2021), 3, <https://impacttlimited.com/principles-for-repayment-of-recruitment-fees/>.

<sup>8</sup> Cindy Berman, Ben Rutledge, and Samir Goswami, *Access to Remedy – Practical Guidance for Companies*, (Ethical Trading Initiative, 2019), 13, [https://www.ethicaltrade.org/sites/default/files/shared\\_resources/Access%20to%20remedy\\_0.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/Access%20to%20remedy_0.pdf).

<sup>9</sup> Anti-Slavery International, *Migrant Workers' Access to Remedy: A Briefing Paper for Business*, (Anti-Slavery International, 2022), 11, [https://www.antislavery.org/wp-content/uploads/2022/02/ASI\\_AccessToRemedy\\_Report.pdf](https://www.antislavery.org/wp-content/uploads/2022/02/ASI_AccessToRemedy_Report.pdf).

<sup>10</sup> Working Group on Business and Human Rights, *Report on Access to Effective Remedy for Business-related Human Rights Abuses A/72/162* (17 July 2017), 8, <https://www.ohchr.org/en/documents/thematic-reports/a72162-report-access-effective-remedy-business-related-human-rights>.

## Safety

A key indicator of slavery, forced labour, human trafficking and related conditions is physical and psychological threats. Thus, victims and affected parties need to feel safe and not be put at further risk as a result of any remediation or investigative process (by business, law enforcement or otherwise). Importantly, as noted by the Institute for Human Rights and Business (IHRB), if workers do not feel they can report grievances safely and confidentially, they will not report their experiences and exploitative practices will continue.<sup>11</sup> This is also recognised in OHCHR Guideline 5, which asserts that many victims are reluctant to report because of the absence of any effective protection mechanisms and the corruption or complicity of law enforcement officials in trafficking crimes.<sup>12</sup> Further to this point, ETI advises that when reporting to police, businesses should ensure that this does not put workers' safety at risk and that workers will not be subjected to further punishment or ramifications if the police are known to be corrupt or in alliance with the perpetrators of the crime.<sup>13</sup>

The OHCHR Recommended Principles emphasise safety as a key component of remedy.<sup>14</sup> Principle 6, for example, stipulates that trafficked persons should be protected from further exploitation and harm and have access to adequate physical and psychological care. Recognising that the trafficking cycle cannot be broken without attention to the rights and needs of those who have been trafficked, Guideline 6 also stipulates that appropriate protection and support should be extended to all trafficked persons without discrimination, including safe and adequate shelter. Similarly, IMPACTT stipulates that all stakeholders involved in repayment must take steps to ensure that all workers *and* their families are protected from harm and retaliation throughout that process.<sup>15</sup>

## Compensation

As contributors to this issue note<sup>16</sup>, if reporting workplace abuses does not result in recovery of wages, workers will not trust the systems that purport to uphold their rights and there will be little impetus to access grievance mechanisms or report crimes to authorities and regulators. Therefore, as ETI asserts, effective remedy must provide or facilitate workers' access to compensation, including for lost earnings, unpaid wages as well as for pain and suffering.<sup>17</sup>

---

<sup>11</sup> Institute for Human Rights and Business, *Responsible Recruitment: Remediating Worker-Paid Recruitment Fees*, (IHRB, 2017), 20, <https://www.ihrb.org/focus-areas/migrant-workers/remediating-worker-paid-recruitment-fees>.

<sup>12</sup> *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 7.

<sup>13</sup> *Access to Remedy – Practical Guidance for Companies*, 13.

<sup>14</sup> *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 8, 10.

<sup>15</sup> *Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees*, 5.

<sup>16</sup> Karen Stauss and Samantha Rudick, "A Case Study in the Mauritian Garment Industry: the Promise and Challenge of Securing Effective Remedy," *J of Modern Slavery* (April 2024).

<sup>17</sup> *Access to Remedy – Practical Guidance for Companies*, 13.

As discussed earlier, both the UNGP and the OECD Guidelines specifically name compensation as a key element of remedy;<sup>18</sup> and the Palermo Protocol and Forced Labour Protocol require States parties to provide access to compensation.

The International Organization for Migration (**IOM**) further states that financial assistance may be particularly important when the aggrieved party has not received any payment and/or has incurred debts to secure their job, for instance, to pay recruitment fees.<sup>19</sup> IMPACTT explains that repayment of recruitment fees and costs “can and does ameliorate or even remove entirely situations of severe debt bondage that contribute to forced labour and modern slavery-like situations.”<sup>20</sup>

## Economic Security

Relatedly and finally, affected parties must have access to assistance to secure new employment so they do not experience undue economic insecurity as a result of their exploitation being reported or discovered. Research with migrant workers has revealed the fear of losing access to income and right to work as a key barrier to reporting workplace abuses and exploitation.<sup>21</sup> Indeed, the International Transport Workers Federation (**ITF**) found that crew have often been reluctant to raise grievances due to fears about being blacklisted or banned from future employment.<sup>22</sup>

In the first instance, workers should be protected from such retaliation. However, where the discovery of workplace violations results in loss of employment, effective remedy should include work and income security for affected parties. For example, ETI recommends providing support for affected workers to find alternative employment as a key component to remedy.<sup>23</sup> In cases involving child victims, they recommend businesses offer the child’s job to a qualified adult member of the family. Echoing this are contributors to this issue who assert that “sustainable remediation programs focus not only on immediate removal from exploitation and

---

<sup>18</sup> *Guiding Principles on Business and Human Rights*, 27; *OECD Due Diligence Guidance on Responsible Business Conduct*, 91.

<sup>19</sup> International Organization for Migration, *Operational Guidelines for Businesses on Remediation of Migrant Worker Grievances*, (IOM, 2021), 4, <https://publications.iom.int/books/operational-guidelines-businesses-remediation-migrant-worker-grievances>.

<sup>20</sup> *Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees*, 2.

