

Worker Voice: What it is, what it is not, and why it matters

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Abstract

Worker voice entails the capacity of workers to speak up, articulate, and manifest collective agency to improve the terms and conditions of work and livelihoods and contribute to more equitable and democratic societies. Trade unions and collective bargaining most clearly fit this definition of voice. The question this report seeks to answer is: What are the most effective forms and mechanisms of worker voice in today's global economy and growing non-standard and precarious work? Common jobs today include work in outsourced segments of global supply chains, the informal economy, authoritarian regimes, and sectors often not covered by labor laws, such as agriculture and domestic work. How might undocumented migrant workers—who live and work under the constant fear of deportation—organize and exercise voice? And how are effective worker voice and respect for rights to freedom of association related to efforts to reduce child labor? The report finds that mechanisms that enhance the ability of workers to **elect, represent, protect, include, enable, and empower** their members and their organizations are the most effective forms of voice. It explores this argument via seven case studies covering multiple economic sectors in diverse geographic areas. The report concludes by providing key considerations for policymakers, practitioners, and researchers. It also identifies research gaps, emphasizing that future research on worker voice is needed in under-studied regions of Africa, and Central and South America.

Executive Summary

- The term “worker voice” has been used by practitioners, policymakers, and scholars to cover a broad range of institutions and mechanisms, from suggestion boxes and corporate social responsibility programs to trade unions and enforceable brand agreements.
- The challenge of establishing what is and what is not effective worker voice is exacerbated by attempts at voice in non-standard and precarious work, including in global supply chains, informal work, agriculture and domestic work, authoritarian regimes, and segments of the economy with undocumented migrant workers and child labor.
- Through an exhaustive exploration of the literature, roundtable discussions, interviews with top experts in the field, focus groups, and a deep dive into seven case studies, this report finds that the most effective forms of worker voice are institutions and mechanisms that enhance workers’ ability to elect, represent, protect, include, enable, and empower workers and their organizations.
- To analyze worker voice institutions and mechanisms, the report establishes a three-step process. The first step involves analyzing the context: the regulatory regime, patterns of worker rights violations, union dynamics, structures of exclusion in society, etc. The second step entails analyzing the mechanism or organizational structure, forms of participation and governance, remedy mechanisms, etc. The third step is to study outcomes. What did or did not change for workers as a result of the worker voice mechanism?
- Using the six components and the three-step process, the report finds that democratic trade unions and collective bargaining most clearly fit the definition of effective worker voice. The study also finds that enforceable brand agreements (EBAs), the United States-Mexico-Canada Agreement (USMCA) Rapid Response Labor Mechanism (RRLM), worker organizing along migration corridors and in agricultural and domestic work, and freedom of association protocols all contribute to worker voice.
- Individual voice mechanisms such as suggestion boxes, corporate social responsibility programs, management control participation committees, and mandatory due diligence under authoritarian rule are not effective worker voice mechanisms because they do not meet the criteria established above.
- Key considerations for policymakers include the importance of universal application of legal protections of worker voice, of worker voice as a means for strengthening labor law enforcement, and of worker voice as a means for enhancing economic and crisis management.
- Understanding of worker voice would be enhanced by more research on worker voice in understudied regions of Africa, Central and South America, on relationships between social hierarchies and worker voice, on worker voice as a means of ending child and forced labor, and on worker voice in mitigating ecological crises.

Introduction

The ability of workers to collectively organize, articulate their demands, and achieve better terms and conditions of work and more equitable and democratic societies is a founding principle of labor relations regimes and international labor standards. For more than a century, this has been the primary task of trade unions and collective bargaining, and corresponding freedom of association rights. Yet, practitioners, policymakers, and scholars increasingly refer to “worker voice” to encompass any and all forms of worker participation. This is problematic for a variety of reasons, not least because—in the absence of a more precise definition of the term—some have defined worker voice as including any individual or collective activity or worker- or management-controlled process. This report seeks to re-center the definition—and the debate—on what constitutes legitimate worker voice as a means to fully realize freedom of association and the effective recognition of the right to collective bargaining.

The need for a clear definition of the term is important and timely, especially in today’s fragmented global economy where global supply chains, informality, non-standard work, undocumented migrant workers, child labor, and under-regulated agricultural production are increasingly the norm. How should “voice” be exercised by a garment worker in Bangladesh who is employed by a local factory but with terms and conditions of employment shaped by the purchasing practices of global brands headquartered on other continents? Where is voice for domestic workers laboring alone in private homes and unprotected by domestic legislation? How should workers in Myanmar, who face arrest and possible torture and killing by a brutal military regime, express their desires and exercise their rights for decent work?

This report delves into these questions by providing a definition of worker voice based on six core and interacting components: elect, represent, include, protect, enable, and empower. Effective worker voice institutions and mechanisms are built upon democratic workers’ organizations that are independent of the state and employers. Collective, rather than individual, organizations are the most effective, as are organizations whose members and leaders reflect the diversity of their sectors and societies. Workers participating in such organizations and processes should be fully protected from dismissal, deportation, and other forms of harm, including to their physical safety. Finally, workers should be fully enabled—by having the time, space, information, and training—to participate, and they should be empowered to use leverage to achieve their demands.

To study and analyze this definition of worker voice, we established a three-step process. First, it is necessary to explore the labor relations context. What are the laws, practices, and social norms that enhance or inhibit effective worker voice, and how might they be addressed before a new mechanism is introduced? Second, how does the institution or worker voice mechanism function? What is the process by which workers express their demands? Are there legally binding grievances procedures when violations occur? Finally, what are the outcomes of these processes for terms and conditions of work? Do they increase respect for worker rights, help to eradicate gender-based violence and harassment, etc.?

To analyze worker voice mechanisms in the global economy, we conducted seven case studies that draw on an extensive literature review, two roundtable discussions, interviews with subject-matter experts, focus group discussions, and prior field research and participant observation by the authors. These case studies are:

[Case Study #1: Enforceable Brand Agreements \(EBAs\) in Bangladesh, Honduras, India, Lesotho, and Pakistan.](#)

[Case Study #2: United States-Mexico-Canada Agreement \(USMCA\)'s Facility-Specific Rapid Response Labor Mechanism \(RRLM\) in Mexico.](#)

[Case Study #3: Workers' Voice and the Struggles of Domestic Workers.](#)

[Case Study #4: Worker Voice in Agricultural Employment in the United States.](#)

[Case Study #5: Transnational Labor Rights Corridors: Central America, Mexico, and the United States.](#)

[Case Study #6: Worker Voice in Authoritarian Regimes: Myanmar.](#)

[Case Study #7: Worker Voice Approaches to Child Labor.](#)

These case studies illustrate the relevance and impact of the six components of worker voice. For example, the enforceable nature of EBAs distinguishes them from voluntary corporate social responsibility programs (CSR) and helped to explain why CSR programs failed to protect against the Rana Plaza building collapse in Bangladesh, whereas the Bangladesh Accord was able to identify and remediate 97,235 high-risk fire, structural, and electrical safety violations ([Case #1](#)). Lack of legal protection of U.S. agricultural workers' voice clarifies the low level of union collective bargaining in the sector despite worker organizations demonstrating other key components of effective worker voice ([Case #4](#)). These components also help to explain why, after a nine-year review process, the Dominican Republic-Central America trade agreement with the United States (CAFTA-DR) was unable to address egregious worker rights violations in Guatemala, whereas three years after the initiation of the RRLM, thirteen cases have moved through the process, with the majority resulting in democratic unionization and strong collective bargaining agreements covering more than 15,000 workers ([Case #2](#)).

Multiple considerations emerge from the study's findings. Four areas needing further research include worker voice research in Africa and Central and South America; worker voice and intersectional social hierarchies; worker voice and child and forced labor reduction; and worker voice and crisis mitigation. Considering national-level policy, evidence highlights the importance of legal protections of worker voice for all workers, worker voice as a means to enhance labor law enforcement and economic and crisis management, and coordinated worker voice structures at all levels of firms, sectors, national, and international policymaking. Internationally, multiparty collective bargaining across supply chains and the linking of labor, trade, and investment rights in international agreements support worker voice. Within workers organizations, inclusiveness of all workers and worker-led collaborations with advocates on education and research can also strengthen worker voice.

The report proceeds by defining worker voice and the framework for analyzing mechanisms. After detailing the study's methodology, each case study is presented. Thereafter, research gaps and considerations for research, policy, and practice are outlined, followed by conclusions. The Appendix further describes the methodology used to identify evidence gaps. The Penn State Worker Voice Literature Review is available as a separate associated document.¹

¹ See: The Penn State Worker Voice Literature Review, an addendum to this report. (Link forthcoming.)

Worker Voice: Six Components

Building on the literature (Budd et al., 2010; Doellgast, 2022; Kochan et al., 2019; Wilkinson et al., 2020), worker voice is defined as the capacity of workers to speak up, articulate, and manifest collective agency² that ultimately improves the terms and conditions of their employment and their livelihoods. It is also about shaping the societies in which they live, and thus contributing to democratic participation beyond the workplace (Cornell and Barenberg, 2022; Ferreras et al., 2022). In industrial relations literature, trade unions are the prototypical form of worker voice because unions provide workers with a collective and protected means of improving terms and conditions of employment (Freeman and Medoff, 1984).

But are all unions effective mechanisms of worker voice? If not, why not? And what about worker centers and worker co-operatives: are they effective voice mechanisms? Do corporate social responsibility programs and factory participation committees provide for worker voice? How can informal workers exercise voice? And do mechanisms such as labor chapters in trade agreements, ILO standards and supervisory bodies, and enforceable brand agreements facilitate or inhibit worker voice?

