

# 'What works' in forced labour detection and remedy/supporting decent work

*This brief summarises evidence from the academic literature as to how forced, bonded and child labour might be detected and remedied in companies' own operations and along supply chains, taking a 'what works' approach. In this way it dovetails with the time-bound goals announced in 2020 to report upon progress to eliminate forced, bonded and child labour in SeaBOS company own operations by the end of 2021 and progress on supply chain elimination by the end of 2022 and in 2025.*

*Since the time-bound goals were outlined, estimates of modern slavery and forced labour indicate that incidence is on the rise. This rise is fuelled by compounding crises that undermine livelihoods such as the COVID-19 pandemic, armed conflict and climate change. At the same time, groups like the Alliance 8.7 coalition are showing how stronger commitments to eliminating forced labour may accelerate learning and outcomes for members.*

## Introduction

The 'what works' approach is often found in policy making where evidence is assembled to develop practical insights into a desired outcome. This approach does not focus on what is not working. Rather, it highlights techniques that work, settings that are conducive to 'good' outcomes and ways of thinking that make a difference in complex problem areas. Box 1 describes the United Nations Sustainable Development Goal that focuses on decent work and describes the outcomes that SeaBOS company efforts will contribute to. Box 2 reports on the most recent global estimates of modern slavery.

This brief complements previous background briefs (see Box 3) by providing insights from published academic literature on addressing labour abuse alongside literature that addresses issues that share similar characteristics as forced labour, namely being: illegal/illegitimate practices; widespread in practice; difficult to detect; and often poorly communicated to stakeholders.

SeaBOS member companies have made a public commitment to eliminate forced, bonded and child labour in their own operations and along their supply chains; setting time-bound goals for this outcome to be achieved with reporting in 2021 (on own operations) and in 2022 and 2025 (for supply chain achievements); and committing to provide information about their performance in order to discharge their accountability with respect to the commitment. This brief assembles evidence from relevant academic studies as to 'what works' to support SeaBOS ambitions. The brief:

- Identifies how the connection between human and labour rights requires a particular type of linking activity (creating a hybrid between two different world views) as well as an expectation that you will find forced labour (this is called preparedness);

## Box 1: Sustainable Development Goal Target 8.7 and the Alliance 8.7 partnership

While labour abuse can sometimes be a difficult topic to talk about and to identify with any clarity, the opposite of poor working conditions is easier to describe. Sustainable Development Goal 8 sets out the ambition for ‘sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all’. The most relevant target under this goal is target 8.7, seeking to take ‘immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms’.

Achieving target 8.7 is primarily the responsibility of governments, but private sector organisations (and their membership organisations, such as SeaBOS) can also take part in Alliance 8.7 ([LINK](#)). Alliance 8.7 includes pathfinder countries as well as employer and/or business membership organisations. Existing members include the International Organisation of Employers and the Employers’ Confederation of Thailand as well as the Consumer Goods Forum and the Responsible Business Alliance. The last two members are similar to SeaBOS in that they represent an industry grouping that has forced labour challenges in its own operations and along its supply chain.

Action groups in Alliance 8.7 undertake collaborations that identify knowledge gaps and support research; capacity building and tool development; work in priority countries and supply chains; and engage in advocacy and partnerships. This Alliance (under the United Nations framework) also includes business groups who are working on eradicating forced, bonded and child labour.

## Box 2: Updated global modern slavery estimates

The International Labour Organisation (in partnership with the Walk Free Foundation and the International Organization for Migration) has updated the global estimates of modern slavery.<sup>1</sup> The last estimates were published in 2017 and related to 2016 while the figures in the 2022 publication relate to 2021. The figures are summarised below.

	Forced Marriage	Forced Labour	Private sector forced labour
2017 estimate (total = 40.3 million)	15.4	24.9	16.0
2021 estimate (total = 49.6 million)	22.0	27.6	17.3

The increase in all forms of forced labour over the period (despite concentrated efforts to reduce the incidence) are driven by compounding crises that undermine livelihoods. These include the COVID-19 pandemic, armed conflict and climate change. These figures do not reflect the global cost of living crisis that has been sparked (at least in part) by the conflict in Ukraine. When the effects of that crisis are felt, numbers are likely to increase further. In addition, forced labour is a global problem with more than 50% of all forced labour arising in either upper middle- or high-income countries.