<sup>21</sup> Marie Segrave, *Exploited and Illegal: The Impact of the Absence of Protections for Unlawful Migrant Workers in Australia*, (Melbourne: Monash University, 2017); Bassina Farbenblum and Laurie Berg, *Wage Theft in Silence: Why Migrant Workers Do Not Recover Their Unpaid Wages In Australia*, (Migrant Worker Institute: Sydney, 2018), <https://www.migrantjustice.org/highlights/wage-theft-in-silence>.

<sup>22</sup> International Transport Workers Federation, “ITF wins back \$1.7 million in owed wages as more seafarers abandoned”, *ITF Seafarers* (3 December 2020), <https://www.itfseafarers.org/en/news/itf-wins-back-17-million-owed-wages-more-seafarers-abandoned>.

<sup>23</sup> *Access to Remedy – Practical Guidance for Companies*, 13.

rehabilitation but also on ensuring the social reintegration, education, vocational training, and economic empowerment of survivors.”<sup>24</sup>

As readers will see, our first article in this Special Issue is by a survivor advocate who proposes a conceptualisation of remedy that is not explicitly captured in predominant frameworks and guidance: that is, “relational remedy.”<sup>25</sup> As distinct from worker-centred remedy, relational remedy implies something deeper and more personal. As the author explains, relational remedy involves holding ourselves accountable to engage with persons affected by modern slavery as human beings. While remedy may be conceptualised and imparted in different ways to different people at different points on the exploitation continuum, remediation is most effective when it is kind, empathic, responsive and respectful.

### ***Developments in the Discourse on Remediation***

Despite its importance and ubiquity in international human rights frameworks, progress on remediation has evolved slowly. This is not for want of trying; many stakeholders, including several contributors to this Special Issue have been at the forefront of efforts driving a more vigorous global conversation about right to remedy in their respective jurisdictions and contexts. The growing evidence revealing the limitations of third-party audits<sup>26</sup>, of worker-feedback technologies<sup>27</sup>, and corporate voluntary measures<sup>28</sup> have also magnified the urgency for change and may serve to foster greater engagement from duty bearers.

One area of notable progress has been recruitment fees, often linked with debt bondage—the most common form of modern slavery in the world today. A growing number of businesses

---

<sup>24</sup> Silvia Mehra and Hem Bahadur Moktan, “Rehabilitation and Reintegration of Child Labor and Trafficking Survivors: A Case Study of Nepal GoodWeave Foundation’s Transit Home “Hamro Ghar,” *J of Modern Slavery*, (April 2024).

<sup>25</sup> Sarah S, “Remedy as Relational,” *J of Modern Slavery* (April 2024).

<sup>26</sup> Jolyon Ford and Justine 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* 26, no. 1 (January 2020): 27-45, <https://doi.org/10.1080/1323238X.2020.1761633>; Amy V. Benstead, Lisa C. Hendry and Mark Stevenson, “Detecting and Remediating Modern Slavery in Supply Chains: A Targeted Audit Approach,” *Production Planning & Control* 32, no. 13 (2020): 1136-1157, <https://doi.org/10.1080/09537287.2020.1795290>; Transparentem. *Hidden Harm: Audit Deception in Apparel Supply Chains and the Urgent Case for Reform*, Transparentem (2020), <https://transparentem.org/wp-content/uploads/2021/09/Hidden-Harm-Audit-Deception-in-Apparel-Supply-Chains-and-the-Urgent-Case-for-Reform.pdf>.

<sup>27</sup> Lisa Rende Taylor and Elena 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*, 7 (2019): 131–165, <https://doi.org/10.5871/jba/007s1.131>; Laurie Berg, Bassina Farbenblum, and Angela Kintominas, “Addressing exploitation in supply chains: Is technology a game changer for worker voice?” *Anti-Trafficking Review* 14, no.14 (2020): 47-66, <https://doi.org/10.14197/atr.201220144>.

<sup>28</sup> Jessica Decker Sparks, Lee Matthews, Daniel Cárdenas and Chris Williams, “Worker-less Social Responsibility: How the Proliferation of Voluntary Labour Governance Tools in Seafood Marginalise the Workers They Claim to Protect,” *Marine Policy* 139 (2022): 1-14, <https://doi.org/10.1016/j.marpol.2022.105044>; Genevieve LeBaron, Remi Edwards, Tom Hunt, Charline Sempéré and Peneope Kyritsis, “The Ineffectiveness of CSR: Understanding Garment Company Commitments to Living Wages in Global Supply Chains,” *New Political Economy* 2 (2020): 95-115, <https://doi.org/10.1080/13563467.2021.1926954>.



have taken on illegal recruitment fees as a key component of their broader human rights commitment to provide decent work. Fair recruitment is the basis for numerous international concepts and frameworks, including the Employer Pays Principle<sup>29</sup> and the 2019 ILO framework on Recruitment Fees and Costs. These have provided necessary clarity for business on the nature and characteristics of these issues, which supports companies to improve their remediation strategies and enables others to hold them to account.

Still, it is puzzling that access to remedy in all its forms has not received a front row ticket in the deliberations about how to “fight” modern slavery. Rather, in this author’s experience, remedy has often been left as an afterthought or secondary to primary interventions such as prosecution and supply chain monitoring. At times, it even feels like remediation takes a backseat to the popular, and somewhat easier, interventions of raising awareness and capacity building. This may be, amongst other reasons, because remedy is commonly perceived as an outcome; and measurable, impactful outcomes are difficult to achieve, especially in the broad and varied context of modern slavery. It is far easier to occupy oneself and one’s organisation with the process of “doing”, regardless of whether it achieves anything. Imagine what we might achieve if we reconceptualised remedy as something more than an outcome, but also as a strategy—something that, if done well, at scale, could achieve systemic and structural change in the struggle against contemporary slavery and labour exploitation?