To answer these questions, we need to dig deeper into understanding what makes worker voice effective. We do so by highlighting six core components:³ 1. **Election** of representatives; 2. **Representation** of members; 3. **Inclusion** of member diversity in leadership, on committees, and throughout organizations and worker voice mechanisms;⁴ 4. **Protection** of workers from acts of anti-union discrimination, harassment, threats and violence;⁵ 5. **Enabling** organizations to carry out their functions by ensuring members have the time, space, information, and training they need; 6. **Empowering** workers and their organization to use leverage for their goals through concerted activities⁶ (which, as indicated above, need to be protected). This includes direct activities of trade unions (bargaining, strikes, etc.) and leveraging state and private mechanisms that have sanction power.

See Figure 1 for a depiction of the six components. We expand on each of these components below.

² Following Johnston and Land-Kazlauskas (2018:1), “agency” is understood as “intentional action that results in an observable outcome.” Worker agency is expressed collectively as “individuals make decisions to act together to maximize their ability to exert influence and bring about change” (Ibid:1).

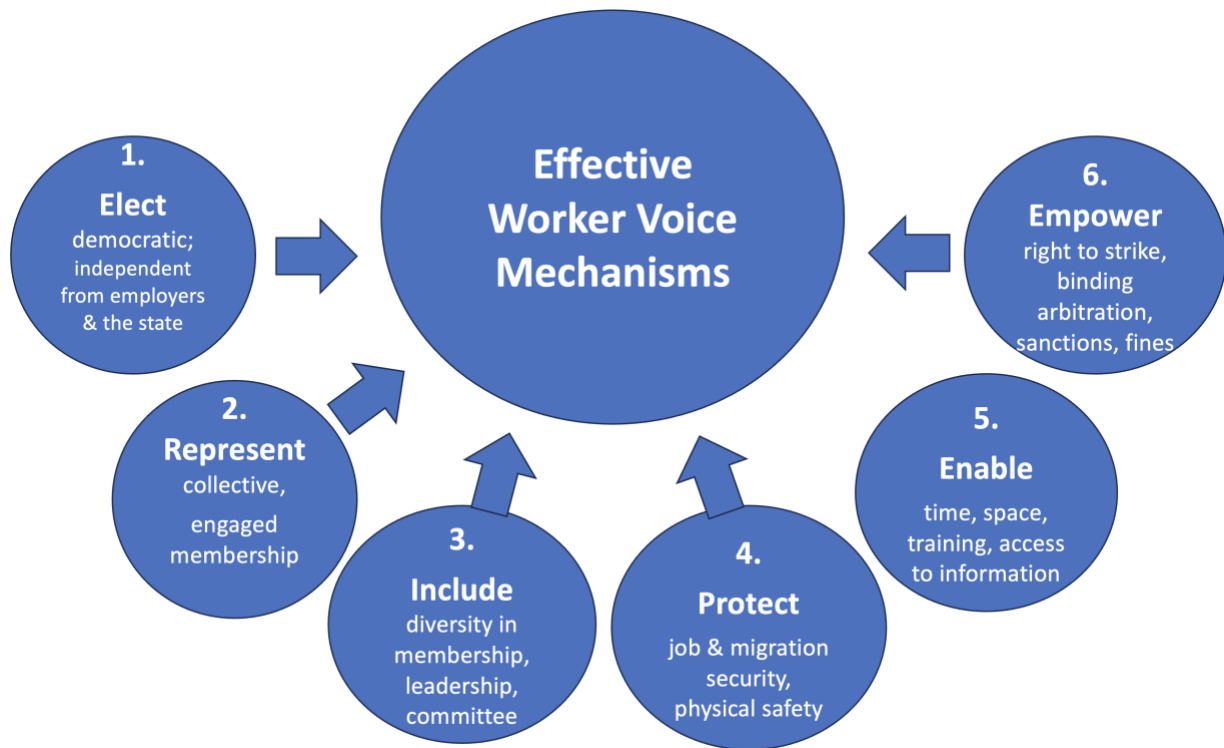
³ These components of worker voice build on Anner (2017b), “Wildcat strikes and Better Work bipartite committees in Vietnam: Toward an elect, represent, protect and empower framework.”

⁴ Inclusion here refers to worker organizations and worker voice mechanisms being inclusive of all workers. Such practice means inclusion of all workers, including workers of marginalized groups, which have notably been excluded (e.g., in sectors such as the U.S. building trades), and leadership in workers’ organizations reflecting the diversity of base-level workers.

⁵ Anti-union discrimination covers workers who are unionized and workers who might be attempting to unionize.

⁶ The term, “concerted activity” is most associated with U.S. labor law. It is understood as an “activity for the purpose of ‘mutual aid or protection’” (Liebman 2007:583).

Figure 1: Six Components of Worker Voice



- 1. Elect:** For a worker organization to contribute to voice in the workplace and in society, it must be democratic, which requires that workers are able to elect the leaders that represent them. This also requires that the organizations representing workers are independent from the government and employers, as established by ILO Conventions 87 and 98. Convention 87 (Article 3) states, “Workers’ and employers’ organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.”⁷ Convention 98 (Article 2) states, “[A]cts which are designed to promote the establishment of workers’ organisations under the domination of employers or employers’ organisations, or to support workers’ organisations by financial or other means, with the object of placing such organisations under the control of employers or employers’ organisations, shall be deemed to constitute acts of interference within the meaning of this Article.”⁸

⁷ See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312232

⁸ See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098

Trade unions are often democratic organizations, with regular elections, leadership transitions, and votes to guide union policy, strategy, ratification of collective bargaining agreements, and strikes. However, not all unions meet these criteria. For example, corporatist unions in Mexico have often been established through pacts with management and without the knowledge of workers, much less with their democratic participation (Bensusán and Middlebrook, 2013). Chinese labor unions, especially at the upper echelons, have been controlled by the party and the state (Hui and Chan, 2015). At the same time, some non-union forms of worker representation, such as worker cooperatives and some worker centers, use elections and other participatory governance methods, with perhaps the largest scale example being the Landless Workers' Movement of Brazil (Wolford, 2010; Carter, 2015).

CSR, employer, or brand-driven worker engagement programs, by definition, fail to provide a worker voice mechanism that is fully controlled by workers (Anner, 2010; 2023). CSR, employer- or brand-driven dialogue mechanisms raise the risk of the establishment of workers' organizations under the domination of employers or employers' organizations. State and employers' representatives have no role in selecting worker candidates or organizing or monitoring worker elections. The less freedom workers have to elect their leaders under such a model, the less likely it is to give rise to effective worker voice.

2. **Represent:** The most effective form of worker voice is *collective* representation (Budd, Gollan, & Wilkinson, 2010; Doellgast, 2022; Freeman & Medoff, 1984; Godard, 1992; Kochan et al., 2019). To achieve collective worker voice, it is not enough to periodically elect leaders and stop there. Rather, leaders must be fully accountable to their members, who are kept informed, engaged in organizational activities, and consulted on matters of importance through assemblies, regular communications, and member surveys. The most effective trade unions take collective representation seriously, and such forms of activities and engagement are a regular part of their work. However, as noted above, some union leaders are entirely disconnected from their members and, in the worst-case scenario (as noted with corporatist unions in Mexico), workers may not even know an organization exists.

Yet some worker voice mechanisms are entirely devoid of fundamental functions such as representation and collective organization. For example, factory-level participation committees often pull workers directly off the production line and place them in meetings with management. Once the meeting is over, workers are returned to the production line (Anner, 2017a,b). Management-appointed or co-opted worker representatives remain a frequent phenomenon in many contexts, rendering any legitimate representative function for these workers null. And even in cases where they may have been nominally elected, they have no ability to collectively represent workers. They cannot consult with workers prior to meetings with management, represent workers' collective interests, nor can they inform workers of progress and outcomes after meetings are over.

So-called worker voice mechanisms that are entirely based on individual forms of voice present their own set of challenges. The most notorious among these are physical suggestion boxes (often subject to surveillance) or digital surveys sent by management or brands to workers (Budd et al., 2010; Boxall & Purcell, 2011; Mowbray et al., 2015). Such individual voice mechanisms lack the legitimacy and power associated with collective worker voice and, while they serve to increase information provided by workers to management, they are not effective at resolving employment conflicts, especially rights-based disputes (Batt et al., 2002; Charlwood & Pollart, 2014). However creative or technologically innovative, most individual voice mechanisms do not allow rights-holders to seek effective remedy, individually or collectively, to avail themselves of representation, or to participate meaningfully in the resolution process. As such, despite how they might be framed, these cannot be considered grievance mechanisms as defined by the ILO's Examination of Grievances Recommendation, 1967 (No. 130).⁹ However, an individual voice mechanism can complement a collective voice mechanism, such as an independent hotline for garment workers facing gender-based violence and harassment at work in Lesotho in the context of the broader Lesotho agreements that are managed by and thus enhance the power of trade unions and women's organizations (WRW, 2023; also see Case Study 1).

- 3. Include:** Electing and representing workers means that organizations, their leadership structures, committee members, training sessions, and other activities should fully reflect the diversity of base-level workers in terms of race, gender, caste, and other marginalized groups in society. That is, workers' organizations, their members, and their leadership must prioritize inclusivity, actively seek to address any obstacles to full representation of the diverse workforce in their ranks, and ensure their full participation in all organizational activities, elections, and campaigns. However, in far too many organizations—including trade unions—leadership positions are held by individuals from the more privileged sectors of the workforce. In many countries, including the United States, this has often meant older white men (Ledwith, 2012; Lee & Tapia, 2021; Munakamwe, 2021).

Inclusion (or lack thereof) is highly correlated with outcomes. This helps to explain harsher conditions of employment experienced by racialized groups in the workplace (Mishel & Bivens, 2021). Gender-based discrimination manifests in limited access to higher-paid positions, less secure employment, and lower wages for the same work for women workers compared to men workers (Barrientos, 2019; Robertson et al., 2020).¹⁰ The most dynamic and effective unions are often those with the most diverse leadership (Tapia et al., 2017). With innovative worker voice mechanisms, such as the Lesotho and Dindigul agreements, governance structures that include women's organizations and trade unions are directly and effectively addressing gender-based violence and harassment and discrimination based on caste.

