Towards Worker-Driven Remedy: Advancing Human and Labour Rights in Global Supply Chains

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Abstract

This article examines the importance of rights-holder-driven remedy in addressing widespread abuse in global supply chains. It exposes the limitations of existing approaches and analyses the development of the Principles of Worker-Driven Remedy by Electronics Watch as a promising advancement. In particular, it emphasises the role of public buyers and public procurement in addressing power imbalances and enabling rights-holders to play a central role in their own remediation process. The practical implementation of the Principles is also discussed, highlighting the need for collaborative efforts to ensure that remedy is truly driven by those who have been harmed by human and labour rights abuse in global supply chains.

Keywords: worker-driven, remedy, global supply chains, human rights, public procurement

1. Introduction

Human and labour rights abuses within global supply chains continue to be a pressing concern, demanding the design and implementation of effective remedial measures which can both address the harm and prevent its reoccurrence. To date, however, most industry approaches to improving situations in global supply chains have only rarely, and often inadequately, provided remedy to workers harmed by business operations. They have been often driven from the top down, and have failed to take account of the needs, expectations and priorities of workers as rights-holders. This article critically examines the limitations of existing practices and highlights a promising emerging trend that emphasises the inclusion of rights-holders in the remedial process. It further distinguishes between initiatives that merely pay lip service to workers' interests and those that genuinely prioritise them. As a case study, the article investigates the practices and experience of Electronics Watch, an organisation that brings together civil society monitors in production regions and public sector organisations in the global north to improve working conditions in electronics supply chains. In particular, it sheds light on a recent development within Electronics Watch's approach – the formulation of the Principles for Worker-Driven Remedy.
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These Principles aim to provide a comprehensive framework for remedial efforts, ensuring that workers are actively involved at every stage and assume a leading role in the process. Crucially, the article underscores the indispensable role of various stakeholders in global supply chains, whose collaboration is vital to redress existing power imbalances in favour of employers, which currently hinder effective worker-driven remedy in practice. Through this analysis, the article contributes to the discourse on advancing human and labour rights within global supply chains and offers valuable insights into the evolving landscape of worker-driven remedy practices.

2. The problem: no effective remedy for abuse in global supply chains

There is abundant evidence of human and labour rights abuses in global supply chains. Workers, the main rights-holders in global supply chains on which this article focuses, are often subject to discrimination, low pay and wage theft, excessive working hours, forced overtime, and health and safety risks. Many workers – particularly migrants – are subject to abusive recruitment practices, including deception about their employment conditions, charging of recruitment fees and confiscation of passports, restricting freedom of movement. The charging of recruitment fees, low pay and wage theft may push workers into higher debts to cover their basic needs and lock them into debt bondage. In certain states, workers are often prevented from creating or joining trade unions or other forms of workers’ associations – which are instrumental for workers to enjoy their rights at work and improve their working conditions – and workers and their representatives may be subject to threats, intimidation and violence. The most egregious forms of worker abuse and exploitation amount to situations of forced labour as a process – into and out of which workers may find themselves at different times. At the same time, the long-term impact of abuse to workers is not always immediately apparent or adequately recognised. For example, unsafe working conditions can affect workers’ health in the long run, and exposure to toxic chemicals can have severe impact on reproductive health including causing miscarriages and birth defects. These human and labour rights abuses have been defined as an endemic part of contemporary supply chains, and the ‘logical’, ‘pervasive and predictable outcome’ of the way in which goods production is organised – namely through outsourcing and subcontracting involving a

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1 Although we recognise local communities are also impacted by business activities, this article focuses predominantly on workers.


multitude of different actors bound together in complex, multi-tiered networks spanning several different states.6

In international human rights law (IHRL), rights-holders who have been harmed have a right to an effective remedy.7 This is also a critical pillar of the UN Guiding Principles on Business and Human Rights (UNGPs).8 Despite the widespread and systematic nature of abuse in global supply chains, however, remedy for it is often missing. Global supply chains have been described as a ‘remedy-deficient landscape’, in which achieving corporate accountability as well as remedy for business-related abuse remains elusive and ‘an exception rather than the rule’.10

Where action has been taken to address the harm, it has been primarily dependent on voluntary, corporate-led practices as a result of advocacy efforts by civil society, trade unions, media stories and public shaming of companies.11 Companies, whether individually or as part of multi-stakeholder initiatives, have approached and tried to address global supply chain issues through the narrow lens of corrective action plans (CAPs), and a growing number of public-facing brands and retailers have put in place grievance mechanisms. However, these tools far too often have had unsatisfactory results, as

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highlighted by scholars, NGOs, workers and their representatives, and some companies themselves.\textsuperscript{12} As a consequence, even when remedy has been provided through them – which, as the next paragraph will demonstrate, is not necessarily their aim or approach –, this has overall been considered ‘partial at best’.\textsuperscript{13}

One of the core reasons why these approaches to improving working conditions are often not effective is that they lack meaningful engagement with rights-holders. Corrective Action Plans (CAPs), a tool used in corporate social responsibility (CSR) systems, are not designed to provide remedy to harmed workers, but aim to address non-compliance issues that are identified through social audits. They have the same characteristics of audits and voluntary codes of conduct that establish human and labour rights standards to assess suppliers' performance: they are top-down in approach. Companies, in commissioning social auditors, often perceive risk as relating to their businesses, rather than to rights-holders – i.e. workers. As such, they contract social auditors to produce reports revealing compliance breaches and CAPs recommend solutions to reduce or eliminate that risk. They rarely, if ever, consult with rights-holders to understand what harm has been caused, and what remedy they would seek to address that harm. As a result, what is provided is often not remedy, nor does it address workers' concerns or responds to their needs.\textsuperscript{14}

Non-judicial grievance mechanisms, as envisaged by the Remedy Pillar of the UNGPs, could in theory address this limitation. Tools such as separate channels or hotlines for workers to report abuses and seek redress, in principle, allow rights-holders to raise concerns directly with companies, and can serve as a starting point for interaction, in contrast to the one-sided, top-down approach of audits and


CAPs. In most cases, however, the interaction between rights-holders and these types of grievance mechanisms in global supply chains is limited to submitting a complaint. Rather than being actively involved in the process, rights-holders are merely, and not always, informed of its outcome, with companies unilaterally deciding on how complaints should be resolved – but not necessarily including remedy for harmed workers. Furthermore, when dialogue-based processes do occur, they are often a mere formality, failing to address power imbalances between workers and their employers. Instead of being inclusive of workers as key stakeholders in determining what actions, including remedy, are appropriate and adequate, they adopt 'solutions' that are convenient for themselves but display a patronising approach in relation to impacted workers. As such, they are also often structurally unable to provide effective remedy for the harm.