### *In the absence of remedy, other strategies falter*

Despite the multiple instruments to slavery and slavery-related conditions, the Protocol to Suppress Trafficking in Persons [**Palermo Protocol**]<sup>30</sup> dominated States’ response to this issue across the early 2000s. While the Palermo Protocol assigns equal importance to prevention, protection and prosecution, the majority of signatories built their national responses on a criminal justice approach, many of which focused only on sex trafficking; thereby neglecting or failing to balance these obligations. This is perhaps best illustrated by the fact that in most countries, access to support, including various remedies, is contingent on participating in the criminal justice process, regardless of the victim-survivor’s wishes or needs. In some countries, it is contingent on a criminal justice *outcome*, which is well beyond any victim’s control and has nothing to do with a person’s status as a victim of crime. If prosecutions were having a demonstrable impact in deterring crime, one may argue (albeit with some difficulty) that these conditions may be worthwhile; but the facts do not bear this out.<sup>31</sup>

---

<sup>29</sup>Institute for Human Rights and Business and Leadership Group for Responsible Recruitment, *Six Steps to Responsible Recruitment: Implementing the Employer Pays Principle*, (IHRB, 2017), [https://www.ihrb.org/uploads/member-uploads/Six\\_Steps\\_to\\_Responsible\\_Recruitment\\_-\\_Leadership\\_Group\\_for\\_Responsible\\_Recruitment.pdf](https://www.ihrb.org/uploads/member-uploads/Six_Steps_to_Responsible_Recruitment_-_Leadership_Group_for_Responsible_Recruitment.pdf).

<sup>30</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.

<sup>31</sup> ILO, Walk Free and International Organisation for Migration (IOM), *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, International Labour Organisation (ILO) (Geneva: United Nations, 2022); UNODC, *Global Report on Trafficking in Persons*, (Geneva: United Nations, 2023).

The Global Estimates of Modern Slavery, indicated that 50 million people were living in modern slavery in 2021, including 28 million in forced labour, and that this number is rising. In contrast, only 5,600 human traffickers were convicted worldwide—a small increase from the year before but still much lower than in the years prior to the COVID-19 pandemic.<sup>32</sup> The UN Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons 2022 found a “global slow-down” for convictions, noting the number of convictions recorded globally has declined by about 44 per cent since 2017. While focused strictly on trafficking in persons, the numbers provide compelling insight into the overall success rate of prosecutions.

More than twenty years on from Palermo, the data suggest criminal justice interventions are not deterring human trafficking at scale. Convictions are costly and difficult; criminals, perceiving a low-risk operating environment, continue to offend; and victim-survivors are dragged through years of traumatic proceedings, where their character is systematically attacked, often for very little gain. Where there is lack of will or evidence, other survivors are denied the opportunity to have their day in court, compounding the sense of injustice and being silenced. How do these individuals access remedy?

In light of the limitations of “leading with the law”, what might we achieve by “leading with remedy”? Principles of procedural justice tell us that the *process* by which justice is achieved is more important than the *outcome* of a case—a point asserted by our first author.<sup>33</sup> As she asserts, remedy is a process of healing through a series of inter-personal relationships and interactions. Victim-survivors’ perceptions of justice are influenced by opportunities to be involved in the decisions that affect them, by meaningfully participating in the systems meant to help them, and by having a voice and expressing their experiences in their own time and in their own way.

Rather than thinking of prosecution as facilitating remedy, how might things be different if we conceptualised remedy as a *means* to enhance the prospects of successful prosecution? As a means to enhance the credibility of the criminal justice system itself? The principle of open justice asserts that to be done, justice must be seen to be done.<sup>34</sup> Perhaps if victims of slavery crimes and labour rights violations around the world saw other victims being treated with fairness, dignity, and respect by the systems meant to protect them, more crimes and violations would be reported, more evidence could be gathered, more victims could bear the pressures of trial. In such circumstances, remedy could become the ultimate deterrent.

More recently, with the advent of modern slavery laws, more attention has been drawn to the role of business in addressing serious labour exploitation. Pushing traditional labour governance into the territory of business relations in supply chains, these laws have undeniably shifted corporate understanding of and responsibility for modern slavery. Despite this progress, however, remediation has largely remained an afterthought, situated behind risk assessments and

---

<sup>32</sup> Statista Research Department, *Total Number of Convictions Related to Human Trafficking Worldwide from 2007 to 2022*, <https://www.statista.com/statistics/459622/number-of-convictions-related-to-human-trafficking-worldwide/>.

<sup>33</sup> Sarah S, “Remedy as Relational”.

<sup>34</sup> James Spigelman, “Seen to Be Done: The Principle of Open Justice,” *Australian Law Journal* 74 (2000) as cited in Jason Bosland and Jonathan Gill, “The Principle of Open Justice and the Judicial Duty to Give Public Reasons” *Melbourne University Law Review* 38, no. 2 (2014): 482-584. <https://www.proquest.com/docview/1661349518/fulltextPDF/484E9D64271C4BF9PQ/1?accountid=30812&sourcetype=Scholarly%20Journals>.

mitigation strategies. Taking the Australian Modern Slavery Act as one example, government-led consultations and parliamentary deliberations concentrated on how far business could be pushed; in comparison, there was far less consideration for what business would or should do once charged with the obligation to seek out and find slavery in their supply chains. This guidance would not come until many months after the Act was passed and as contributors to this Special Issue demonstrate, there is still great confusion about how to establish effective remediation processes.<sup>35</sup>

As these authors demonstrate, modern slavery laws are not yielding effective remedy on scale, nor are they necessarily leading firms to successfully detect modern slavery—a point we will return to momentarily.<sup>36</sup> Numerous public guidance<sup>37</sup> provides direction on remediation; however, because these laws do not bind firms to a particular standard or outcome, the nature and disclosure of any remedy provided is completely voluntary—a point made by several contributors to this issue. Advocates for mandatory human rights due diligence laws recognise this, but cases like Nevsun<sup>38</sup> and Tesco/Intertek<sup>39</sup> demonstrate the extreme challenges rightsholders face in accessing justice through lengthy, complex, international litigation. Here again, we must take steps to strengthen faulty strategies to prioritise remedy and avoid over-reliance on those that, while worthwhile and necessary, have considerable limitations.