For the first time, this report also provided a conservative estimate of 128,000 of fishers in forced labour on vessels. Migrant fishers are the most vulnerable in this context and the report notes that forced labour risks are especially pronounced in IUU fishing activities. The report did not provide specific estimates for forced labour in other parts of the seafood industry, including seafood processing activities, feed production or in aquaculture.

## Box 3: SeaBOS briefings addressing modern slavery

The 2020 virtual dialogue contained two Background Briefs that remain relevant in this topic area. ([LINK](#))

Background Brief 2: *Defining ‘Modern Slavery’ and Identifying Corporate Responsibility.*

Background Brief 3: *Reporting and benchmarking of human and labour rights reporting.*

- Describes evidence that will help overcome the limitations of traditional audit activities for detection and reporting as a form of governance; and
- Summarizes evidence that points towards ‘best practice’ in this problem area.

## Mediating between human rights and company actions

Mediation describes the process of forming links between two aspects that usually do not sit comfortably together because of differences in how companies and civil society view an issue alongside the need for company ambitions to be realised in difficult local operating environments. As a result, the act of detecting, remediating and keeping own activities and supply chains free of forced labour requires the construction of **points of common reference** between strategic programmes of reform (elimination of forced labour) and company practices. Programmes of reform and corporate practices currently operate using different norms and hence there is a need to create robust and resilient bridges between the two positions.<sup>2</sup> There are two elements that come together to enable these views to integrate.

**Framing the problem space:** moving from a focus on ‘risk to the company’ perspective to one that focuses on how companies support employment systems to ensure ‘rights holders’ (that is, workers) are able to exercise their rights and where there are remedies if these rights are breached. This is the essence of the Business and Human Rights Framework. This is clear in principle but difficult to achieve in practice because the tools used to detect forced labour are often traditional audit, assurance and/or certification approaches that invariably focus on risk to the company rather than those subject to forced labour harms. Indeed, it is recognized that seeking to support human rights should generate **‘resonance dilemmas’** for business processes as its focus is on rights holders (people) c.f. business norms.<sup>3</sup> This includes moving from materiality-based judgements (a company focused activity) to salience (that is, how labour conditions are experienced by workers). For companies to operate effectively in this problem space, two elements come into play: (a) the robustness of state protections (that is, the strength of labour governance in the locations where workers operate as well as the legal frameworks for migrant labour which often offers less protections) and (b) the functionality of this protection system (which requires an evaluation as to if the formal protections ‘work’). If there is evidence that these protections are weak ( e.g. due to high levels of corruption) then due diligence will require this to be

recognized through a greater focus on labour rights. Some tools have been developed (see, for example, the Seafood Social Risk Tool - [Seafood Social Risk Tool | Seafood Watch](#) – that adopts a similar approach).

**Expectation of finding problems:** Given the systemic and widespread incidence of labour abuse across the globe and within food production systems, companies should expect to find problems if they increase their efforts to detect forced labour. In this instance, the idea of **‘preparedness’** becomes important. This means that, **in combination**, various tools/techniques/policies have been observed to create an organisation-wide ability to detecting rights breaches. Elements in preparedness include: policies (for labour rights as well as support for raising labour rights concerns through whistle blowing policies), identifying where labour abuse risks might be greater (for SeaBOS companies through the risk mapping approach developed by Stanford Center for Ocean Solutions, Stockholm Resilience Centre, Lancaster University, University of Nottingham Rights Lab, and Global Fishing Watch, as well as company-specific assessments), and enhanced traceability that allows companies to know where at-risk workers are based, at what supply chain tier they exist and where on the globe the problems are likely to exist.

Returning to the key concept in this area: preparedness<sup>4</sup> relates to a set of related capabilities, practices and engagement at the firm level that facilitates a readiness to address human rights complexities. This is not the same as corporate social responsibility capabilities but rather includes more specific practices that allow a company to combine global and local expertise about where and how forced, bonded and child labour arises. If this knowledge (and learning from acting on this knowledge) can be openly shared within the company it may institutionalise labour rights concerns into an organisation’s culture. This makes decent work everyone’s business and also reduces the taboo associated with identifying labour abuse. Indeed, a failure to detect labour problems over a period of time might be an early warning sign that vigilance and preparedness needs boosting.