⁹ See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R130. For further information, see also the ILO Fact Sheet on Grievance Handling: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_622209.pdf

¹⁰ For more on this point and corresponding literature, see the Penn State Worker Voice Literature Review, a separate document associated with this report.

4. **Protect:** A core premise of the worker voice literature is that voice is more effective when workers are not afraid to speak up (Freeman & Medoff, 1984). It follows that worker voice mechanisms in countries with greater job stability and just-cause termination practices (e.g., continental European countries and Japan) will have more robust worker voice mechanisms relative to countries with weaker protections or more precarious contractual arrangements (Doellgast, 2022; Doeringer et al., 2003). An example highlighted in this report’s case study on enforceable brand agreements is in Lesotho, where women on short-term contracts were more likely to face gender-based violence at work relative to workers with permanent contracts, in part because they were not protected from termination should they speak out (WRC, 2019a). Gender and other forms of harassment, violence, and intimidation/coercion based on vulnerability are often associated with precarious forms of work that facilitate sexism and racism at work (Shin et al., 2023). Of course, this changes in circumstances where workers are able to unionize and negotiate collective bargaining agreements to gain just-cause protections, which subsequently protect and create greater space for worker voice, especially for the most vulnerable segments of the workforce (Block & Sachs, 2020; Kochan et al., 2022).

Yet, as the case studies will illustrate, protected worker voice is not just about protection from dismissal. In the case of undocumented migrant workers, it is also about protection from deportation (Ford, 2019; Gordon, 2007). Protected worker voice is also about protection from physical harm. This is why corporate social responsibility programs are especially underperforming in labor repressive regimes where workers are afraid to speak up due to their concern for their physical safety (Anner, 2017c). And it indicates why, as we will see ahead, due diligence programs (including so-called “enhanced” due diligence) are inadequate tools to protect worker voice in countries such as Myanmar (ETI, 2022). This finding on Myanmar was reinforced recently by an ILO Commission of Inquiry, which found that trade union members and leaders have been killed, arrested, abused, and tortured.¹¹

5. **Enable:** The enable component reinforces other components of worker voice and overlaps with the *represent* component mentioned above. It is not enough to allow organizations to exist. They must also be given the time, space, training, information, and other resources needed to fulfill their functions. As stipulated by ILO Workers’ Representatives Recommendation (No. 143), workers’ representatives have the right to access the workplace to carry out their representative functions. This provides enterprise-level representatives access to the knowledge, skills, and experiences of representatives from higher-level trade union organizations (i.e., federations or confederations).¹² ILO

¹¹ See: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/publication/wcms_894548.pdf

¹² This right is reinforced by other ILO decisions. The ILO Committee of Freedom of Association finds, “Trade union representatives who are not employed in the undertaking but whose trade union has members employed therein should be granted access to the undertaking”. (ILO, Compilation of decision of the Committee on Freedom of Association, Paragraph 1593).

Recommendation No. 143 indicates that workers are given time off—normally without loss of pay or benefits—to carry out their functions effectively, including attending union meetings, supporting workers in grievance procedures, and participating in negotiations, training courses, seminars, congresses, or conferences.

Workers' time is limited by their need to work, limited control over their time at work, and caring for their families. As we will see ahead in our case study on domestic workers, in Latin America, approximately 30% of households are involved in paid domestic work (Blofield & Jokela, 2018; Paz, 2023). For many domestic workers and other working-class women, unpaid care work is the norm as they attempt to balance work, caring for their children or elderly parents, and trade union activities. Indeed, women have been found to spend two to ten times more time on unpaid care work than men (Ferrant et al., 2014). Addressing unpaid care work, thus, is also about enabling women workers to participate more actively in their organizations.

The most effective initiatives provide much needed training for workers. For example, through the Bangladesh Accord, 1.8 million workers have been informed about essential workplace safety principles and practices.¹³ If workers are not trained how to identify safety issues, even protected workers will not be able to effectively speak up and assist in remediating concerns. Similarly, workers and their organizations need spaces to meet, hold assemblies, and conduct their training activities. Trade unions provide such spaces. In contrast, participation committee members are often not provided with basic meeting spaces (Anner, 2017a,b).

Another critical limitation to workers exercising their voice is the lack of relevant information. The ILO Collective Bargaining Recommendation, 1981 (No. 163)¹⁴ and the Workers' Representatives Recommendation, 1971 (No. 143)¹⁵ establish that employers and the state, “should make available to workers’ representatives such material facilities and information as may be necessary for the exercise of their functions” (Gernigon et al., 2000:61). Yet, these ILO Recommendations are seldom followed. If workers are not provided with relevant and reliable information regarding the operation and future prospects of the firm (from financial data to strategic or operational plans), it is hard for them to effectively negotiate over wages and conditions of work. If the employment

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70002:0::NO:70002:P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3949137,2). And the ILO supervisory bodies consider that “[g]overnments should guarantee the access of trade union representatives to workplaces, with due respect for the rights of property and management, so that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization.” (ILO, Compilation of decisions of the Committee on Freedom of Association, Paragraph 1590. See also Paragraph 1591-1599.)

¹³ See: <https://bangladeshaccord.org/updates/safety-training>

¹⁴ See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R163

¹⁵ See: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R143:NO

relationship is fissured (Weil, 2014),¹⁶ access to information about the company primarily benefiting from the workers' labor is limited. If workers and their organizations are not provided with wage data according to gender, race, caste, and other marginalized groups, it is hard to address systemic patterns of discrimination at work. And if data on cases of sexual harassment or other forms of abuse are not made available to workers, then it is hard to know when to speak up and demand that appropriate action be taken to remedy abusive situations and prevent future abuse.

6. **Empower:** In addition to establishing organizations, space, training, protection, etc., workers and their organizations also must be able to use sources of leverage that allow them to pursue their demands. In a traditional industrial relations context this includes a range of state and collective bargaining rights, including state economic sanctions for violations of health and safety standards and binding dispute resolution procedures for handling grievances associated with collective bargaining agreement violations. Most importantly, it includes the right to strike, because without the possibility to withhold labor, there is very limited leverage for workers to influence collective bargaining outcomes (Katz et al., 2017). Indeed, the right to strike is “inextricably linked to—and an inevitable corollary of—the right to freedom of association” (Bellace, 2014:29; Vogt et al., 2020). This is why so many alternative worker voice mechanisms are ineffective: they allow workers to form organizations, but they deny them the ability to exercise power.

It follows that state-controlled unions that never receive strike authorization and laws that protect collective bargaining while prohibiting the right to strike impede worker voice. It also follows that alternative worker voice mechanisms, such as management-controlled participation committees with no access to collective action, are also largely ineffective, especially on cost-sensitive worker demands such as increased wages and benefits (Anner, 2017a,b). However, there are other forms of leverage available to workers beyond traditional industrial relations mechanisms. This includes binding clauses in EBAs and economic sanctions under trade agreements, notably the Rapid Response Labor Mechanism of the USMCA, as we will see ahead. Pro-worker labor law reforms, improved enforcement by labor inspectorates, and innovative forms of co-enforcement also empower workers (Fine & Bartley, 2019).¹⁷

It is important to emphasize the distinction between worker representative structures and trade unions and their distinct means of action—workplace cooperation versus collective bargaining. The ILO's Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94) states, “Appropriate steps should be taken to promote consultation and co-

¹⁶ David Weil (2014) defines fissuring as a process by which companies focus on core competencies and fissure as many as possible of the not-core activities to other organizations (third-party managers, outsourced facilities, etc.). The companies maintain control of the outcomes of those contracted organizations and receive the greater share of profits generated by workers. But workers are separate from these lead companies through the fissured (indirect) employment relationship.

¹⁷ The Workplace Justice Lab at Rutgers University is working to implement communities of learning and practice to advance innovations in labor law and its enforcement: <https://smlr.rutgers.edu/workplace-justice-lab-ru>.

operation between employers and workers at the level of the undertaking on matters of mutual concern not within the scope of collective bargaining machinery, or not normally dealt with by other machinery concerned with the determination of terms and conditions of employment.” ILO Convention No. 135 indicates that worker representative organizations complement but not supplant trade unions and collective bargaining, noting that their “functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned.”¹⁸