Turning to another articles in this Special Issue, the newest experiment in fighting forced labour is ‘import bans’—a mechanism of customs enforcement born out of the United States that allows customs officials to temporarily withhold imports suspected to have been made with forced labour. While this is proving to have some positive effects on business behaviour and government responsiveness,<sup>40</sup> the stories of affected workers reveal the corrective actions taken by firms to have these orders lifted are only rarely providing appropriate and lasting remedy for affected parties. As the authors explain, customs officials defend this strategy as not intending to deliver remedy to individuals, which raises the question: why not?

Of course, remedy alone cannot deter criminal or unethical conduct. It is not a panacea and as the above discussion explains, we must continue to experiment with a suite of strategies

---

<sup>35</sup> Samuel Pryde, Justine Nolan, Shelley Marshall, Andrew Kach, Martijn Boersma, Fiona McGaughey and Vikram Bhakoo, “Understanding Remedy under the Australian Modern Slavery Act: From Conceptualisation to Provision of Remedy,” *J of Modern Slavery* (April 2024).

<sup>36</sup> Pryde et al, “Understanding Remedy.”

<sup>37</sup> See generally *Access to Remedy – Practical Guidance for Companies; Migrant Workers Access to Remedy; Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees*; Australian Government, *Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities* (May 2023), <https://modernslaveryregister.gov.au/resources/>; Walk Free, Human Rights Resources and Energy Collaborative, 2021. Walk Free and Human Rights Resources and Energy Collaborative, *Modern Slavery Response and Remedy Framework*, <https://www.walkfree.org/reports/modern-slavery-response-remedy-framework/>.

<sup>38</sup> Nevsun Resources Ltd. v. Araya, Supreme Court of Canada [220] 1 SCR 166 Case No 37919. 2020 SCC 5.

<sup>39</sup> Emily Dugan, “Workers in Thailand Who made F&F Jeans for Tesco ‘Trapped in Effective Forced Labour’,” *The Guardian*, December 19, 2022, [https://www.theguardian.com/business/2022/dec/18/workers-in-thailand-who-made-ff-jeans-for-tesco-trapped-in-effective-forced-labour?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/business/2022/dec/18/workers-in-thailand-who-made-ff-jeans-for-tesco-trapped-in-effective-forced-labour?CMP=Share_iOSApp_Other).

<sup>40</sup> Archana Kotecha and Nawin Santikarn, “How Import Bans Affect Access to Remedy for Individuals Affected by Forced Labour,” *J of Modern Slavery* (April 2024).

that match the incredible complexity and diversity of contemporary forms of slavery. What is clear, however, is that as long as criminal justice processes, modern slavery laws, import bans and other strategies do not embed and prioritise access to remedy—in its various forms—they will continue to have limited effect. It is time for a reconceptualisation of remedy—as more than a way to correct isolated instances of exploitation, to become a weapon against exploitation... a powerful tool to change the status quo.

### ***Remedy in the Literature***

The concept of remedy is not new to many fields of study, including law, human rights and social justice. Across these literatures, scholars have examined the right to remedy as set out under various national and international legal frameworks.<sup>41</sup> They have tested and documented innovative means to secure remedy for affected workers, such as strategic litigation; and in doing so have held a range of perpetrators to account, from multi-national companies to senior diplomats and consular officials.<sup>42</sup>

Others have identified how alternative forms of justice (i.e. restorative, procedural and transitional) can complement or compensate for traditional justice system remedies<sup>43</sup>; and the growing body of literature on worker-driven social responsibility is becoming a game-changer in reconceptualising what effective remedy looks like.<sup>44</sup> Leading non-governmental organisations, including contributing authors to this Special Issue, have leveraged their own experience at the

---

<sup>41</sup> Josephine Suchecki, “Remedies for Victims of Human Trafficking under the Palermo Protocol and United Nations Basic Principles: A Case Study Analysis,” *Notre Dame J. Int’l Comp. L.* 9, no. 1 (2019): 1-31, <https://scholarship.law.nd.edu/ndjicl/vol9/iss1/8>; Anne T. Gallagher, “The Right to an Effective Remedy for Victims of Trafficking in Persons: A Survey of International Law and Policy,” Paper submitted for the expert consultation convened by the UN Special Rapporteur on Trafficking in Persons, especially women and children, Ms. Joy Ngozi Ezeilo on: ‘The Right to an Effective Remedy for Trafficked Persons’, Bratislava, Slovakia (22 -23 November 2010), [https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/Bratislava\\_Background\\_paper1.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/Bratislava_Background_paper1.pdf).

<sup>42</sup> Dan Werner and Kathleen Kim, *Civil Litigation on Behalf of Victims of Human Trafficking*, Immigrant Justice Project Southern Poverty Law Center, (2008), <https://humantraffickinghotline.org/sites/default/files/Civil%20Litigation%20on%20Behalf%20of%20Trafficking%20Victims.pdf>; Martina E Vandenberg and Sarah Bessell, “Diplomatic Immunity and the Abuse of Domestic Workers: Criminal and Civil Remedies in the United States,” *Duke J. Comp. & Int’l L.* 26 (2016): 595-633, <https://scholarship.law.duke.edu/djicil/vol26/iss3/6>.

<sup>43</sup> Lilly Yu, Jeanette Hussemann, Hanna Love, Evelyn McCoy, and Colleen Owens, *Alternative Forms of Justice for Human Trafficking Survivors: Considering Procedural, Restorative and Transitional Justice* (2018), [https://www.urban.org/sites/default/files/publication/97341/alternative\\_forms\\_of\\_justice\\_for\\_human\\_trafficking\\_survivors.pdf](https://www.urban.org/sites/default/files/publication/97341/alternative_forms_of_justice_for_human_trafficking_survivors.pdf); Maximilian J.L. Schormair and Lara M. Gerlach, “Corporate Remediation of Human Rights Violations: A Restorative Justice Framework,” *Journal of Business Ethics* 167, (2020): 475-493, <https://doi.org/10.1007/s10551-019-04147-2>.