As noted above, harmed rights-holders have a right to an effective remedy. To be effective, remedy needs to respond to the needs, priorities and expectations of the rights-holders affected by the harm. This has been recognised and highlighted by human rights bodies as well as scholars and practitioners. Rights-holders, being those directly affected by the harm, are the most important stakeholders in identifying the most effective means of remedying such harm.

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conditions short of remedy, on the other hand, risks perpetuating their lack of control and subordination, and undermines the effectiveness and legitimacy of these efforts. A system change is therefore needed to ensure that actions to address human and labour rights harm in global supply chains are systematically approached through a remedy lens and the perspective of rights-holders affected by the business harm.

3. Worker-driven models

Meaningfully engaging workers on workplace issues and the decisions that affect their lives, traditionally through democratic and independent trade unions, is crucial to improve labour standards and working conditions. It can also boost performance and contribute to organisational growth.

Employee, or worker voice, is a concept analysed by several different scholarly disciplines, including human resource management, organisational behaviour and industrial relations. Although definitions may vary depending on the field, it can be broadly described ‘the ways and means through which employees attempt to have a say, formally and/or informally, collectively and/or individually, potentially to influence organizational affairs relating to issues that affect their work, their interests, and the interests of managers and owners’.

Globally, however, freedom of association and collective bargaining – the rights underlying worker voice and worker engagement – are not enforced, or even suppressed, with workers being left with little to no power to exercise their voice. Instead, as also argued above, CSR tools usually treat workers as ‘passive objects of regulation’.

Against the backdrop of flawed and ineffective audits, ‘worker voice’ tools have proliferated, ranging from technology-enabled surveys to support centres and ‘participation committees’. Some of them are aimed at triangulating information from social audits, and some are presented as grievance


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mechanisms and tools – using third parties to elicit complaints from workers. These tools, implemented alongside more traditional monitoring tools such as social auditing, claim to adopt a ‘worker-centred’ approach and emphasise the need to include workers’ perspectives. As argued by Kougiannou and Mendonça, however, the existence of similar structures and tools for worker voice does not automatically guarantee their uptake and effectiveness. In fact, it has widely been noticed that these tools are for the most part funded and managed by public-facing brands and multinational. Businesses decide when and to what extent to engage workers and their representatives; they set the scope of the engagement, including which issues are included and which are not (with wages and trade union rights often excluded). They have a high degree of discretion in how to interpret any findings, and the recommendations on actions to take highly dependent on the quality and mandate of those managing these tools. They do not address the power imbalances that affect global supply chains and harm workers, but, as another top-down approach, are instead often seen as legitimising them further.

The current landscape, therefore, calls for an approach to improving working conditions that goes beyond superficial tick-boxing, and instead prioritises substantive engagement with workers. This is especially needed in the context of remedy, where meaningful participation of rights-holders is paramount to achieving effective outcomes. As stated by Kyritsis et al, ‘[u]ltimately, any initiative purporting to empower workers through worker voice is only as effective as its ability and willingness to disrupt power relations within global supply chains.’ While several guidance documents on remedy are already available, however, none fully and systematically reflects the need to put rights-holders at the centre at every step of the way, especially in a manner which acknowledges the power asymmetries that currently favour the interests of company management in global supply chains.

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29 Kyritsis, LeBaron, and Anner, ‘New Buzzword, Same Problem’.

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Against this backdrop, emerging initiatives are seeking to promote the role and agency of workers in global supply chains governance overall, as well as remedy in particular, facilitated by trade unions as well as other forms of legitimate worker representation. The UN Working Group on Business and Human Rights has also highlighted the need for rights-holders to assume a leading role in remedy, and pointed to these initiatives as a solution to the shortcomings of current practices in global supply chains.

4. Electronics Watch

The practice of Electronics Watch provides an example of such initiatives which prioritise worker engagement in the identification and remedy of abuses, while also addressing the power imbalances in global supply chains, needed to make worker-driven remedy a reality. Since its launch in 2015, the organisation has been guided by workers’ rights and priorities to improve working conditions in electronics production regions, where abuse is rife. What distinguishes Electronics Watch from many other organisations is the fact that it focuses on the 'top-down' leverage that public buyers can exert over private sector suppliers through their purchasing practices, and works 'bottom-up' through local monitoring organisations to support workers when they are harmed by commercial activities. To do so, it brings together civil society monitors in 14 production countries and more than 1500 public sector organisations in 11 countries in Europe and Australia. Its impact model is based on three pillars: first, public buyers (that affiliate to Electronics Watch) drive change top-down through their procurement processes, which include tendering, contracting, engaging with their suppliers on disclosure of the supply chain and human rights due diligence. Second, local monitoring partners empower and provide support to workers in the supply chains of public buyers, including in mines and manufacturing factories linked to large electronics brands; and third, Electronics Watch engages with industry on behalf of affiliated public buyers and workers – to provide remedy for abuse where it is found, and bring about improvements.

Crucial for the operations of Electronics Watch is the power of public procurement, namely the process by which a public authority acquires goods, works and services for public use of citizens, using

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tax-payers' money.\textsuperscript{35} Due to the volume of its purchasing and the length of its contracts, public authorities have been referred to as ‘mega consumers’ who hold significant leverage over their supply chains.\textsuperscript{36} Electronics Watch supports public buyers – who join the organisation as ‘affiliates’ – to procure goods and services in a way that is in line with their commitments to respect and uphold human and labour rights standards in their supply chains. It facilitates collaboration between public buyers to amplify their leverage and maximise the impact of socially responsible public procurement, for example by holding suppliers accountable in case of violations.\textsuperscript{37} By leveraging the power of public sector buyers, Electronics Watch thus aims to advance more responsive and accountable global supply chains in which workers are recognised as critical stakeholders.\textsuperscript{38}