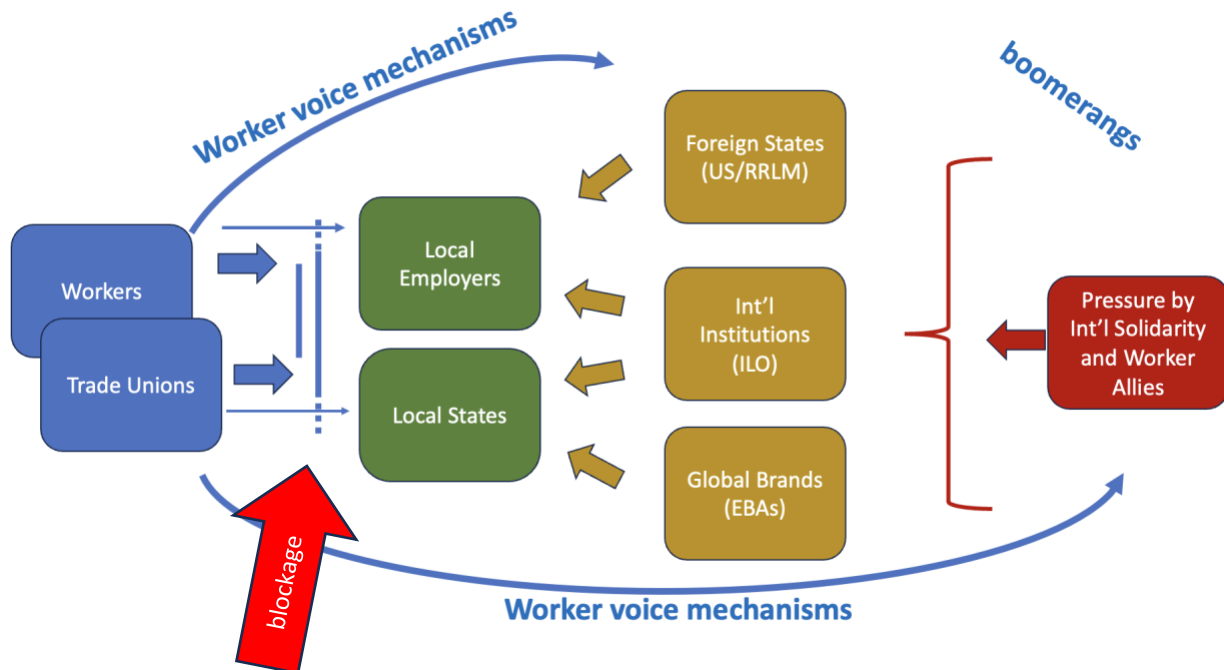
These six components, as noted above, are interactive. For a collective organization to be most effective, it needs to elect its leaders. Those leaders need to be protected from dismissal, deportation, or physical harm, and they need to have the time, space, information, and training needed to carry out their functions. Without any one of these components, the other components are dramatically weakened, and the overall process will be less effective. The issue of proliferating “voice mechanisms” controlled by management, such as worker-management committees, is not only that they are much weaker voice mechanisms relative to the mechanisms that have all six components, but they also are often pursued to undermine or replace legitimate worker voice mechanisms.

A Framework for Studying Worker Voice Mechanisms

Building on the definition and components of worker voice outlined above, in this section we introduce a framework for studying mechanisms and their impacts. We start with two observations: 1) Rigorous extant studies highlight trade union collective bargaining as the worker voice mechanism that has consistently contributed to socially beneficial outcomes such as lower levels of inequality and increased democracy (Doucouliagos et al., 2017; Farber et al., 2021; ILO, 2022: Figure 3.3; Jaumotte & Osorio Buitron, 2020). 2) The literature also underscores that in certain sectors, countries, and regions, the exercise of worker voice via democratic and empowered trade unions is inhibited or blocked. For example, employers may be particularly repressive, or states may exclude certain groups of workers from labor law coverage, such as domestic workers, agricultural workers, or independent contractors. The state may also prevent certain sectors of workers from striking. In such contexts and drawing on prior work by Keck and Sikkink (1998) on transnational advocacy, we observe boomerang patterns of activism in our cases whereby workers and their organizations reach out to allies and also seek to leverage a wider range of available mechanisms, such as labor chapters in trade agreements, pressure on brands, and use of international institutions such as the ILO. [See Figure 2 below.]

¹⁸ See ILO Convention 135, Article 3:
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312280.

Figure 2: Local Blockage, Worker Voice Mechanisms, and External Pressure



In addition to the mechanisms mentioned above, a series of other measures, mechanisms, and responses have emerged. Sometimes workers create their own alternatives to get around blockages via worker centers, transnational alliances, and innovative ways of organizing domestic and other informal or excluded workers to leverage the state. In other cases, states have adopted—or are considering—legal and regulatory reforms to expand the scope of workers covered by labor law or exempting collective bargaining by some groups from anti-trust law. While not “worker voice mechanisms” in themselves, these interventions clearly open space and offer protection for the increased exercise of collective worker voice (Johnston & Land-Kazlauskas, 2018). Companies have also created corporate social responsibility and social audits, participation committees, and hotlines for workers. The question is how to evaluate these mechanisms. Do they contribute to strengthening worker voice or do they inhibit and possibly attempt to block more effective forms of voice, notably trade unions and collective bargaining?

To answer this question, we begin by examining the context in which these initiatives are implemented. This includes the regulatory regimes, historic patterns of worker rights violations, relative strength or weakness of existing unions and advocacy organizations, and structures of gender, racial, and other forms of subordination in society. Next, once the context is understood, we need to assess the mechanism itself. In some cases, as we will see ahead, an

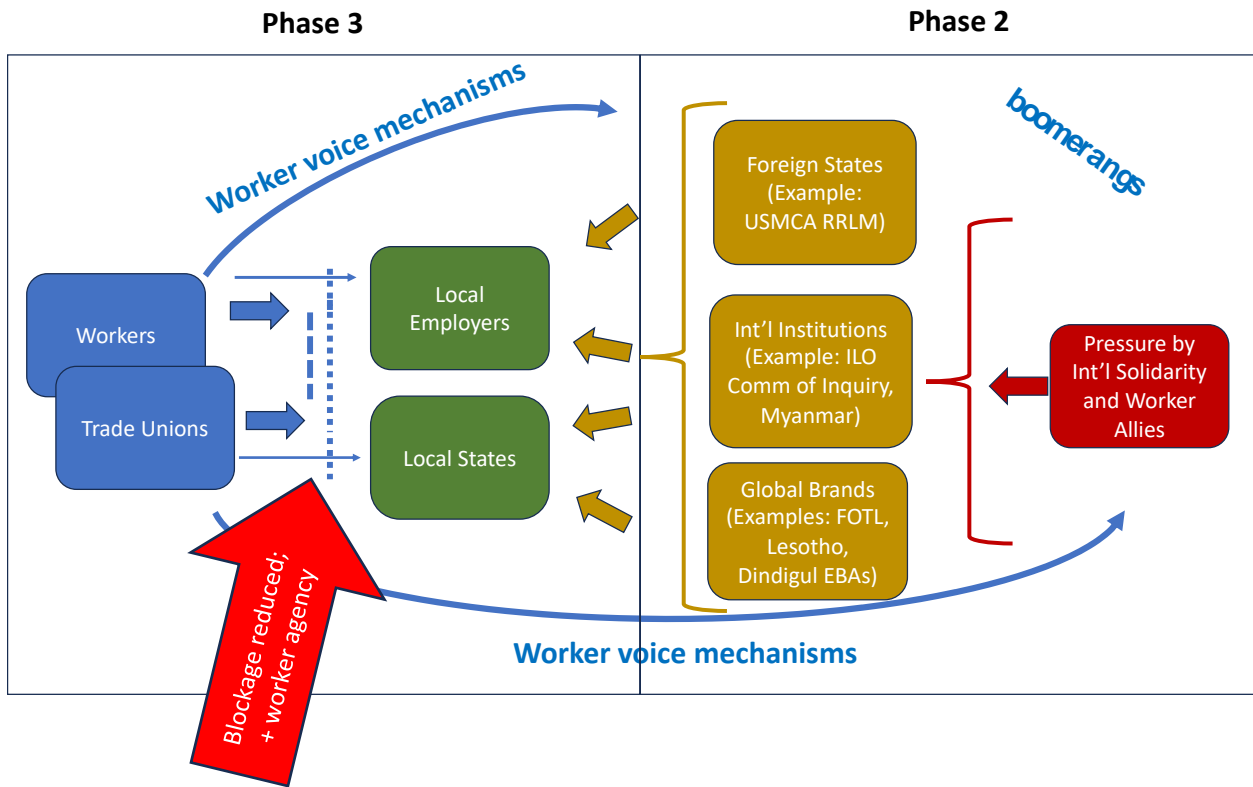
emerging mechanism will need to address pre-existing conditions before implementation, such as ending the use of short-term contracts. The final step in the process is analyzing outcomes and impact. Did these mechanisms and processes enhance worker voice as conceptualized above, improve conditions of labor, strengthen worker organizations, address patterns of gender-based harassment and abuse, and contribute to more equitable and democratic societies? This is the ultimate test of worker voice mechanisms. [See Figure 3 below.]

Figure 3: Three Steps for Analyzing Worker Voice Mechanisms



The most effective mechanisms will reduce the blockage faced by workers and their organizations, providing them with agency to pursue their demands. For example, in Honduras prior to 2010, workers were largely unable to successfully organize their workplaces or address their grievances through state institutions. With the establishment of the EBA with Fruit of the Loom (phase 2), they were able to work with international allies such as the Worker Rights Consortium to pressure the global brand and gain access to the factory. This reduced blockage at the factory level and allowed local trade unions to gain agency, organize workers, and bargain (phase 3). In Mexico, workers often were unable to organize independent unions because employers and corporatist unions in coordination with the state blocked such organizing. Yet, following the establishment of the RRLM, workers were able to work with international allies such as the AFL-CIO, the UAW, and the USW to present RRLM petitions. When successful, these petitions resulted in local remediation plans that reduced workplace-level blockage resulting in successful organizing and collective bargaining by independent unions. Similar dynamics have been pursued by trade unions in Myanmar via an ILO Commission of Inquiry, and in Lesotho and India via EBAs. [See Figure 4 below.]

Figure 4: Reducing Local Blockage and Reinforcing Worker Agency



Methodology and Case Study Selection

This report employs a multimethod research strategy to analyze the case studies. Research began with a review of secondary literature, including academic studies and practitioner reports related to the cases. The research process also included interviews and focus group discussions with subject-matter experts and analysis of original documents, such as the text of enforceable brand agreements and relevant chapters and annexes of the USMCA. Particular attention was placed on empirical evidence on the outcomes of mechanisms or processes.

The literature review began by observing that a search on Google Scholar identifies more than 5,310 studies on “worker voice.” Toward defining worker voice, we searched for key terms, including worker voice, freedom of association, collective bargaining, and worker centers, vetted preliminary lists with recognized subject-matter experts, and reviewed 450 studies in the Penn State Worker Voice Literature Review and additional studies for this report’s case studies. Studies reviewed spanned the 19th through the 21st centuries, the era when worker voice was developed as a concept and practice. Eighty percent of these studies were from academic journals and books, complemented by institutional reports and a wide variety of sources within grey literature. This report’s broad and deep investigation of worker voice reveals implications for policy, practice, and further research.