<sup>44</sup> Grace Ann Rosile, David M. Boje, Richard A. Herder and Mabel Sanchez, “The Coalition of Immokalee Workers Uses Ensemble Storytelling Processes to Overcome Enslavement in Corporate Supply Chains,” *Business & Society* 60, no.2 (2021): 376-414. <https://doi.org/10.1177/0007650320930416>; Opi Outhwaite and Olga Martin-Ortega, “Worker-Driven Monitoring – Redefining Supply Chain Monitoring to Improve Labour Rights in Global Supply Chains,” *Competition & Change* 23, no. 4 (August 2019): 378-396. <https://doi.org/10.1177/1024529419865690>; Juliane Reinecke and Jimmy Donaghey, “Towards Worker-Driven Supply Chain Governance: Developing Decent Work through Democratic Worker Participation,” *Journal of Supply Chain Management* 57, no.2 (2021): 14-28, <https://doi.org/10.1111/jscm.12250>.

front line to provide insights on how to improve access to remedy in both the grey and peer-reviewed literature.<sup>45</sup>

In contrast, the business and management literature has been criticised for its lack of attention to modern slavery.<sup>46</sup> While this is changing with the relatively recent and increasing focus on ‘modern slavery in supply chains’ (MSSC), leading scholars refer to the study of modern slavery within the business and management discipline as “highly underdeveloped” and a “non-field.”<sup>47</sup> Noting advancements from within the supply chain management (SCM) literature, they observe SCM scholarship still requires a fundamental rethink to appropriately conceptualise and understand modern slavery challenges, including, among others, remediation.

A particular gap is critical scholarship regarding the application by firms of normative frameworks that set out obligations to remediate, such as those discussed earlier. Here, there is very limited empirical research exploring how firms judge their obligations to remedy; what, if any, remedy is delivered; to what extent affected parties are involved in these decisions; and the outcomes of remedy when provided.

For instance, the UNGPs contend that firms cannot deny their responsibility to act and that responsibility transcends commercially-focused interventions to include worker-focused or victim-focused interventions.<sup>48</sup> More specifically, the expectation is that responses to a human rights violation should not be limited to corrective action at the contractual level, such as correcting a supplier’s breach of a contract clause or a code of conduct. Rather, the expectation is that firms will take steps, either directly or through their supply chains, to address the impacts of harm (to which they have contributed and caused) on individuals.<sup>49</sup>

Yet, despite the criticality and salience of remediation to contemporary business debates, researchers have given surprisingly little attention to whether and how businesses are meeting their responsibility to remediate. Of the limited scholarship on the topic, a significant proportion of studies have focused on how firms are responding to the broader *issue* of modern slavery rather than specific *incidents*. Foregrounded earlier in this introduction, scholars tend to frame remediation in terms of engagement with suppliers or sub-suppliers to potentially address

---

<sup>45</sup> See generally *Access to Remedy – Practical Guidance for Companies; Migrant Workers’ Access to Remedy; Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees* and Rende Taylor and Shih, “Worker Feedback Technologies.”

<sup>46</sup> Robert Caruana, Andrew Crane, Stephen Gold, Genevieve LeBaron, “Modern Slavery in Business: The Sad and Sorry State of a Non-field,” *Bus Soc* 60 (2021): 251–287, <https://doi.org/10.1177/0007650320930417>; Bill Cooke, “The Denial of Slavery in Management Studies,” *Journal of Management Studies* 40 (2003): 1895-1918, <https://doi.org/10.1046/j.1467-6486.2003.00405.x>.

<sup>47</sup> Caruana et al, “Modern Slavery in Business”, 275-276.

<sup>48</sup> *Guiding Principles on Business and Human Rights*, 15.

<sup>49</sup> *Guiding Principles on Business and Human Rights*, 1.

contractual violations leading to harm<sup>50</sup>; corporate reactions to the demands of the law<sup>51</sup>; or broad, industry-based initiatives to tackle the issue as a whole<sup>52</sup>. While these are worthwhile lines of inquiry, it is necessary to extend attention to whether and how firms are attempting to address the harm itself if we are to have measurable, positive impact on human lives. As contributors to this issue observe, such knowledge is also vital to comprehending if corrective action is having any lasting impact on the site and the system in which the abuse took place.<sup>53</sup> A possible explanation for the limited scope of research to date is the trend of relying on secondary data analysis as a methodological approach to understand remediation challenges. Indeed, a great number of studies on modern slavery in supply chains rely on modern slavery statements and other corporate self-reporting. There are comparably few studies in the same literature that observe remediation from the perspectives of people with lived experience of slavery and other forms of labour exploitation.

Another potential explanation is the reality, observed some time ago by New, that firms may be reluctant to partner in research that exposes the weaknesses of current practice.<sup>54</sup> In response to this challenge, he calls for research to take a “grittier, more complex character,” lest scholars become “complicit in a process in which firms engage in a mild form of competition for perceived ethical merit.”<sup>55</sup> He suggests scholars must diversify research methods to rely less on corporate self-reporting and more on “enacted practice.” Caruana and colleagues<sup>56</sup> reiterate this tension and suggest that researchers’ tendency to examine slavery as something exogenous—rather than endogenous—to business models and practice is what has held the literature back.

While this presents a very real and legitimate challenge, it also suggests the status quo approach to research and lack of attention to remediation of harm may be enabling firms to avoid the necessary reckoning with the unanswered question: ‘what do you do when you find it?’ If scholars are to help inform the response to this vital question, we must expand theoretical and disciplinary approaches to modern slavery scholarship to positively impact policy and practice beyond the bounds of academia. We must also find ways to bring business to the research table

---

<sup>50</sup> Mark Stevenson and Rosanna Cole, “Modern Slavery in Supply Chains: A Secondary Data Analysis of Detection, Remediation and Disclosure,” *Supply Chain Management* 23 (2018): 81–99, <https://doi.org/10.1108/SCM-11-2017-0382>.