At the same time, Electronics Watch challenges the widespread top-down approaches to identifying violations such as audits, and has developed a bottom-up, worker-driven monitoring methodology instead. This model emphasises the active role of workers, who are present on-site every day, and therefore know about their own working conditions, can identify challenges and how to solve them, as well as verify the implementation and effectiveness of corrective measures. To do so, the organisation works with a network of local workers’ rights and civil society organisations in production countries, who have a deep understanding of the context – including country, industry and factory dynamics, local labour laws and industry-wide practices – and who have established trusted relationships with workers and seek to empower them to claim their own rights.\textsuperscript{39} These monitoring partners meet with workers off-site - away from their employers - and spend a long time building trust with workers in order to create a safe space for them to share their concerns and grievances without fear of retribution. They assure workers that the information will be kept confidential and endeavour to ensure that there are no negative consequences for reporting a grievance. Workers will have a choice and can exercise their decision-making authority in determining whether a case should be brought before an employer, and whether a grievance will be investigated further to determine what rights violation has been committed and what remedy will be sought. It sometimes takes months before vulnerable workers feel safe enough to speak openly about their concerns. In this way, Electronics Watch's worker-centred human rights due diligence approach offers specialised insight and access to evidence based on testimonies from workers themselves. This offers a very different approach to most ESG risk-based


\textsuperscript{36} Olga Martin-Ortega and Claire Methven O’Brien, ‘Advancing respect for labour rights globally through public procurement’ \textit{5 Politics and Governance} 69, 69.


\textsuperscript{38} Jenny Chan and others, ‘After the Foxconn Suicides in China: A Roundtable on Labor, the State and Civil Society in Global Electronics’ (2022) 48 \textit{Critical Sociology} 211, 219.

approaches that are often supported and managed by businesses.

Grievances are independently investigated and corroborated using a range of means, including off-site worker interviews, interviews with factory management and supervisors, and a review of relevant factory documents. Where possible, in consultation with affected workers, reports are drafted that set out the facts (with corroborated evidence) and provide recommendations. The recommendations include a proposed set of corrective actions for factory management and, as necessary, specific proposals for remedy of rights violations. Ideally, the identified violations will be addressed through collaboration between management, workers and their representatives, relevant suppliers and brands. In practice, as already noted for broader global supply chain dynamics, this is rare. Instead, in most cases, Electronics Watch engages with industry on behalf of those workers as well as public buyers, using leverage based on their contracts with suppliers. Wherever possible, Electronics Watch seeks to involve trade unions or other independent, democratically elected workers organisations to improve terms and conditions of work in the long-term. At the same time, Electronics Watch also supports its public buyers affiliates to raise issues with their suppliers from their end of the supply chain, sometimes by facilitating joint meetings between them.  

While the process initiated by Electronics Watch through worker-driven monitoring includes a focus on remedy as well as wider worker engagement than the norm, several challenges remain. Overall, practice in the industry has remained top-down, with limited worker participation and limited understanding of what remedy is and what it should entail. This is evident from the following two examples set in South-East Asia – in Indonesia and Malaysia respectively – where a significant proportion of electronics manufacturing takes place.

In 2018, Electronics Watch’s monitoring partners identified several issues in a factory where products being procured by affiliated public buyers were manufactured. It took a long time to get workers' approval to report these issues as they feared losing their jobs or being punished for raising concerns. The report by the monitoring partners cited exposure to harmful chemicals, a prevalence of contract/temporary workers, excessive production quotas, verbal abuse and evidence of workers being instructed on how to respond to auditors’ questions during social audits – factors that may suggest the existence of modern slavery. Electronics Watch engaged with the company on these issues between 2018 and 2020. The actions taken by the company following the report demonstrate the clear deficiencies of an approach exclusively based on CAPs. Responding to the issue of occupational health and safety hazards, the company commissioned an audit report that confirmed the presence of a toxic chemical. This was addressed fairly quickly: the chemical was replaced with safer alternative, and the ventilation system was improved. However, the approach by the company remained top-down and did not involve the workers, their legitimate representatives or trade unions at any stage of the process. This, in turn, meant that the needs, priorities and expectations of the workers were not included in the

40 Martin-Ortega, ‘Public Procurement as a Tool for the Protection and Promotion of Human Rights’ 94.
41 These examples have been provided by Electronics Watch staff. References to the countries of origin of workers as well as other details which may identify them have been removed to preserve confidentiality of the processes and ensure worker safety.
company’s response. Importantly, no remedy was provided for harm incurred to the workers, for
example medical treatment for workers who had become sick or apologies for the abuse.

A second case exemplifies how, even when some steps towards remedy are taken by companies,
this is often partial and insufficient, especially if the views of the concerned workers are not taken into
collection. In a recent – and still ongoing – case, Electronics Watch investigated a case of a migrant
worker who, together with other workers, had been charged excessive recruitment fees resulting in debt
bondage and had been deceived about their contract terms. While the harm was initially raised by
several workers in an informal manner, the worker in question assumed the leadership in raising the
grievance, due to their better command of English, and had a verbal altercation with the recruitment
agent and the human resources staff of the company. As a consequence for speaking up, their contract
was terminated without due process, and they were asked to leave. Since the worker refused to do so,
emphasising that they needed the job to pay back the loan incurred for paying recruitment fees, they
were forcibly removed by the factory by representatives of the recruitment agency, who also sequestered
their phone and collected all their belongings. They were later locked in another location overnight,
without access to their phone. The following morning, the worker was deported to their country of
origin, with the air fare deducted from their wages, their contract terminated and their visa revoked.
Having been informed of what had happened, Electronics Watch led the engagement with the relevant
industry body, which agreed to pay off the debt accumulated from the recruitment fees and to
compensate the worker for six months of their wages. Following initial resistance, the factory also began
cooperating in a corrective action process to address various significant issues identified on site,
including the absence of an effective grievance system.

However, several issues are outstanding at the time of writing. The provision of compensation to
the worker – the only remedial measure taken to date – was incomplete, with part being deducted
because of alleged charges throughout the process, including bank fees. The amount was decided in a
top-down manner and, whilst there was consultation as part of the grievance resolution, there was no
two-way dialogue with the worker. No action has been taken to provide remedy for the other harms
caused to the worker, including any potential trauma as a result of physical and mental abuse.
Additionally, the worker does not have the right or ability to reclaim their job – their visa was
permanently revoked and the two-year contract they signed is null and void. They are left unemployed,
with fewer prospects of finding a job in their country of origin, where job opportunities are scarce, and
unable to access a job in the same foreign country, having lost his right to enter legally. If meaningful
engagement with the worker had taken place, these issues may have been addressed at the same time as
compensation. On the other hand, the other workers also experiencing debt bondage and who had been
lied to about their employment have to date received no remedy at all. At this time, Electronics Watch
continues engaging with the factory and advocating for remedy for all those harmed, combining buyer
pressure with active involvement of workers on the ground.43 Since decision-making ultimately sits with
the business, achieving effective remedy in the context of great power imbalances requires the
involvement and support of several actors in the supply chain, and remains a lengthy, challenging
process.