Case selection was based on a series of considerations and established through consultation with the DOL and experts. They draw on those examples for which members of the research team have direct knowledge. Cases include:

1. Enforceable Brand Agreements (EBAs): Accord on Fire and Building Safety in Bangladesh, International Accord for Health and Safety in the Textile and Garment Industry in Pakistan, Washington Agreement between Fruit of the Loom and the unions CGT and SITRAJERZEESH in Honduras, The Dindigul Agreement to End Gender-Based Violence and Harassment in India, and Agreements to Combat Gender-based Violence in Lesotho’s Garment Industry.
2. USMCA’s Rapid Response Labor Mechanism (RRLM) in Mexico.
3. Domestic Workers (multiple country and region examples).
4. Worker Voice in Agricultural Employment in the United States.
5. Transnational Labor Rights Corridors: Central and North America.
6. Worker Voice in Authoritarian regimes: Myanmar.
7. Child Labor: Ghana, Liberia, Morocco, and Peru.

In selecting case studies, consideration was placed on the diversity of sectors, countries, regions, and types of worker voice mechanisms, as well as the problems they sought to resolve. For sectors, the cases cover agriculture; domestic work; garment, textile, and auto parts manufacturing; and mining. The country and regional focus is mostly on the Global South, notably Africa, Latin America, and Asia. Several cases also cover examples in the United States (agriculture, labor rights corridors, and domestic workers). Several measures, mechanisms, and

responses are covered, including through collective bargaining, strikes and boycotts, cross-supply chain binding agreements, national and sub-national government enforcement mechanisms, and enforcement mechanisms in pluri-national trade agreements (e.g., USMCA). Case studies also analyze formal and informal work and gender and racial inequalities in the world of work, notably including successes of the Lesotho and Dindigul agreements and domestic worker organizing.

The case studies of U.S. agriculture, the RRLM in Mexico, child labor, and domestic worker organizing draw on prior field research by four of the authors. The case studies of the Bangladesh Accord and worker organizing in Myanmar draw on participant observation by two of the authors. And the case study of the Fruit of the Loom EBA in Honduras draws on field research and an original survey by one of the authors.

The review of secondary sources was followed by a first roundtable discussion with 49 experts convened on January 27, 2023. The report was then informed by a series of interviews with subject-matter experts conducted between January 2023 and November 2023.

Focus group discussions were organized for the enforceable brand agreement, transnational labor rights corridors, child labor and Myanmar case studies. Focus group discussions were not organized for the Rapid Response Labor Mechanism, the worker voice in agricultural employment, and domestic workers case studies. Rather, these cases benefited from authors' research focuses and interviews with experts listed above.

Case studies also benefited from a rigorous, multifaceted review process. Reviewers provided written feedback on all case studies, with some receiving feedback from as many as 11 reviewers. Selected case studies were presented and discussed at academic and practitioner conferences, at a second roundtable discussion, and at a DOL brown bag lunch presentation. This included the domestic workers, enforceable brand agreements, and Rapid Response Labor Mechanism cases presented at the 2023 LERA and the 2023 ILO Regulating Decent Work conference.

The result of this extensive and rigorous process are the seven detailed and illustrative case studies on worker voice presented in the next section.

Case Study 1

Worker Voice and Enforceable Brand Agreements (EBAs)

Authors: Sifat Amita and Mark Anner, Penn State University

Introduction

Research indicates that one of the more effective and growing forms of worker voice in supply chains is Enforceable Brand Agreements (EBAs). EBAs are a response to failures in national labor relations regimes and voluntary corporate social responsibility (CSR) programs to address worker rights violations. CSR programs have been criticized for the lack of enforceability and high degree of corporate control (Anner, 2012, 2023; Esbenshade, 2004; Integrity, 2020). For example, Anner (2012) analyzed 805 factory audits of the Fair Labor Association (FLA) CSR program and found that Freedom of Association (FoA) violations made up only 5% of violations detected, and that, of the few FoA violations that were detected, only 38.5% were remediated. Locke (2013:53) examined 900 Nike supplier factory audits in 50 countries and concluded that, albeit with many variations across regions, “after a decade of auditing, many problems remain in Nike’s supply chain.” Indeed, in many cases violations increased over time. Kuruvilla (2021) explored data for thousands of CSR audits for apparel factories conducted between 2011 and 2017 across 12 countries and determined that information provided to auditors was not trustworthy 41% of the time.

The collapse of the Rana Plaza building in Bangladesh (2013) and Ali Enterprises factory fire in Pakistan (2012) revealed the devastating consequences of the failure of CSR and state regulatory oversight of building safety. In almost every case prior to major factory fires and building collapses, workers and union groups raised with apparel brands cases alleging egregious violations of labor rights and working conditions using CSR checklist auditing, grievance boxes, management-controlled workers’ committees, and hotlines. However, global apparel companies and the CSR programs they rely on, by and large, did not credibly investigate or remedy violations in their supply chains. Often, workers lacked trust in existing mechanisms to exercise their right to voice because the mechanisms were not collective and did not empower and protect workers (Anner, 2018b). The integration of an authentic collective worker voice in the global garment supply chain is crucial in tackling the real challenges workers encounter at the workplace and guaranteeing the implementation of successful remedies.

In the past few decades, there has been a significant shift from corporate social responsibility to worker-driven social responsibility (WSR), aiming to ensure the verifiable protection of workers’ rights in corporate supply chains. As noted by Arengo, “The persistent exploitation of millions of apparel industry workers, and the failures of corporate social responsibility and multistakeholder initiatives to provide an effective and sustainable remedy, require a new framework for corporate accountability to ensure workers’ rights. A new approach must move away from voluntary codes of conduct, flawed social auditing schemes, and programs that exclude the agency of workers and their organizations” (Arengo, 2019:45).

One important example of the WSR approach is Enforceable Brand Agreements (EBAs). EBAs play a pivotal role in empowering workers to express their real voices and concerns, establish a secure and supportive environment that fosters trust, hope, and confidence among workers, and act as a supplementary mechanism to conventional labor regulations (Eudeline, 2020). This case study found that EBAs have had some success addressing labor violations, minimizing power imbalances, maximizing workers' collective voice, and improving workers' lives. These findings are based on an analysis of five EBAs: the Bangladesh/International Accord, the Fruit of the Loom "Washington Agreement" in Honduras, the Lesotho Agreement, the India Dindigul Agreement, and the Pakistan Accord. The sections that follow summarize main findings and analyze each EBA in turn, exploring the mechanisms and their outcomes. See Table 1, Case Study 1 Appendix, which summarizes the main components of the five EBAs.

Bangladesh Accord on Fire and Building Safety (Accord)

The Accord is a legally binding agreement between global brands and retailers and IndustriALL Global Union, UNI Global Union and eight of their Bangladeshi-affiliated unions to work toward a safe and healthy garment and textile industry in Bangladesh (Bangladesh Accord Website). The Accord was created in response to the Tazreen Fashions factory fire in November 2012, which killed 117 workers, and the Rana Plaza factory building collapse on April 24, 2013, which killed 1,133 workers and critically injured thousands more. Both factories had passed CSR audits soon before the tragedies (Nova and Wegemer, 2016). The Accord was also created in the context of a weak state regulatory regime largely captured by corporate interests (Bair, Anner, Blasi, 2020), leading to underfunding and weak government enforcement capacity. Trade unions have been unable to fill the void due to highly adverse labor laws that make unionization and collective bargaining difficult, as noted by the ILO.¹⁹ Donaghey and Reinecke, drawing on 69 semi-structured interviews conducted between October 2013 and late 2015, found that CSR programs also failed to fill the enforcement void because they are voluntary and do not collectively empower workers (Donaghey and Reinecke, 2018). As noted by Salminen, "A central structural difference between the Accord and earlier CSR initiatives is that the Accord takes the form of an enforceable contract that directly connects first-world buyers with representatives of the third-world laborers of their supply chains" (Salminen, 2018, page 411).

The co-governance structure of the Bangladesh Accord incorporated the voice of global and national unions responsible for worker representation at the same table with global brands. The Accord steering committee (responsible for the overall management of this agreement) consists of three union representatives and three representatives of participating companies (Anner, Bair & Blasi, 2013, page 28). The Accord, in addition to equal authority in its governing structure, ensured workers' representation by giving them a role in safety inspections in garment factories. Elected trade union delegates can accompany engineers during various inspections, including initial, follow-up, and complaint-related ones. The Accord's complaint mechanism established a trustworthy platform for workers to confidentially express health and safety concerns, safeguarding their rights to protection and the refusal of unsafe work. Through

¹⁹ (CEACR) published 102nd ILC session (2013), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

the process, any worker at an Accord-covered factory can call a designated phone number to raise occupational safety and health (OSH) complaints. Complaint handlers then assess and process each complaint while protecting employee confidentiality. If grounds for the complaint are established, a process is then initiated to ensure remediation of hazards and remedy for harm done. The Global Rights Compliance Report (2021) notes, “By protecting the workers from any form of retaliation upon filing complaints, the mechanism created a genuine level playing field between the factory workers and factory owners.” That is, the Accord fulfilled the *protect* component of effective worker voice. Moreover, the Accord contributed to enabling worker voice by providing training to the safety committee members on the factory floor.