<sup>51</sup> Stephen John New, “Modern Slavery and the Supply Chain: The Limits of Corporate Social Responsibility?” *Supply Chain Management* 20 (2015): 697–707, <https://doi.org/10.1108/SCM-06-2015-0201>; Mark Rogerson, Andrew Crane, Vivek Soundararajan, Johane Grosvold, Charles Cho, “Organisational Responses to Mandatory Modern Slavery Disclosure Legislation: A Failure of Experimentalist Governance?” *Accounting, Auditing & Accountability Journal* 33, no. 7 (2020): 1505–1534, <https://doi.org/10.1108/AAAJ-12-2019-4297>.

<sup>52</sup> Tingting Liu, Emiliya Suprun, Rodney A. Stewart, Shane Duran, “Developing a Framework for Assessing the Readiness of Entities in the Construction Industry in Addressing Modern Slavery,” *Sustainable Production and Consumption* 31 (2022): 139–151, <http://dx.doi.org/10.1016/j.spc.2022.02.003>.

<sup>53</sup> Pryde et al, “Understanding Remedy”.

<sup>54</sup> New, “Modern Slavery and the Supply Chain”, 704.

<sup>55</sup> New, “Modern Slavery and the Supply Chain,” 704.

<sup>56</sup> Caruana et al, “Modern Slavery in Business”, 252.

and to partner with rightsholders to advance a courageous, innovative and “humanized”<sup>57</sup> research agenda.

### ***Filling some gaps***

In light of the above challenges, we are delighted to share this special issue of the Journal of Modern Slavery, which aims to begin to fill some of these gaps. As a whole, the issue provides perspectives on ‘access to remedy’ from around the globe, including Nepal, Australia, Mauritius, Thailand and Nordic countries to name a few. It touches on various approaches to remedy, including the strengths and limitations of such approaches, from National Action Plans on Business and Human Rights to customs enforcement mechanisms to modern slavery disclosure legislation. One article focuses on the role of NGOs and considers remedy through the lens of rehabilitation to address and prevent child trafficking, while another highlights the role of the financial services sector. Importantly, several articles provide insights on remedy from the perspectives of people who have experienced forced labour, human trafficking and other forms of exploitation. These voices sound the pervasive gaps in current strategies to meaningfully include affected parties in the design, delivery and evaluation of remedy. In hearing these voices, it should be no surprise why the ILO’s estimates are on the rise, despite so much money, time and human effort being invested in this global problem.

Together, the articles in this edition advance our understanding of remediation and provide new insights and feasible pathways forward. While some represent the culmination of many years of work, others aim to start or extend emerging lines of inquiry. The Journal is very grateful to all the authors for their time and expertise.

### **Special Issue Overview**

We thought it fitting to begin the issue with a survivor’s perspective on remedy. Sarah S, a survivor advocate and leader from Australia, explains that, at its core, remedy is relational. Just as slavery occurs on a continuum, so does remedy. It is not an isolated event, but rather, a process of healing, through different relationships, over time. As Sarah explains, it can take different forms along that process, from basic support to simply survive, to access to information and peer support to envision a future beyond current suffering. Sarah proposes that remedy also involves recognition as a victim of crime and the importance of being listened to, heard and respected as a human being. Conceptualising remedy as relational does not absolve duty bearers of their obligations to respect and protect human rights. Rather, Sarah emphasises that remedy is more than system responses; it is about creating accountability for personal integrity and meaningful outcomes in those responses.

Our next article provides a case study illustrating how rehabilitation as a form of remedy can be carried out through NGO-government-business partnerships. In “Rehabilitation and Reintegration of Child Labor and Trafficking Survivors: A Case Study of Nepal GoodWeave

---

<sup>57</sup> Vivek Soundararajan, V., Miriam M. Wilhelm, and Andrew Crane, “Humanizing Research on Working Conditions in Supply Chains: Building a Path to Decent Work,” *Journal of Supply Chain Management* 57 (2021): 3–13, <https://doi.org/10.1111/jscm.12260>.

Foundation's Transit Home ‘Hamro Ghar’”, Silvia Mera and Hem Bahadur Moktan highlight the challenges within contexts where child trafficking and the worst forms of child labour are endemic in business operating models and where State responses fall short. Continuing in the theme of ‘relational remedy,’ the article shares insights on access to remedy from the perspective and experience of child trafficking survivors themselves who convey the importance of having mentors and seeing the possibilities of a life without exploitation in the experiences of older children who have successfully left exploitative work.

Referencing yet another relevant international framework, the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International and Human Rights Law and Serious Violations of International Humanitarian Law*, the authors explain that remedy is more than just assistance; it is about the restoration of rights and addressing the causes of vulnerability. Resonating the definition of remedy provided earlier in this introduction, they explain that remedy includes safe withdrawal from exploitation, access to basic supports and compensation, and reintegration with family and education in a manner that prevents a return to exploitation work.

Addressing a significant gap in both policy and practice, this case study demonstrates how innovative partnerships between NGOs and social auditors can facilitate a natural referral pathway between identifying labour abuses and remedy. They also demonstrate how access to inclusion, education and survivor-centred support can fundamentally shift the trajectory of children’s and their families’ lives.

Turning to the Global North, Dr Tina Davis and Saara Haapasaari consider the situation for exploited migrant workers in their article “Access to Remedy and Grievance Mechanisms: A Brief Review of the Situation for Exploited Migrant Workers in Finland and Norway”. The review forms part of a larger study by the European Institute for Crime Prevention and Control (HEUNI), the Coretta and Martin Luther King Institute for Peace, and Ethical Trading Initiative Sweden. In their article, Davis and Haapasaari analyse the accessibility and effectiveness of state and non-state-based grievance mechanisms and remediation processes for migrant workers in Finland and Norway. They conduct their analysis through a review of the two countries’ respective National Action Plans (**NAP**) on Business and Human Rights; text-analysis of corporate sustainability reports of twelve companies operating in high-risk sectors; and a gap analysis of current policy and practice.

Similar to views of other contributors to this issue, the authors observe that access to remedy is the forgotten pillar of the UNGPs, especially concerning migrant workers. They find that, while Finland and Norway’s NAPs are carefully aligned with the UNGPs, gaps at the juncture between policy and practice restrict migrant workers’ access to remedy and justice.