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These are but two of the instances where Electronics Watch has faced resistance to the provision of effective remedy for the harm, as well as the related need for meaningful engagement with workers. This experience confirms arguments presented above about global supply chains being characterised by top-down approaches to address human and labour rights abuses, where the main focus is on factory compliance rather than remedy, and workers are marginal to the process. It is unlikely that this approach will change spontaneously – more likely, pressures from other global supply chain stakeholders will be needed. Industry engagement pursued through this route is showing some limited signs of improvement – such as in the second case above – but more is needed to ensure this is done in a coherent, structured manner. It is precisely here that the Principles for Worker-Driven Remedy fit.

5. Principles for Worker-Driven Remedy

The Principles for Worker-Driven Remedy represent the beginning of a process by Electronics Watch to develop a new, coherent framework to systematically push to change the narrative on remedy from corrective action to rights-based remedy for human rights abuses. They provide a foundation stone for Electronics Watch’s worker-driven remediation methodology, which will complement its worker-driven monitoring methodology. Electronics Watch will support its public buyer affiliates and monitoring partners in implementing them in their operations.

The Principles are based on a briefing paper on remedy commissioned by Electronics Watch. They have been developed with input from Electronics Watch’s key stakeholders – trade unions and worker representatives, labour rights organisations and importantly, public buyers. A series of consultations have ensured that key stakeholders’ priorities are adequately reflected and integrated within the Principles. There have been several workshops to inform guidance on how the Principles can be implemented in practice. The Principles will be reviewed annually and revisions made, as needed as new issues arise and best practice emerges. The current version, updated in October 2023, can be found in Annex 1.

The Principles aim to change the current approach to addressing human and labour rights in global supply chains and introduce worker-driven remedy. They do so by critically analysing and addressing three main issues with current practice evidenced by this article: the focus on factory compliance rather than workers that have been harmed, power imbalances that allow a prioritisation of business interests, and the tokenistic inclusion of workers. They do so by approaching abuses and remedy from a human rights perspective, acknowledging and addressing power imbalances with the support of other stakeholders, and ensuring substantive worker engagement and direct agency in remedy.

1) Approaching abuses and remedy from a human rights perspective

44 Reinecke and Donaghey, ‘Towards Worker-Driven Supply Chain Governance’.


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The Principles ground remedy in international human rights law (IHRL), where remedy is a right for those that have been harmed, and a duty and responsibility for those who cause, contribute to, or are linked to the abuse – including both states and businesses (Principle 1). As such, they move away from technical approaches adopted by CSR and tools like CAPs, which predominantly address risks to businesses and factory compliance. Instead, the Principles focus on most important stakeholders: the rights-holders affected by business-related harm, for which remedy is required (Principle 2).

The right to an effective remedy consists of two components, procedural and substantive, which are reflected in the structure of the Principles. Access to remedy requires mechanisms for reporting and deciding on claims of abuse (Principles 6-8). If it is established that abuse has taken place, reparation measures must be taken to remedy any verified claim of abuse (Principles 9-10). Both the procedural access to remedy and substantive reparations are essential for upholding the right to an effective remedy. Viewing remedy through an IHRL lens, therefore, underscores the importance of not only establishing mechanisms for reporting and deciding on abuse allegations, but also ensuring that appropriate measures are taken to provide effective reparations to those harmed. The absence of effective reparations would render the obligation to provide an effective remedy unfulfilled, regardless of the remedial mechanisms in place. This is especially important in the context of business-related abuse in global supply chains, where, despite a proliferation of grievance mechanisms, little attention has been the outcomes achieved through them.

2) Acknowledging and addressing power imbalances

Already in their Introduction, the Principles acknowledge the power imbalances between company management and workers, which can create significant barriers to worker-driven remedy. As argued earlier in this article, it is unlikely that changes to this status quo will happen on their own. Instead, the Principles recognise the importance of other stakeholders in global supply chains, including public buyers and civil society organisations – to bring about improvements and support the achievement of worker-driven remedy (Introduction, Principle 8). Additionally, workers and their representatives face a number of barriers in participating in and achieving remedy, which exacerbate the power imbalances in favour of companies. Firstly, as previously discussed, the processes adopted by companies, including audits, CAPs and grievance mechanisms, often do not include workers and their representatives, nor do they inform them on their developments. To address this, Principle 5 requires any

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remedy process and outcomes to be transparent, with all relevant information accessible to the stakeholders involved. Principle 6, on the other hand, covers additional barriers that workers and their representatives may face in accessing remedy, and requires them to be addressed to ensure that their engagement is meaningful.

3) Ensuring substantive worker engagement and direct agency in remedy

The Principles aim to guide the planning, implementation and evaluation of remedy to ensure that it is truly worker-driven, and to prevent the superficial and tokenistic worker engagement that often takes place in global supply chain dynamics. A worker-driven approach to remedy calls for a more systematic and comprehensive inclusion of rights-holders throughout the remedy process, at every stage, with their needs, priorities and expectations given primacy over the interests of company management. It requires systemic changes to the way in which current systems are designed, implemented and enforced – for example by removing the barriers that prevent meaningful worker engagement, ensuring that workers are aware of their rights, are consulted about the remedy they want, and about their levels of satisfaction at the end of the remediation process. To do so, the Principles set out worker engagement at every step of the way. While recognising that each case is different, context-specific and must be sensitively handled, the Principles should be read as a whole: each is relevant. A 'pick-and-mix' selection should be avoided.

To ensure effective remedy which reflects the needs, expectations and perspectives of those affected by the harm, trade unions, worker representatives and human rights defenders are often crucial. These are reflected throughout the text of the Principles, and explored more in depth in Principle 3, integrating inputs from trade union stakeholders.