The binding component of the Accord was established in Article 5, which states (in part): “Upon request of either party, the decision of the SC may be appealed to a final and binding arbitration process. Any arbitration award shall be enforceable in a court of law of the domicile of the signatory against whom enforcement is sought and shall be subject to The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention), where applicable.”²⁰ This binding arbitration clause was pursued on two occasions. In 2016, IndustriALL and UNI Global Union filed cases with the Permanent Court of Arbitration at The Hague against two Accord signature companies based on their perceived failure to address building safety violations within the mandatory deadlines and to negotiate commercial terms to make it financially feasible for their suppliers to cover the costs of remediation. On September 4, 2017, the Permanent Court of Arbitration unanimously decided that the pre-conditions to arbitration under Article 5 of the Accord had been met. In December 2017, the unions reached a settlement with the first brand that resulted in “considerable support” for 200 supplier factories in Bangladesh to cover building safety.²¹ In January 2018, the unions reached a USD\$2.3 million settlement with the second multinational brand for its failure to provide commercial terms to its 150 supplier factories that would allow them to meet their building safety obligations (Anner, 2019).²² The impact of these cases went far beyond the two brands involved in the case, with compliance rates for building safety going up across Accord factories.

The Bangladesh Accord of 2013 covered more than 1,600 ready-made garment (RMG) factories, encompassing a workforce of more than 2 million RMG workers. There are 3.2 million workers in the sector,²³ meaning the Accord covers 62.5% of workers.²⁴ It involved conducting 25,000 subsequent safety inspections focusing on fire, building, and electrical concerns. Moreover, a safety training program (delivered to safety committees as in depth in-factory training during

²⁰ See: <https://bangladesh.wpengine.com/wp-content/uploads/2018/08/2013-Accord.pdf> .

²¹ The exact terms, including the amount, of the agreement were not revealed to the public.

²² This entire paragraph draws on Anner (2019).

²³ Number of workers is based on the 2019 Survey of Manufacturing Industries of the Government of Bangladesh. For more than a decade, Bangladesh business associations and the media have referred to 4 million workers in the sector without providing a clear source. For this reason, we are referencing the 2019 survey, which is a more reliable official source.

²⁴ There are approximately 4,000 RMG garment factories in Bangladesh (Huq 2020), which means the Accord covers 40% of factories. However, average factory size for a typical garment factory in Bangladesh is 1,000 workers, whereas Accord factories are much larger, employing on average 1,569 workers. For this reason, the percentage of workers covered is a better indicator of the Accord’s reach than the percentage of factories covered.

the workday, and OSH informational sessions delivered during worktime in assembly hall style with all workers in each covered factory) was implemented in 1,000 factories. Five years after the Accord was established, the program had remedied 97,235 high-risk fire, structural, and electrical safety violations, terminated 96 factories for their failure to implement required safety renovations, provided in-depth health and safety training to personnel in 846 factories, and investigated and resolved 183 worker complaints (Anner, 2018a). In sum, the work of the Bangladesh Accord led to considerable improvements in OSH issues within the ready-made garment (RMG) sector of Bangladesh. The Accord's work influenced and empowered workers' collective voices in advocating for safe and better working conditions.

Pakistan Accord on Health and Safety in the Textile and Garment Industry (Pakistan Accord)

Global apparel brands and retailers and the two international unions that signed the Bangladesh Accord negotiated a further agreement known as the International Accord in order to enable the expansion of the Accord model to additional countries, with Pakistan as a top priority. The Pakistan Accord on Health and Safety in the Textile and Garment Industry (Pakistan Accord) is a legally binding agreement between clothing brands and retailers and trade unions. It is a Country-Specific Safety Program (CSSP) of the International Accord for an initial term of three years, starting in 2023 (Pakistan Accord website). Like Bangladesh, Pakistan's apparel and textile factories have faced persistent safety issues, which necessitated a collective approach from all involved parties. The Ali Enterprises factory fire in 2012 was the most tragic one. To tackle these persistent issues, the positive outcomes of the Bangladesh Accord have inspired its signatories to extend a workplace safety and health initiative to Pakistan. As indicated by Benissan, “The Pakistan Accord—a new, legally binding agreement spanning factory safety and improved working conditions for fashion’s supply chain—is the first regional successor of the Bangladesh Accord, paving the way for the evolution of the historic agreement signed following the 2013 Rana Plaza disaster” (Benissan, 2023).

The Pakistan Accord incorporated essential components from the Bangladesh Accord, thereby guaranteeing the representation of workers’ collective voices in the global garment supply chain. Article 34 of the Pakistan Accord contains similar language to the Bangladesh Accord, allowing either party (labor unions or brands) to request binding arbitration subject to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.²⁵

Upon implementation, the Pakistan Accord will address fire, electrical, structural, and boiler hazards with monitoring and supporting remediation, safety committee training, a worker safety awareness program, and an independent complaints mechanism. According to the Pakistan Accord website, over 65 Accord brands have signed the Pakistan Accord. According to Abdulla, “The program aims to incrementally cover more than 500 factories producing for more than 100 Accord signatory companies throughout the Sindh and Punjab provinces, where most of Pakistan’s USD \$20 billion in garment and textile exports are manufactured annually” (Abdulla, 2022). Similar to the Bangladesh Accord, this legally binding agreement aims to create

²⁵ See: https://internationalaccord.org/wp-content/uploads/2023/02/Pakistan-Accord-on-Health-and-Safety-in-the-Textile-and-Garment-Industry-2023_public-version.pdf .

an enabling environment where workers' voices will be heard, workers will be safeguarded from OSH concerns and be empowered. Given that the Pakistan Accord is still in its initial stages, it is not possible to evaluate outcomes at this time.

Fruit of the Loom and the “Washington Agreement”

In November 2009, representatives of the Central General de Trabajadores (CGT) union and Fruit of the Loom (FOTL) signed a legally binding agreement that remedied Fruit of the Loom's violations of workers' associational rights (Worker Rights Consortium website). There was employer hostility toward unions in Honduras's garment sector before this binding agreement was signed, which included the closing of the Fruit of the Loom Jerzees factory soon after workers unionized (Anner, 2022; DOL, 2015). As a result of workers organizing and a transnational campaign, union representatives and the Fruit of the Loom company signed the “Washington Agreement” and the side agreements with the Worker Rights Consortium that ensure workers' collective voices and empowerment by providing union organizers access to factories, ensuring employer neutrality in the face of organizing campaigns, and establishing a grievance mechanism through an oversight committee with employer and union representatives (Anner, 2022).

Clauses in the Agreement on freedom of association, collective bargaining rights, and company neutrality during organizing campaigns contribute to democratic, representative, and collective worker voice at the workplace level by facilitating workers' ability to organize into unions and bargain without fear of retaliation. It also enables worker voice by providing combined union-management training on freedom of association rights. A board of directors and an oversight committee with equal representation from the brand and workers ensure the implementation of the agreement and address issues as they emerge. The Agreement includes a binding arbitration clause for cases that are not resolved through the oversight committee. It also establishes an Ombudsperson to monitor day-to-day issues relating to the implementation of the agreement (Anner, 2022). It is not possible to analyze the exact language of enforcement because the Agreement is subject to a non-disclosure clause.

What is known about the Washington Agreement is that, to date, there have been significant positive outcomes and the arbitration process has not been used, which together suggest it is working. The first outcome of the Agreement was the opening by FOTL of Jerzees Nuevo Dia, the re-hiring of all fired unionists, the recognition of the union at the factory, and the negotiations of a collective bargaining agreement (CBA). Union organizing, facilitated by the neutrality clause in the Agreement, expanded to other FOTL facilities in Honduras. As the union movement grew at FOTL factories, workers in neighboring factories (many in the same industrial parks) learned about the benefits of unionization and CBAs. Combining with strong organizing efforts by mostly female-led unions and organizing committees, unionization and bargaining spread to other factories. By the end of 2021, there were 22 CBAs in the garment export assembly sector covering 45,737 workers, which represents 44% of the 105,000 garment workers in Honduras (Anner, 2022:4).

Research findings indicate that Honduran garment workers with CBAs relative to workers without CBA coverage have 6.5% higher wages, and “are 67% more likely to always have the choice as to whether or not to work overtime, 82.1% more likely to always have a lunch subsidy, 93.6% more likely to have access to a company savings and loan account, 56.3% more likely to have free transportation to work, and 83.1% more likely to find that work intensity is not increasing over time” (Ibid:5). In addition, survey results showed, “workers not covered by a CBA are 20.3% more likely to face verbal abuse, and female workers who are not covered by a CBA are 10.7% more likely to face sexual harassment on the job when compared to workers who are covered by a CBA. Notably, female workers covered by CBAs are 119.8% more likely to have a valid mechanism at work for addressing gender-based violence and harassment in the world of work” (Ibid:4).

While significant progress has been made, it is crucial to acknowledge the need for specific improvements to augment effectiveness and address underlying challenges. Focus group participants emphasized the need to enhance enforceability of the agreement demands by empowering the supervising committee with greater authority, enabling them to adeptly oversee and execute its provisions. Moreover, the Covid-19 pandemic and its aftermath have undermined some of the achievements due to the downturn in apparel exports and competition from low-wage countries with weaker unions, indicated by major garment exporters such as Gildan closing or reducing employment at unionized facilities in Honduras and opening new garment hubs in Bangladesh. Garment brands frequently tell Honduran unionists how much lower wages and benefits are in neighboring countries where unions are weaker and collective bargaining coverage is lower (Anner, 2022). This points to the importance of scale; in order not to undermine achievements in Honduras, it is necessary to expand binding agreements, union organizing, and collective bargaining elsewhere in the region and beyond.

Lesotho Agreements

Female garment workers in Lesotho’s garment sector were experiencing extensive sexual harassment and gender-based violence (GBVH) by factory-level supervisors and coworkers. Workers faced retaliation for reporting abuses through employer-led internal grievance mechanisms. Brand-led voluntary codes of conduct failed to ensure proper remedy to this systematic pattern of violence and harassment. To combat this situation in Lesotho’s garment sector and to ensure workers’ voices are heard and respected, and as a result of organizing, media exposés, and research, in August 2019, five Lesotho-based trade unions and women’s rights organizations,²⁶ the Solidarity Center, and the Worker Rights Consortium (WRC) signed binding agreements with Nien Hsing Textile, Levi Strauss & Co., The Children’s Place, and Kontoor Brands to address GBVH violations at five Nien Hsing factories in Lesotho (Worker’s Rights Watch, 2023:4). The agreements are governed by an oversight committee with equal representation from brands and unions/civil society. They cover 10,000 apparel workers of 50,000 garment workers in Lesotho, 20% of garment workers in the country.