The most promising approaches that have been identified for detection and remedy of labour abuse consist of: (a) governance approaches that re-shape the employment system; (such as moving away from using employment brokers and/or regulating employment brokers) (b) significant enhancements of worker agency (e.g. using social intermediaries to support workers, including fisher missions, faith-based port services and unions); (c) an approach that considers economic pressures that will increase the chance of forced labour (corruption, recruitment methods, payment methods, a reliance on migrant workers and general economic

stresses for all workers); and (d) a change in culture whereby corporations find 'taboo free' spaces for discussion and are able to articulate their 'unknowns' in systems where problems may reside.

At the same time, it is important to acknowledge two known weaknesses that are well documented: (a) audit as a weak detection tool (which can be strengthened as outlined below) and (b) modern slavery reporting is 'decoupled' from reality (that is, the reporting practice itself does not lead to change in practices).

### **Overcoming known weaknesses of audit as a detection tool, and of reporting as a form of governance**

Audits are described as a "weak management mechanism for detecting and addressing non-compliance"<sup>5</sup> because of fraud in the system, for instance when those being audited create 'shadow factories' where work is re-located away from the 'show factories', that are then presented for audit. Evidence of these deceptions exists – for example, some 45 percent of audits (from a sample of 40,000 factory audits in 12 countries) were either unreliable or featured falsified information.<sup>6</sup> In addition, if audit is seen as a compliance tool, it will focus attention to legal/compliance requirements and will ignore the fact that forced labour is present (and in some supply chains, endemic) regardless of legal prohibitions.<sup>7</sup> Auditing should not shift responsibility for tackling labour abuse to suppliers. Rather, 'on the ground' investigations in partnership with suppliers may create joint ownership of problems. It may be that new information and communication technologies that collect, aggregate, interpret, and display open-source 'Big Data' in almost real time provide clues as to where collaborative auditing might be most valuable and thereby keep the cost of detection of labour abuse lower than would be possible through a higher number of less effective auditing activities.

**Keeping reporting connected to reality** is problematic because there is a 'taboo' of stating too clearly that labour abuse has been found. As a result, most reporting under 'modern slavery' reporting legislation focuses on the processes corporations have undertaken to detect labour abuse rather than the outcomes of their work. This is often described as 'cosmetic compliance'.<sup>8</sup> There are some instances, however, in which reporting has been observed as being effective in driving behaviour. For example, a study of mandated disclosures (contained within United States security regulations) with regard to mine safety violations found that the change in regulation was associated with an "approximately 11% decrease in mine-related citations and a 13% decrease in injuries".<sup>9</sup> Information

about violations was already available through health and safety reporting but this additional disclosure was associated with better firm performance.

Other studies of 'difficult to address' topics (namely reporting on: nuclear incidents,<sup>10</sup> detection of bribery payments,<sup>11</sup> and payments between resource companies and host governments<sup>12</sup>) highlighted some common characteristics:

- All these harms are hardwired into their particular context (danger of accidents, opportunities for bribery payments to be demanded and paid, and the dangers of operating in resource-rich but poorly-governed countries); and
- Each aspect being unacceptable to societal norms and contrary to business norms, meaning that identification of incidents results in a sense of shame or failure, and there is therefore limited possibility for 'open, taboo-free dialogue'.

Taken together, this suggests that the audience for reports of harm needs to have the capacity to take 'bad news' and craft a way forwards and that this might support better quality reporting. Companies can offer leadership in their reporting that will over time create more open and honest communication which (in turn) will likely improve performance.

### **Other approaches that show promise:**

The review of 'what works' in this area also uncovered evidence that some approaches show promise for detecting and remedying labour abuse. These include:

- Collaborative audit, which involves two or more organisations who source from the same suppliers sharing information (and the cost of auditing) and exerting greater pressure on their common suppliers to be transparent and responsible.<sup>13</sup> This approach has been attempted in the textile and fashion industry with evidence of this 'horizontal collaboration' bringing key actors together to put forward standardised reference points for forced labour detection.<sup>14</sup> Building a collaborative relationship is not without difficulty (power struggles and agreed financial investment have to be negotiated), however, evidence suggests that trust can, over time, be developed through this process.
- In traceability terms, it is possible to use biomarkers (e.g. with DNA reference libraries of known species and production areas) to connect raw material inputs to where they are produced.<sup>15</sup> If this data is known, it may be possible to triangulate risk of forced labour by location.