Emphasising the duty of the State to ensure access to judicial and non-judicial remedies, the authors highlight the importance of congruence and harmony across frameworks and demonstrate the consequences when these frameworks are not aligned. For example, Norway does not recognise migrant workers as a vulnerable group in national policy or in the NAP. Rather, Norway’s NAP focuses on risks and violations that occur internationally, which the authors argue has effectively segregated businesses and business-related exploitation from national response strategies and stakeholder initiatives. In the inverse, domestic policies on exploitation do not incorporate the UNGPs.



Mirroring findings of other contributors to this issue, both Finland and Norway share several common challenges, including poor corporate disclosure regarding how businesses communicate and provide meaningful access to grievance mechanisms. Here, Davis and Haapasaari also assert that corporate transparency laws must be strengthened to ensure businesses' actions and disclosures correspond with the nature of risk in their respective operating environments; and that disclosure should shed more light on how firms are operationalising remedy.

This point naturally segues to our next article by collaborators in a multi-institutional evaluation of Australia's Modern Slavery Act (AMSA). In "Understanding Remedy under the Australian Modern Slavery Act: From Conceptualisation to Provision of Remedy", Samuel Pryde, Justine Nolan, Shelley Marshall, Andrew Kach, Martijn Boersma, Fiona McGaughey and Vikram Bhakoo examine the extent to which remedy is being provided by firms reporting under the AMSA. Going beyond modern slavery reports analysis, this article presents findings from one of the few longitudinal studies on modern slavery in supply chains, involving a national business survey and four in-depth focus groups with industry groups, businesses and civil society. This article is also amongst the first studies examining in detail, how business representatives conceptualise, deliver and describe remedy.

In line with Davis and Haapasaari, the authors find that while firms are referencing remedy in their modern slavery statements, these references are superficial and fail to provide substantive detail on how and what remedy was provided. Similarly, they find a consistent lack of transparency regarding corporate grievance mechanisms, where statements provide little detail about how such tools have been designed to address the many barriers to reporting and accessing justice. Where firms do disclose the type of remedy provided, the most common form is compensation followed by repayment of wages and making a report to authorities. In direct contrast to the conceptualisation of remedy as something relational, the authors' findings confirm that most firms view remedy as a transactional 'monetary exercise.'

Also in contrast to 'relational remedy' are the authors' findings regarding consultation in the design of remedy. On this subject, survey responses indicated a general preference to consult stakeholders with expertise on matters of interest to the company, such as legal professionals and consultants, rather than more legitimate worker representatives. On a more positive note, the authors found that when companies engaged key stakeholders, they correspondingly reported more effective remediation practices.

Generally, the authors find that firms' remediation strategies are not appropriately aligned with the UNGP's recommendations for remedy—a deficiency they attribute to "definitional and enforcement limitations of the law" that leave significant scope for interpretation. To address these limitations, they argue that corporate disclosure laws like the AMSA would be strengthened by the inclusion of mandatory due diligence requirements prescribing a minimum standard for remedy. These observations are quite timely as Australia is currently considering amendments to its modern slavery laws and as other countries experiment with their own variations of disclosure and due diligence legislation.

Our fifth article is also extremely timely as Canada and the EU enact, and other jurisdictions consider, measures to control the importation of goods made with forced labour. In their article, "How Import Bans Affect Access to Remedy for Individuals Affected by Forced

Labour”, Archana Kotecha and Nawin Santikarn provide a summary of The Remedy Project’s landmark 2023 report, “Putting Things Right: Remediation of Forced Labour under the Tariff Act 1930”. The report is amongst the first and most comprehensive studies examining the extent to which withhold release orders (**WROs**) in the United States are leading to effective remedy for people in conditions of forced labour. The article discusses findings of nine case studies focusing on instances where a company has sought to lift an import ban imposed under the Tariff Act. Developed from desk-based research, stakeholder interviews, and interviews with 53 workers in WRO-affected companies, the case studies identify areas of strength and weakness in the WRO mechanism.

Of particular importance is the authors’ commentary on how the US Customs and Border Protection (CBP) decides to modify or revoke a WRO. As the authors explain, a WRO or Finding may be modified or suspended where the company demonstrates to CBP that it has ‘remediated’ all 11 indicators of forced labour; an order may be revoked if CBP determines the company was not engaged in forced labour. Notably, the CBP does not require evidence of remediation to individuals, reflecting a departure from the normative definition of remedy in the UNGPs and similar frameworks discussed earlier.

In step with broader trends and mirroring the results of the Australian Modern Slavery Act study, Kotecha and Santikarn find that the most common form of remedy provided in response to WROs was monetary, primarily in the form of repayment of recruitment fees. Beyond this, few other remedies were provided. While they find that WROs have helped to strengthen grievance mechanisms and corporate sustainability, the authors observe this mechanism would be greatly strengthened by requiring evidence of remedy to individuals that is in alignment with the UNGP definition.

Despite this limitation, the authors find WROs can spur governments to assume their proper role in monitoring labour conditions. For examples, in Taiwan, a WRO prompted the prosecution of alleged perpetrators of trafficking and forced labour and spurred the adoption of an official Action Plan for Fisheries and Human Rights. In Thailand, a threatened import ban led the Royal Thai Government to commit to ending the manufacture of fishing nets using prison labour. In Malaysia, the Government introduced several reforms to labour laws, including a new forced labour criminal offence, following a series of import bans against glove makers and palm oil companies.

Turning to our next piece, also a case study, Karen Stauss and Samantha Rudick of Transparentum share a summary of findings from an in-depth, multi-year investigation into working conditions in the Mauritian garment industry. In their article, “A Case Study in the Mauritian Garment Industry: the Promise and Challenge of Securing Effective Remedy,” the authors detail Transparentum’s engagement with 18 buyers purchasing from apparel factories where numerous indicators of forced labour were uncovered through the investigation.