²⁶ They are the Federation of Women Lawyers in Lesotho, the Women and Law in Southern Africa Research and Education Trust – Lesotho, the Independent Democratic Union of Lesotho, the National Clothing Textile and Allied Workers Union, and United Textile Employees.

Like the other EBAs covered in this case study, the Lesotho Agreements have binding arbitration clauses. According to the U.S. Department of Labor (USDOL), the Lesotho Agreements are enforceable agreements that “condition doing business with the supplier on the brands’ acceptance of a worker-led program to eliminate sexual harassment and abuse.”²⁷ The Solidarity Center emphasizes, “The Lesotho Agreements represent the first instance in which brands and their suppliers have entered into enforceable agreements with worker representatives to stop GBVH and protect workers.”²⁸ The agreements with the brands are subject to non-disclosure clauses. However, the agreements are enforceable through binding arbitration in the United States, and the Lesotho organizations (as well as the WRC) have the power to bring a case against any of the brands, for example for failing their terms of the agreement.²⁹

In addition to the points above, the Agreements include the following:

1. The creation of a non-profit investigative body, the Workers’ Rights Watch (WRW) that operates as an investigative body for GBVH complaints from the Nien Hsing factories’ workers that is independent of Nien Hsing. The body receives and investigates worker complaints of GBVH. It has the power to issue findings and direct Nien Hsing to implement remedies, including termination of harassers.
2. The establishment of a confidential, toll-free information line that is run by a women’s rights organization that workers can use to access information and bring complaints.
3. A two-day workshop for all 10,000 Nien Hsing employees that is led by unions and focused on GBVH and the complaint process.
4. Strong protections for freedom of association, recognizing that it is a fundamental enabling right for workers to be able to collectively address GBVH.
5. A brand obligation to provide funding for the first two years of the program.”³⁰

Another extremely important part of the negotiations was the agreement that the company would end short-term contracts that gave supervisors significant power to decide if and when a worker would become a permanent employee. This made female workers especially vulnerable to mistreatment and abuse (Ibid). Fear of job loss or of losing a promotion opportunity are major inhibitors of effective worker voice. Thus, this agreement was a crucial prior step to the full implementation of the agreements.

²⁷ See: <https://www.dol.gov/agencies/ilab/comply-chain/steps-to-a-social-compliance-system/step-3-develop-a-code-of-conduct/example-in-action-lesotho-agreement-to-end-gender-based-violence-and-harassment-gbvh>

²⁸ See: <https://www.solidaritycenter.org/publication/2021-2022-agreements-to-eliminate-gender-based-violence-and-harassment-in-lesotho/#:~:text=The%20Lesotho%20Agreements%20represent%20the,a%20well%2Ddocumented%20worldwide%20problem> .

²⁹ See: <https://www.workersrights.org/initial-fact-sheet-agreements-to-combat-gender-based-violence-in-lesothos-garment-industry-2/>

³⁰ See pages 4 and 5, <https://www.wrwolesotho.org.ls/wp-content/uploads/2023/03/Lesotho-FINAL-February-2023.pdf>

What this indicates is that several components of our worker voice definition are present in the Lesotho Agreements. **Include:** The focus on eradicating gender-based violence and harassment for women of color in the Global South, and the incorporation of women’s rights organizations in their structure represents a very clear inclusion function. **Collective, democratic representation:** The additional focus on freedom of association rights and incorporation of trade unions in the structure of the governance mechanism reinforces the collective worker voice of democracy and representative organizations. **Protect:** The termination of short-term contracts and the confidentiality guarantees of the process protect workers from retaliation for exercising their voice. **Enable:** The focus on information hotlines and trainings helps to enable workers to defend their rights. **Empower:** The binding arbitration components of the agreements empower worker voice by providing the potential for legal leverage and corresponding economic consequences for violations.

As noted above, the best indicators of the effectiveness of worker voice mechanisms are outcomes, and, although the agreements have been in function for a limited time, the outcomes appear significant. From February 2021 through November 2022, WRW responded to “dozens of complaints,” conducted 81 individual in-depth investigations, and directed disciplinary action against harassers (Worker’s Rights Watch, 2023). In some cases, the process resulted in the employment termination of harassers (Ibid.). In one of the focus group discussions, participants mentioned, “Workers now feel more confident about reporting gender-based violence and harassment (GBVH) and are ready to report when something bad happens.”

In terms of lessons learned, a participant in a focus group emphasized, “The absence of union representation deprives workers of a collective voice and diminishes their ability to address grievances effectively. To ensure an inclusive approach, involvement of trade unions in the implementation and monitoring of the agreement is crucial.” The limited ability to share information on investigation outcomes with workers beyond the directly affected parties is another challenge of the Lesotho agreements. Maintaining the confidentiality and privacy of complainants is of utmost importance in building worker trust, but it restricts the program's ability to communicate to the broader workforce its actions in defense of complainants and against perpetrators.

It is important to prioritize and strengthen trade union representation within the Anti-GBVH Program. Collaborating closely with trade unions will enable workers to have a collective voice and facilitate the effective resolution of grievances. Additionally, efforts should be made to explore alternative means of sharing information while respecting the confidentiality of complainants. This could include providing general updates on the progress and outcomes of investigations without compromising individual privacy. By actively involving trade unions and finding ways to improve information sharing within the boundaries of confidentiality, the enforceable binding agreement can ensure workers’ voice is not only heard but also leads to meaningful action. It is through these collaborative efforts and continued dedication to

transparency and worker empowerment that lasting change can be achieved in combating gender-based violence and harassment in the workplace.

India Dindigul Agreement

There was a prevalence of gender-based violence and harassment (GBVH) in Natchi Apparel (Natchi), a factory in Tamil Nadu, India. On January 5, 2021, a Dalit worker, Jeyasre Kathiravel, was murdered by her supervisor. Following her death, Jeyasre's co-workers unveiled the extensive prevalence of GBVH within their workplace. These workers shed light on a prevailing culture of GBVH that they were determined to eradicate. In April of 2022, Eastman Exports Global Clothing Pvt. Ltd. (Eastman Exports), Tamil Nadu Textile and Common Labour Union (TTCU), Asia Floor Wage Alliance (AFWA), and Global Labor Justice – International Labor Rights Forum (GLJ–ILRF) along with H&M Group (owns H&M, COS, Arket, Monki, and Other Stories), Gap Inc. (owns Gap, Banana Republic, Old Navy, and Athleta), and PVH Corp. (parent company of brands Calvin Klein and Tommy Hilfiger) signed and announced the Dindigul Agreement to eliminate gender-based violence and harassment.

These are a significant set of agreements in that the parties jointly committed to work to eradicate discrimination based on gender, caste, or migration status; to increase transparency; and to develop a culture of mutual respect in the garment factory setting (Worker Rights Consortium, 2022). The Dindigul Agreement specifically prohibits GBVH at the intersection of caste or migration status, ensuring a very strong contribution to the *inclusive* component of the worker voice framework. These critical protections will allow caste-oppressed and migrant workers to monitor, remediate, and eliminate these forms of discrimination at the workplace (ILRF, 2023).

The agreement has an oversight committee where representatives from all signatories are supervising the execution of the agreement. At the workplace level, this agreement enables collective action on gender-based violence through an independent grievance mechanism, protection for freedom of association, and addresses intersectional accesses of oppression through a safe-circles approach which includes training for workers, factory management, supervisors to be aware of their roles and responsibilities to end GBVH, shop floor monitoring and remediation by the union-selected workers, and anti-retaliation protections to end GBVH (Dindigul agreement factsheet)³¹.

Dindigul agreements are subject to non-disclosure clauses. However, according to the AFWA, GLJ–ILRF and the TTCU: “The Dindigul Agreement includes a legally binding agreement between TTCU, AFWA and GLJ–ILRF and brand signatories that creates support and accountability for Eastman’s compliance with the terms of Eastman’s agreement with TTCU. Brand signatories are required to take steps to impose business consequences for Eastman Exports if Eastman

³¹ See

<https://laborrights.org/sites/default/files/publications/Dindigul%20Agreement%20Fact%20Sheet%20Jan.%202023.pdf>

Exports violates its agreement with TTCU. This agreement is enforceable through binding arbitration in Stockholm, Sweden, the home jurisdiction of brand signatories.”³²

Indications of the effectiveness of the agreements can be found in outcomes to date. The first progress report on the agreements finds, “Workers in the facilities raised 185 grievances, the majority of which (170) were reported by women workers, and one by a factory manager to the union. Of these grievances, 182 were resolved, and 90% were resolved within a week” (Progress Report, AFWA, TTCU, GLJ-ILRF, 2023). The agreement improved worker-management rapport and boosted the factory's productivity, assisting female garment workers in dealing with domestic or caste-related violence.

The lessons drawn from the Dindigul agreements highlight the significance of viewing brands as joint employers and the inclusion of union shop floor representatives, which contributes to enabling and empowering worker voice. One challenge is shared with other EBAs, getting brands to fully embrace the agreements. Most notably, for EBAs to grow and workers to fully experience their positive impacts, it is necessary for brands to keep and increase production in factories covered by EBAs and not shift production to non-covered factories. Establishing a robust mechanism that rebalances the power of independent unions on the ground and holds multinational companies and governments accountable is essential. One focus group participant summarized the importance of EBAs for her in these terms: “Investing in feminist, intersectional, and transformative leadership approaches of women workers is crucial in developing, strengthening, and transforming labor organizations and movements, fostering a culture of empowerment, innovative practices, to advance workers’ voice in the global supply chains”.