While Electronics Watch primarily operates within electronics supply chains, the Principles do not explicitly focus on electronics supply chains. Instead, they are envisioned to have broader applicability across various industries. Consequently, further research will be required to examine whether their implementation varies not only based on country-specific labour laws but also across different industries and sectors. An exploration of the potential industry-specific nuances in applying the Principles will contribute to a more comprehensive understanding of how to effectively address human and labour rights abuses and empower workers in diverse global supply chains.

6. Conclusion

This article sheds light on the pervasive nature of abuse within global supply chains and the shortcomings of existing remedial measures. The Principles for Worker-Driven Remedy emerge as a significant advancement in this context, advocating for a fundamental shift in the conceptualisation and management of supply chain relations, towards a more equitable and empowering approach to remedy. By being based on IHRL, addressing power imbalances and ensuring workers’ direct agency in remedy, they provide a promising way to address the systemic issues currently affecting global supply chains. However, their practical implementation remain a critical next step. It will be necessary to assess their

51 Outhwaite and Martin-Ortega, 379.
true impact in ensuring that workers, their needs, expectations and perspectives are fully embedded in the remedy process. Operational guidelines must be developed to help public buyers affiliated to Electronics Watch, as well as local monitoring partners in applying them in their daily work. It will be challenging but important to gather credible evidence of the tangible impact of these Principles on worker empowerment in practice, and how the provision of remedy will change following their use. Sensitive and systematic methods of collecting qualitative feedback from workers and their representatives will be crucial, alongside evidence of tangible outcomes.

The transformative approach adopted by the Principles, if widely adopted, could shift approaches on remedy from case-by-case grievances that take a long time to resolve to more systemic, sustainable, equitable, and inclusive approaches that prevent the incidence of modern slavery, and put respect for the rights and dignity of all workers at the centre of human rights due diligence. Collaboration with all relevant global supply chain stakeholders, can go a long way to building a future where human and labour rights are respected and protected throughout global supply chains, and fostering a just and sustainable global economy.
7. Appendix – Principles for Worker-Driven Remedy

Principles for Worker-Driven Remedy

October 2023
Introduction

The Right to an effective remedy is a fundamental international human right, also enshrined in the UN Guiding Principles on Business and Human Rights (UNGPs), adopted in 2011 (Pillar 3). It received little attention initially, but in the past few years this has started to change. There has been a growing recognition of the importance of rights-holder involvement in remedy. In 2021, the UN Working Group on Business and Human Rights noted the importance of giving rights-holders a leading role in remedy.

We believe that remedy – as well as other practices to identify and address human and labour rights violations in global supply chains – should be worker-driven. Because of power imbalances between company management and workers, support by other stakeholders, including public buyers, is often needed to ensure meaningful engagement of workers and prioritisation of their needs, expectations and perspectives. This is particularly important for vulnerable workers that lack labour law protection, including the right to freedom of association and collective bargaining.

These Principles for Worker-Driven Remedy are based on recent developments in human rights law with reference to the International Labour Organization (ILO) Core Conventions. They have been developed in consultation with trade unions, labour rights organisations, and public buyers. They aim to provide a guiding framework for public buyers, their suppliers, worker rights organisations and other relevant stakeholders to address harm to workers in supply chains and may be adapted by organisations based on their mandates and key stakeholders. Further explanation about each Principle can be found in Annex 1, which offers initial operational considerations.

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1 UN Guiding Principles on Business and Human Rights
3 This process would include ‘meaningful stakeholder engagement’, which is a key component of the due diligence process and requires dialogue in good faith, involving input from all key participants before decisions are made. For more information, see “What is ‘meaningful stakeholder engagement?’” in Due Diligence Guidance for Responsible Business Conduct (OECD, 2018).
4 See, for example ILO publication: Migrant workers’ rights to freedom of association and collective bargaining.
5 ILO core labour rights are based on the Declaration of Fundamental Principles and Rights at Work.
6 The Principles for Worker-Driven Remedy were drafted by the Electronics Watch Working Group on Remedy. They were initially developed at a workshop in Malaysia with a number of stakeholders, and are based on the briefing ‘Remedy for Human Rights Violations in Global Supply Chains: Essential Elements’ (July 2022) by Martina Trusgnach and Olga Martin-Ortega. They were also developed in the framework of Martina Trusgnach’s PhD research at the University of Greenwich. Thanks to IndustriALL, International Trade Union Confederation, International Transport Workers’ Federation, UNISON, Center for Development and Integration, Centro de Reflección y Acción Laboral, Cividep, Periferia Policy and Research Center, Serve the People Association, Tenaganita, and the Electronics Industry Employees Union (Malaysia) for their valuable contributions. These Principles may be used by different stakeholders and will be subject to review and revisions as new insights and lessons emerge.
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These Principles do not replace judicial or other civic remedies, nor should they undermine grievance mechanisms contained in collective bargaining agreements (CBAs), although they can be used to assist trade unions and other legitimate worker representatives in their efforts to strengthen such processes. Engaging in a remedy process and providing reparation in specific cases should not exonerate the businesses responsible for harm from penalties and sanctions as set out in national, regional and international law.

**Principles for Worker-Driven Remedy**

Worker-driven remedy is based on the following Principles:

| 1. | Respect for human rights law |
| 2. | Workers at the core |
| 3. | Protection and promotion of trade unions, worker representatives and human rights defenders |
| 4. | Timely and urgent action |
| 5. | Transparency |
| 6. | Removal of barriers to worker participation |
| 7. | Worker participation in design and implementation |
| 8. | Shared responsibility and meaningful engagement of stakeholders |
| 9. | Provision of various reparation measures |
| 10. | Inclusion of backward- and forward-looking measures |

Overall, effective remedy requires:

1. **Respect for human rights law**
   Remedy is a right for all those who have suffered harm (rights-holders). An approach to remedy based on human rights law recognises that it should not be treated as discretionary. Instead, remedy should be provided as an obligation and responsibility by states and businesses that cause, contribute, or are directly linked to the harm (duty bearers) towards rights-holders. Those who buy goods and services from such businesses are also responsible for ensuring remedy for harm caused in the production of goods and provision of services. Remedy comprises two dimensions, namely the process to seek and provide remedy, as well as the substantive reparations that follow –

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7 Throughout the text, when referring to 'trade unions' these should always be understood as independent, freely chosen and democratic, in line with ILO Conventions 87 and 98. 'Worker representatives' should be understood as freely chosen, democratically elected representatives of independent worker organisations established to represent workers where trade unions cannot represent them.