Similar to other contributors’ findings, the discovery of these indicators has led to some positive outcomes, including three buyers agreeing to repay a portion of fees; and firms committing to improvements to working and living conditions; strengthening workers’ council representation; and improving policies. However, the picture for remedy in this case is disappointing and the authors provide a compelling indictment of the voluntary corporate sustainability initiatives in this case. For example, as buyers professed a strengthening of their

human rights policies, the investigation found inadequate systems to effectively operationalise buyers' policy commitments to respect and protect human rights in their supply chains. In line with the broader literature,<sup>58</sup> the authors also explain how standard business practices, such as outsourcing foreign worker recruitment, act to obscure the very risks corporate policies purportedly target; meanwhile firms continue to rely on faulty detection mechanisms, which are open to fraud and deception and fail to address the fear and mistrust that commonly prevent workers from reporting workplace misconduct.

Notably, however, is the authors' message of hope, which resonates with the main thrust of this introduction and is evident in both the title and text of their article. Remedy presents a challenge but it also presents an opportunity. Emphasising the "promise" of effective remedy, the authors observe the potential for countries to become more attractive to foreign buyers by becoming model sourcing destinations through "responsible recruitment and consistent protection of migrant workers' rights."

Our penultimate article discusses a promising new project under the Finance against Slavery and Trafficking (FAST) Initiative, United Nations University Centre for Policy Research (UNU-CPR). In their article, "Increasing the Prospects of Corporate Accountability, Compensation, and Financial Health for Victims and Survivors of Forced Labour and Human Trafficking," authors Loria-Mae Heywood and Andy Shen share how the Asset Recovery and Restitution Initiative (ARRI) proposes to fill the remedy gap through the combined use of trade (i.e. WROs) and anti-money laundering frameworks and inter-agency and multistakeholder cooperation. In leveraging these strategies together, the ARRI aims to address the disparity between the enormous profits generated by slavery-related crimes and the compensation provided to those affected. The potential strength of this new strategy lies in the word "combined" where existing but currently isolated frameworks are brought together and supported by the involvement of key stakeholders with unique roles to play throughout the process of delivering remedy.

Similar to other contributors, Heywood and Shen observe the disconnect between law and practice that creates and sustains barriers to accessing remedy. In questioning the effectiveness of mainstream strategies to address slavery and worker exploitation, they assert the need to rethink remedy and experiment with new and innovative strategies to improve access. Echoing the need to embed economic security into remediation, they shrewdly remark that it is not sufficient to simply return a person to the state they were in prior to harm if they remain vulnerable. Rather, the provision of effective remedy would correct both the harm as well as causes of original vulnerability. In line with other contributors to this issue, they emphasise that effective remedy does not occur in a vacuum. Cooperation with other agencies and stakeholders is not just helpful, but essential to facilitate the delivery of remedy to affected parties.

We conclude this Special Issue with Martina Trusgnach, Olga Martin-Ortega and Cindy Berman's article, "Towards Worker-Driven Remedy: Advancing Human and Labour Rights in Global Supply Chains." This article contextualises and explains the recently released *Principles*

---

<sup>58</sup> Andrew Crane, "Modern Slavery as a Management Practice: Exploring the Conditions and Capabilities for Human Exploitation," *Academy of Management Review* 38 (2013): 49–69, <https://doi.org/10.5465/amr.2011.0145>; Christina Stringer and Snezhina Michailova, "Why Modern Slavery Thrives in Multinational Corporations' Global Value Chains," *Multinational Business Review* 26 (2018): 194–206, <https://doi.org/10.1108/MBR-04-2018-0032>.

*of Worker-Driven Remedy*. Developed by Electronics Watch in consultation with trade unions, labour rights organisations, and public buyers, the Principles represent the beginning of a process to “develop a new, coherent framework to systematically...change the narrative on remedy from corrective action to rights-based remedy for human rights abuses.”<sup>59</sup> Ahead of introducing the Principles, the authors provide a sobering overview of the “remedy-deficient landscape” of global value chains and speak to several of the gaps identified above. Namely, the authors observe the failure by firms to address harm, preferring to focus on supplier compliance. They share two case examples that illustrate the human consequences of failure to remediate and why legitimate worker representatives and human rights defenders are essential in ensuring justice and remedy. Of particular note, they emphasise the crucial role of ‘personal agency’ in designing and delivering remedy—a noticeable gap in both scholarly and policy debates.

In introducing these Principles, the authors take us a step closer to breaking through the veneer of current corporate practice, often characterised by ineffective audits, symbolic compliance and tokenism. The Principles provide a way forward to replace these with more effective, human-centred measures; and in doing so, provide direction for future research, particularly around what kind of tools and support could help facilitate behaviour change and more worker-focused decision-making within business.

## ***Conclusion***

A central theme throughout the articles in this issue is the recognition that addressing harm to people brings more than individual benefits—it can change systems. While it is absolutely essential to address localised causes of harm, the system’s reliance on worker grievances to identify rights violations requires trust. If workers do not receive remedy or perceive the system to act in their interests, they are less likely to access grievance mechanisms and abuses will go undetected. Without detection, there can be no remedy.

To this end, there is great need for empirical research that explores the link between effective remedy and detection, where affected parties may be more likely to report rights violations when the system works to protect and uphold rights. Also needed is more exploration of the nexus between State-based and non-State-based grievance mechanisms and the overall effectiveness of those mechanisms in delivering appropriate remedy.

As mentioned earlier, this Special Issue examines remedy primarily in the context of business supply chains. A broader analysis of remedy in other contexts remains a critical gap, which we hope will be filled in future editions of this and other publications.

The gaps we have identified in the literature do not simply inform pathways for academic pursuits; they represent an opportunity and an obligation to involve affected parties, including workers, communities, victims and survivors, in research design and implementation. It is vital for future research to become more “relational” with greater focus on telling the stories of the people who have experienced labour rights violations detailing success stories to show duty bearers the way forward. In doing so, research itself can be a form of remedy.

---

<sup>59</sup> Trusgnach et al, “Towards Worker-Driven Remedy”.