- Identify activities with “high labour intensity, low value distribution, high elasticity of demand, low industry legitimacy, and high regional clustering” as these will likely be more prone to forced labour risk.<sup>16</sup>
- The food retailer Tesco uses contract types, skill requirements, and wages as clues to investigate the risk areas of forced labour.<sup>17</sup> Likewise, where work is taking place ‘matters’ in terms of risk of forced labour, including:<sup>18</sup> on what vessel type and where in the ocean (drawing from Selig et al. 2022 risk map), in what kinds of working locations (remote and/or without social protection), under what kinds of contracts (living and working in the same location), what nationality (are these migrant workers) and the nature of working practices in the country of recruitment or operations (for example, India has a distinctive form of capitalism that increases the risk that workers will be exploited<sup>19</sup>).
- Well-governed recruitment approaches and the presence of worker grievance mechanisms and workers associations are part of preparedness.<sup>20</sup> While the active involvement of workers in monitoring their own labour conditions is being championed in the policy world and is a powerful driver of improving worker conditions, it may be that this route is not available to the most exploited workers. Regardless, ‘worker voice’ remains a powerful element in a preparedness framework.

## Closing observations

The evidence prompts two interlinked observations. First, “pressures within fragmented and dispersed supply chains are one of the causes of”<sup>21</sup> poor labour practices that, ultimately, may cross over to the illegal (that is, forced, bonded or child labour). Second, that “dedicated and coordinated efforts from primary stakeholders: corporations; local, state and federal governments; and well-informed consumers” are necessary to address forced labour.<sup>22</sup> There is also a need for a change in mindset about the nature of the problem and hence how (especially) supply chain governance is tackled.<sup>23</sup> Specifically, there are three ways ‘chains’ are governed: **Governing sustainability in chains** where companies seek to improve their performance using standard business management approaches (for example, including provisions in supplier codes of conduct). This is a good first step in making suppliers aware of the intentions of the ‘lead’ company but is insufficient to fully address labour problems;

**Governing sustainability of chains** builds on the first approach and entails the lead firm working in some way with their suppliers to support their capability to achieve the standards sought; and

**Governing sustainability through chains**, where the focus shifts beyond firm level or supply chain focus, to look at creating a wider community of practice in local operating contexts that ensures that decent work is the norm. This approach has proved successful in Brazil (in the past) and has shown some promise in the prevention of child labour in West African cocoa supply chains. In the latter case, the agreement brings together “governments, cocoa industry and producers, cocoa labourers and civil society organisations” to develop a joint declaration and framework of action. This led to the formation of the International Cocoa Initiative, which provided best practice advice and also created a community-centred approach of “working in the field of education, health, water and sanitation, child protection and livelihood diversification” to address child labour. The format of the initiative is that producer companies fund community engagement work, which is overseen by a joint industry/civil society board (with the ILO as an advisor). Moreover, the initiative works in close partnership with governments in the region and reflects a system-wide attempt to address (in this case) child labour.<sup>24</sup> Of course, child labour in this context is not ‘resolved’ but the approach is an example of a ‘through chains’ approach.

It is this multi-layered approach that has been identified as being present in the Thailand fisheries context<sup>20, 25, 26</sup> whereby multiple points of engagement have been used to ensure fishers enter employment without debts, that labour inspections are operational and that capability has been built across the whole production and consumption community to lift performance and where stakeholders work together to detect and remedy forced labour incidence.

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**Stockholm Resilience Centre**  
Sustainability Science for Biosphere Stewardship



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**Author:** Jan Bebbington

**Affiliation:** Pentland Centre for Sustainability in Business, Lancaster University

**Acknowledgements:** The authors acknowledge support from the Walton Family Foundation and the David and Lucile Packard Foundation.

**Graphics and layout:** Evelina Jonsson/Azote