8 The right to an effective remedy is an internationally recognised human right. Among others, it is enshrined in Article 8 of the Universal Declaration of Human Rights and Article 2(3) of the International Covenant on Civil and Political Rights. The legal basis for remedy is summarised in 'Remedy for Human Rights Violations in Global Supply Chains: Essential Elements', University of Greenwich, Business, Human Rights and the Environment Research Group, commissioned by Electronics Watch.
Towards Worker-Driven Remedy: Advancing Human and Labour Rights in Global Supply Chains.

hereinafter referred to as 'remedy processes' and 'remedy outcomes.' Both dimensions need to be satisfied for remedy to be considered effective.

2. **Workers at the core**
To be effective, remedy should have rights-holders – workers in the supply chain and affected communities – at its core. The determination of appropriate remedy should not be a top-down process. It should be based on the rights of those directly affected by the harm – workers and affected communities – and reflect their needs, expectations, and perspectives. Any decisions about what constitutes appropriate remedy should be facilitated through trade unions and worker representatives, where they exist. Particular attention should be given to vulnerable groups of workers⁹, to ensure their needs, expectations and perspectives, which may be different from those of other workers, are addressed.

3. **Protection and promotion of trade unions, worker representatives and human rights defenders**
Trade unions are formed by workers to protect and advance their collective rights and interests in the workplace. Independent, freely chosen and democratically elected trade unions, worker representatives and human rights defenders play a crucial role in protecting workers’ rights and securing remedy for violations. Specific attention should be given to the harm arising from attacks on them¹⁰ and remedy should be provided. Dismissals, arrests of worker leaders and union busting¹¹ not only violate internationally agreed labour laws, but also make it harder for workers to access remedy and to prevent harm.

4. **Timely and urgent action**
Remedy should be provided in a timely manner, to ensure it does not escalate and result in further harm. A timeline for remedy should be agreed on by parties involved in the process. Some cases require immediate action to cease the harm, such as those that pose a risk to the life and health of rights-holders (e.g. forced labour, child labour, sexual harassment), as well as attacks against trade unions, worker representatives and human rights defenders.

5. **Transparency**
Remedy must be transparent. Workers, trade unions, worker representatives and human rights defenders must have access to all relevant information in their own language, in places that are visible, easy to access, and in a format they can understand in order to effectively participate in the remedy process. This includes communication and documentation on how the remedy process is handled and what outcomes are achieved. Relevant information must also be communicated to other stakeholders, including public buyers, to ensure their meaningful engagement where needed.

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⁹Vulnerable workers include migrants, women, racial, ethnic minorities and LGBT+ workers.

¹⁰In some cases, threats and harm may also be directed to their family members.

¹¹Union busting is actions taken by employers or states to break and remove a trade union. Such actions may include establishing employer-controlled unions, or ‘yellow unions,’ in order to secure a non-unionised workforce.
Effective remedy processes require:

6. **Removal of barriers to worker participation**
   Workers, trade unions, worker representatives and human rights defenders face a wide variety of barriers to participating in the process of remedy. Among others, barriers include time and income constraints, fear of retaliation, language, onerous burdens of proof, and the lack of transparency in global supply chains. These barriers must be addressed to ensure that workers, trade unions, worker representatives and human rights defenders can meaningfully participate in the remedy process. They should have access to appropriate advice, expertise, and legal assistance to ensure that they have knowledge of their rights, as well as resources, to participate in remedy. Confidentiality throughout the remedy process should be assured, and where appropriate, the identity of affected workers should not be disclosed. Additional measures should be taken to address added vulnerabilities suffered by workers that are subjected to discrimination on grounds of their identity or status.

7. **Worker participation in design and implementation**
   As appropriate, workers, trade unions, worker representatives and human rights defenders should take part in the design of remedy mechanisms, and may have a formal role in their governance, implementation, and monitoring. Channels must be in place for workers, trade unions, worker representatives and human rights defenders to report on their level of satisfaction with the remedy process and its outcomes. Considerations should be given to scheduling of meetings, particularly for workers and trade union leaders with family or other responsibilities. Where remedy is deemed by them to be unsatisfactory, further actions should be taken to address outstanding issues. Participation of other stakeholders in the design and monitoring of remedy mechanisms should be considered to ensure their meaningful engagement where needed.

8. **Shared responsibility and meaningful engagement of stakeholders**
   All supply chain actors that cause, contribute, or are directly linked to harm are jointly responsible for remedy. These actors include commercial entities and public procurement agencies. Responsibility should not be outsourced to third parties, nor delegated to suppliers. Where human rights abuses occur, each organisation in the supply chain should shoulder an appropriate proportion of responsibility to ensure that remedy is provided. Other stakeholders in global supply chains, such as civil society organisations, governments and investors may also play a valuable role in driving effective remedy. Opportunities for joint action and potential synergies among different stakeholders should be considered, especially where additional leverage is possible.

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12 See footnote 9.

13 Remedy mechanisms based on the UNGPs refer to the various avenues that individuals, groups, and communities affected by business-related human rights abuses can use to seek redress, justice, and reparation. These mechanisms can take various forms, such as judicial and non-judicial mechanisms.
Effective remedy outcomes require:

9. **Provision of various reparation measures**
   The appropriate reparation measures depend on the context and severity of harm. They must be based on the rights and reflect the short and long-term needs, expectations and perspectives of rights holders affected by the harm. They should be co-defined by workers, supported by trade unions, worker representatives and human rights defenders. Reparation measures may include, but are not limited to, compensation, restitution, rehabilitation, satisfaction, including apologies, and guarantees of non-repetition. These should be considered as complementary and cumulative, rather than choices or alternatives to one another.

10. **Inclusion of backward-looking and forward-looking measures**
    Reparation must include both backward-looking and forward-looking measures. These should be defined according to the short and long-term needs, expectations and perspectives of rights holders affected by the harm, supported by trade unions, and worker representatives and human rights defenders. Backward-looking reparations should address immediate harm as well as long-term consequences on workers, including health and safety concerns. Forward-looking reparations should aim to change the conditions or practices that caused the harm to prevent and ensure that similar harms do not arise in the future.

**ANNEX 1: Further Explanation of the Principles**

This Annex details several operational considerations which can support an effective implementation of the Principles.14

1. **Respect for human rights law**
   States have obligations to protect human rights. Businesses have the responsibility to respect human rights. Both these duties include providing remedy for harm. As state actors, public buyers also have certain responsibilities towards their supply chain as recognised by the UN Guiding Principles on Business and Human Rights.

   All kinds of businesses can cause, contribute, or be directly linked to human rights violations. These include financial organisations and investors, manufacturing businesses, brands, small enterprises, recruitment agencies, and subcontractors.

   All rights-holders that are harmed during commercial operations should receive effective remedy. Among others, rights-holders may include workers, their families, and communities, freely chosen worker representatives and trade unionists, and human rights defenders.

   Meaningful stakeholder involvement, including by public buyers, is also required to ensure that effective

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14 The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct provides a useful background reference.
remedy is achieved in practice.

2. **Workers at the core**
Remedy should be driven by the rights-holders affected by the harm. These Principles refer to worker-driven remedy for accessibility of language, and because workers are those most often affected by business-related abuse in global supply chains.

Workers are not homogenous, but may differ based on their age, gender, worker status – including whether they are migrant, temporary, regular, informal, documented or undocumented workers – or because they belong to other vulnerable groups. This necessarily shapes their experiences of harm as well as their needs – both short and long term – expectations and perspectives in terms of remedy. As such, each case and context should be recognised and reflected in remedy efforts.

Particular attention should be given to women workers who are exposed to specific risks and challenges in global supply chains. Gender inequalities and social norms are factors contributing to gender-based violence in the workplace and perpetuating a culture of sexual harassment. Women are also subject to reproductive health harms such as miscarriage and infertility when exposed to toxic chemicals and arduous work when pregnant. Working hours that require women to travel late at night subject women to high risks of sexual abuse, and women with family responsibilities may be subject to dismissal or loss of wages if they cannot take on irregular working shifts or care responsibilities.\(^\text{15}\)

To tackle these issues and ensure appropriate and tailored remedies, women workers and their representatives should take an active part in the remedy process starting from its design, to establish a safe place and trusted process where women and other vulnerable workers such as those in the LGBT+ community will feel confident to speak up and report gender-based violence, harassment, and other harms.

3. **Protection and promotion of trade unions, worker representatives and human rights defenders**
Freedom of association and the right to collective bargaining are core ‘enabling’ labour rights\(^\text{16}\) for workers. Where workers have an independent, trade union, their representatives can raise grievances on behalf of their members and collectively negotiate better terms and conditions, including wages, working hours, health and safety, as well as remedy for rights abuses. Yet in many countries trade unions are not accessible to workers due to strict laws or anti-union policies. Even when unions exist in the country, the ability of workers to join a union or elect representatives could be weakened by union busting or poor labour laws.\(^\text{17}\) This can particularly affect agency workers, migrant workers and women workers, who are either absent or under-represented in some unions. This under-representation of vulnerable workers must be addressed, as all workers’ claims should be treated fairly and equally, in

\(^{15}\) Care responsibilities may include housework and childcare as well as caring for elderly and disabled family members.

\(^{16}\) ILO core labour rights are based on the Declaration of Fundamental Principles and Rights at Work.
Towards Worker-Driven Remedy: Advancing Human and Labour Rights in Global Supply Chains.

alignment with these Principles. 'Yellow unions', or worker committees established or supported by management, undermine workers' rights. However, where both independent trade unions and genuine worker-organised committees are present, cooperation between the two should be encouraged. Special care should be taken to ensure that worker committees (e.g. established by migrants, women or other groups) do not undermine the functions of recognised unions, where they exist in the same workplace.

4. Timely and urgent action
Abuses are often interconnected and mutually reinforcing. Inadequate wages may lead workers to accept more dangerous tasks or work excessive overtime, and 'minor' harms, when widespread or routinised, may enable 'extreme' ones to take place. For example, exposure to toxic chemicals may not cause illness in the short term but can be life-threatening over an extended period. At the same time, experiences of abuse are not static, and workers may experience different harms at different points in time. For example, contingencies such as illnesses can have a disproportionate effect on workers in already precarious situations and with little to no savings, pushing them into extreme exploitation due to the need to borrow at high interest rates offered by their employers or managers. In this position, managers can gain greater power over the workers, which may lead them to impose even harsher working conditions and lower wages. Businesses sometimes instil fear, weaken resolve, and erode the collective strength of trade unions by dismissing their representatives or leaders. In such cases, where union busting has occurred, remedy measures must include the reinstatement of union leaders as quickly as possible to sustain the investment the union has made in trying to achieve recognition or a collective bargaining agreement.

All harm must be remedied in a timely manner, to ensure it does not escalate and harm workers further. Urgent action is required when there is a risk of gross human rights violations or when unaddressed abuses are likely to severely impact the rights of workers; when violations constitute a criminal offence (e.g., forced labour, child labour, sexual harassment) or when they involve attacks against worker representatives and unions.

A timeline for remedy should be agreed on by all parties involved in the process, which include workers, their freely chosen representatives, including trade unions, and any stakeholder, including public buyers, who is engaged in the process.

5. Transparency
Transparency is necessary to ensure that trade unions or other worker representatives can participate in remedy on equitable terms. It can help ensure accountability by all parties and encourage buyers and employers to resolve issues quickly and satisfactorily before they are escalated, as well as allow external actors to review and scrutinise the remedy process. It will provide other workers with the trust and confidence they need to raise grievances in a timely manner. Relevant information must be communicated to other stakeholders, including public buyers, to ensure their meaningful engagement where needed.

6. Removal of barriers to worker participation
Workers’ freely chosen trade unions or other worker representatives can face several different barriers
to participation in a remedy process. These must be appropriately addressed to ensure remedy is effective. Below is a non-exhaustive list of measures that should be considered:

- Precautionary measures must be taken to ensure the affected workers are not adversely affected by the remedy process and do not experience further harm, including loss of earnings or time. This includes trade union leaders who work full or part time. Workers and their legitimate representatives must have access to appropriate advice, expertise, and legal assistance free of charge, to ensure that they have knowledge of their rights, capacity and resources to participate in remedy. Access to such advice/assistance should be free-of-charge, with companies / employers / perpetrators bearing the costs (e.g., providing a ‘voucher’ for independent legal assistance).

- Confidentiality throughout the remedy process should be assured, and where appropriate, the identity of affected workers should not be disclosed. Intimidation and threats of retaliation, including union busting, violence or threats of violence and blacklisting, must be prohibited – for example through non-retaliation policies to cover the entire supply chain – and prohibitions must be enforced. Workers must not be subject to onerous burdens of proof, such as the requirement to provide detailed evidence demonstrating the harm they have suffered, where this is not feasible or will lead to further trauma.

- Safeguarding of women who have suffered sexual harassment and abuse in the workplace, often by their superiors, requires additional measures to keep them safe from further harm, help them deal with trauma and prevent reprisals. Such measures should psychological support and the provision of safe spaces for women to discuss gender-related rights violations.

- Migrant workers face language barriers, limited knowledge about their rights, and threats arising from their precarious status as immigrants. In many cases they are refused by law the right to form or join an independent trade union, or when they can join, to hold official positions in their chosen trade union. Additional measures must be taken to protect all vulnerable workers that face discrimination and additional risks of abuse and exploitation on grounds of their identity and status, and ensure they have equal access to remedy when they suffer harm.

- Women workers may be subject to more extreme power imbalances due to gender discrimination. They may be subject to verbal and sexual harassment from male managers, threatened and coerced into sex to secure their jobs, hours, or wages. Women are also subject to reproductive health harms such as miscarriage and infertility when exposed to toxic chemicals and arduous work when pregnant. Working hours that require women to travel late at night subject women to high risks of sexual abuse, and women with family responsibilities should not be subject to negative impacts, such as dismissal or loss of wages if they cannot do irregular working shifts.

- Remedy provision should take account of national laws, such as the kafala system and immigration regulations, that result in additional harm to workers, including the criminalisation
or forced deportation of workers. Records should be kept to ensure that harmed workers can be traced even when they have returned to their country of origin or left their workplace, and appropriate measures taken to ensure they receive the remedy to which they are entitled (e.g. in cases of wage theft).

7. **Worker participation in design, implementation and follow-up**

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. They must participate in the negotiations relating to the nature and options for remedy outcomes, to ensure that remedy is based on their rights and reflects their needs, expectations, and perspectives, rather than being predominantly driven by the interests of other stakeholders, such as businesses.

All remedy processes must be monitored independently of the businesses involved in the harm, to verify if effective remedy is implemented in practice, including through social dialogue with trade unions, and take action if the outcomes are unsatisfactory. Trade unions and workers’ representatives must have access to the monitoring results and be formally invited to provide their own conclusions and proposals for corrective plans and for future steps.

Grievances may be individual or collective and may affect different groups of workers in different ways. Where collective action is involved for a group of workers, there should be representation of workers that reflect the diversity of the group as described in Principle 2.

Workers should also have access to a range of grievance mechanisms that are trusted and easily accessible to them.

8. **Shared responsibility and meaningful engagement of stakeholders**

Global supply chains comprise many different stakeholders, all of which share a responsibility to ensure effective remedy is achieved. This includes those with significant leverage such as buyers (including public buyers), investors and regulators. Poor purchasing practices that squeeze labour costs, lack of accountability and monitoring measures, discriminatory laws and social norms may be directly or indirectly responsible for harm caused. The important role of stakeholders such as civil society organisations and trade unions that represent and seek remedy for vulnerable workers should be recognised.

9. **Provision of various reparation measures**

In most circumstances, a ‘bouquet of remedies’ is needed to ensure effective remedy is achieved. The measures necessary in each circumstance will depend on objective as well as subjective factors – the most important of which are the rights, needs, expectations, and perspectives of those affected by the harm.

Any outcome must not be decided on unilaterally by businesses and must be thoroughly justified, reflecting on how it meets the rights, needs, expectations and perspectives of workers affected by the
harm. It must not fall below internationally recognised human and labour rights standards.

10. **Inclusion of backward- and forward-looking measures**
Backward- and forward-looking reparations serve different aims and are both necessary and mutually reinforcing. Backward-looking measures are often victim-specific measures and are important to acknowledge and minimise the harm suffered. Forward-looking measures include addressing the future needs of those who have already been harmed, as well as preventing future harm. They should aim to promote dialogue and resolution of issues that arise before they escalate, reconciliation between parties involved in the harm. They should prevent future harm, by putting in place necessary policies and systems that ensure compliance and avoid the risk of recurring violations and grievances.

**ANNEX 2: Definition of Reparation measures**

**Restitution** entails measures to restore the victim of harm to the state before the violation (‘status quo ante’) by eliminating the consequences of the violation. This may include, for example, reinstatement of employment or return of property.

**Compensation** is reparation, often in monetary form, to be provided for a damage which can be economically assessed. It must be fair and proportional to the severity of the violation. Compensation can be awarded not only for physical harm, material damages and loss of earning, but also for lost opportunities (such as employment, education and social benefits), loss of earning potential, and any expense incurred in for assistance (including legal, expert, medical, psychological or social support), and psychological harm. For example, this reparation measure has been awarded for anxiety, distress, isolation, confusion and neglect, abandonment, feelings of injustice, impaired way of life, harassment and humiliation.

**Rehabilitation** aims to restore the individual’s health and reputation after a violation of their human rights. This reparation measure recognises that it may take time for affected rightsholders to recover from the harm suffered, and that medical and psychological care as well as legal and social services may be needed to facilitate such recovery.

**Satisfaction** can involve a variety of reparative measures to acknowledge the harm that has been done and the role of the perpetrators. For example, measures can include the cessation of the harm, fact finding, public acknowledgement of responsibility, apologies, and sanctions against those responsible. While important, measures of satisfaction are mostly symbolic, and can be perceived as an ‘empty gesture’ if not accompanied by more concrete actions to actively repair the harm.

**Guarantees of non-repetition** are structural measures and reforms that aim to change the conditions that led to the violation and prevent it from reoccurring. For example, they can include the promotion and enforcement of codes of conduct and ethical norms, and the reform of laws, institutions and practices which have been instrumental to causing the harm.

It should be noted that this list of measures provided by human rights instruments is non-exhaustive, and other measures may be needed to repair a harm, depending on the circumstances of the harm and the needs (both short and long term), expectations and perspectives of affected rights-holders. For example, reparation may be achieved through community-wide socio-economic measures, which aim to promote societal reconciliation after abuse targeting a marginalised social group. These may include the strengthening of infrastructure or the implementation of basic services and social programs, such as the
maintenance of roads, sewer systems and water suppliers, the creation of health centres, and the provision of adequate education.