Concluding Remarks

Each of these five Enforceable Brand Agreements have ensured a collective platform and enabled a protected environment for workers to express their collective voice, backed by empowering and meaningful repercussions for disregarding their concerns, such as the millions of dollars paid by brands that failed to meet the terms of the Bangladesh Accord. This entails having binding agreements—via arbitration clauses enforceable in a court of law of the domicile of the signatory against whom enforcement is sought, outlining consequences for factories and brands in case of violations, and workers’ ability to exercise influence within the workplace.

It is also evident that these enforceable brand agreements have infused within the workers the trust and confidence necessary to amplify their voices by providing assurance that these binding mechanisms can effectively tackle their concerns. Analysis reveals that EBAs possess the potential to amplify workers’ collective voices and contribute significantly to restoring the balance of power within the garment supply chain. This becomes particularly significant in contexts where labor enforcement is lacking and voluntary approaches prove inadequate. However, achieving such agreements is challenging. It involves considerable time, dedication,

³² Ibid.

coordination, strong campaigns and advocacy, and resources to ensure workers' voices are heard.

Establishing a fair and equitable global supply chain requires persistent dedication, collaboration, and commitment from all stakeholders (global apparel brands, factory owners, global unions, etc.). Participants in research for this case study highlighted the necessity of investing in leadership development, grassroots mobilization, worker education, empowering local and global unions with negotiation skills and resources, as well as embracing intersectional and transformative leadership methods. These measures are pivotal in fostering an environment that supports the viability and efficacy of enforceable brand agreements while upholding workers' voices. Additionally, the active participation of brands is crucial in promoting, enforcing, and ensuring the sustainability of these legally binding agreements. The success of these Enforceable Brand Agreements (EBAs) depends on brands continuing to place and increase their orders in the factories where these agreements are enforced. Alongside this, it is imperative to bolster the negotiating power of independent trade unions. By assimilating these insights, we can progress toward a more equitable and just global garment supply chain, wherein workers are elected and represented democratically, rights are protected and respected, voices are amplified, and working conditions are improved.

Table 1, Case Study 1 Appendix: Summary of EBAs

Name of EBAs	Scope	Signatories	Factory & Worker	Governance Structure	Mechanism to Ensure Workers' Voice
Bangladesh Accord (2013 - 2018)	Occupational Safety and Health (OSH)	Over 200 global brands, 2 global and 8 national unions, 4 witness NGOs	1600 factories 2 million workers	A 12-member steering committee, with equal representation from labor and company signatories, 2 NGO witnesses.	An independent safety inspection, monitoring, remediation, complaint resolution mechanism, safety committee training, workplace safety awareness program, and binding arbitration clause.
Fruit of the Loom/ Washington Agreement (2009 - Current)	Freedom Of Association (FOA)	Union: CGT, Brand: Russell Athletic/Fruit of the Loom, Factory: Jerzees Choloma, Jerzees de Honduras, Jerzees Nuevo Dia, NGO: WRC	3 factories 1200 workers	An oversight committee, composed of five representatives selected by the union and the brand. An ombudsperson to monitor day-to-day issues relating to the implementation of the agreement.	Union access and joint union-management freedom of association training, employer neutrality regarding future organizing efforts, and mechanisms for third-party dispute resolution and binding arbitration clause.
Lesotho Agreement (2019 - Current)	Gender-Based Violence and Harassment (GBVH)	5 trade unions and women's rights organizations. Factory: Nien Hsing Textile. Brand: Levi Strauss & Co., The Children's Place, Kontoor (Lee and Wrangler Jeans) NGO: SC, WRC, Workers United.	5 factories Over 10,000 workers	An oversight committee, comprised of equal representatives of the Lesotho unions, women's groups, and the brands. All of the representatives jointly choose a neutral chairperson. The WRC and Nien Hsing each have a non-voting Observer on the Steering Committee.	Independent complaint mechanism and monitoring body, robust anti-retaliation provisions, and an in-depth training program for workers and binding arbitration clause.
India Dindigul Agreement (2022, initially 3 years term, with the possibility of renewal)	Gender-Based Violence and Harassment (GBVH)	Union: TTCU, Brand: H&M Group (H&M) (owns H&M, COS, Arket, Monki, & Other Stories), Gap Inc., PVH Corp. (including Calvin Klein and Tommy Hilfiger), Factory: Eastman Exports Global Clothing Pvt. Ltd., NGO: AFWA and GLJ-ILRF.	Eastman Exports Global Clothing Pvt. Ltd. (Eastman Exports) Over 5000 workers	An oversight committee, composed of an independent gender and labor rights expert and representatives from TTCU, AFWA, GLJ-ILRF, Eastman, and up to 2 signatory fashion companies.	Safe Circle approach, worker-led shop floor monitoring system, commitment to protections against caste and migration status-based discrimination and retaliation; an independent grievance mechanism; inclusion of FOA and the right to form and join unions, and binding arbitration clause.
Pakistan Accord (2023, initially 3 years term, with the possibility of renewal)	Broader array of health and safety issues.	IndustriALL and UNI Global Union, and 60 international brands and retailers signed the Pakistan Accord (as of July 2023).	Over 500 factories 750000 workers	Steering Committee of the International Accord. The governing body will be composed of national constituents, including industry, brands, trade unions, and others upon agreement.	An independent safety inspection, monitoring, remediation, complaint resolution mechanism, safety committee training, workplace safety awareness program, and binding arbitration clause.

Case Study 2

Addressing Worker Voice Gaps in Global Supply Chains through Regional Trade Agreements: The Facility-Specific Rapid Response Labor Mechanism in the USMCA

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World trade, which accounts for 57% of global economic activity,³³ has the ability to create much-needed jobs. Yet, without proper regulations and labor protections, it also creates competitive dynamics that often lower labor standards and undermine workers' rights (Corley-Coulibaly et al., 2023:147). Labor clauses in trade agreements purportedly offer a potential countervailing worker voice mechanism to these competitive pressures, albeit with many limitations (Compa, 2014; Polaski, 2003; Scherrer, 2007; van Roozendaal, 2002). The North American Free Trade Agreement (NAFTA), which went into effect in 1994, was the first reciprocal trade agreement to include worker rights provisions. It did so not through a labor chapter, but rather through the supplemental North American Agreement on Labor Cooperation (NAALC) (Compa, 2022). NAFTA did not establish binding enforcement of freedom of association, collective bargaining, and strike rights, and the NAALC's impact on labor conditions was minor.

The Dominican Republic-Central America trade agreement with the United States (CAFTA-DR), signed in 2004, did include a labor chapter and a binding arbitration provision pertaining to internationally recognized labor rights, including freedom of association and collective bargaining rights. But the mechanism has been slow and largely ineffective. Notably, in June 2017, following a nine-year review, an international arbitration panel found that Guatemala's failure to effectively enforce its labor laws did not adversely affect trade (Compa et al., 2018). Tequila J. Brooks observes, "The outcome of the case was devastating to those who believed that labor provisions would be effective tools for improvement of worker rights if they only had parity of placement with other provisions in FTAs" (Brooks, 2022:314).

On July 1, 2020, the United States-Mexico-Canada Agreement (USMCA) replaced NAFTA. The labor chapter and dispute settlement mechanism of the USMCA were designed to address the limitations of prior labor mechanisms in trade agreements, most notably those in CAFTA-DR. The USMCA covers all ILO core labor standards, including the right to strike.³⁴ It also covers wages and wage-related benefits such as profit sharing, a constitutional right in Mexico. The Dispute Settlement Chapter (31) includes the innovative United States-Mexico Facility-Specific Rapid Response Labor Mechanism (Annex 31-A, RRLM), focused on denial of freedom of association and collective bargaining rights.³⁵ The mechanism provides for a time-bound review process that could include—should violations not be resolved at prior stages—a review by a panel of labor experts in the case of higher levels of dispute resolution (Polaski, 2022).

³³ <https://data.worldbank.org/indicator/NE.TRD.GNFS.ZS>

³⁴ USMCA, [Chapter 23, "Labor,"](#) also, see (Compa, 2022).

³⁵ <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/31%20Dispute%20Settlement.pdf>

Under the framework for worker voice presented in this report (which includes these six components of worker voice: elect, represent, include, protect, enable, and empower), research finds that the USMCA meets most of these criteria and provides a viable regional worker voice mechanism that contributes to the strengthening of independent trade unions and collective bargaining. In the sections that follow, the study will explore the Mexican context, followed by detail on how the USMCA labor mechanism functions and an evaluation of the USMCA in terms of the six components of effective worker voice. In the final section, outcomes are evaluated by providing a review of the first 13 RRLM cases and an examination of three illustrative cases: General Motors in Silao; Goodyear in San Luis Potosí; and the “spillover” case³⁶ of 3M in San Luis Potosí.

Part I: The Environment, Labor Rights, and Industrial Relations in Mexico

The contemporary industrial relations system in Mexico has its roots in the Mexican Revolution (1910–1917) and the resulting Constitution of 1917 that provided strong labor rights provisions on freedom of association, collective bargaining, and the right to strike. The post-Revolution labor relations regime dramatically improved terms and conditions of employment, but the system devolved into one dominated by state- and employer-controlled unionism (Bensusán & Middlebrook, 2013; La Botz, 1999). These “official unions,” along with official business associations, provided the foundation of Mexican state corporatism (Collier & Collier, 1991; Cook, 1996). “Official unions” were led by members of the governing party with privileged ties to the state, which official union leaders used to block democratic and independent unions from representing workers (La Botz, 1999). Employers’ associations, the oldest of which was founded in 1929 (Coparmex³⁷), were strong because they were well organized and funded, and enjoyed both economic and political power in Mexico (Schneider, 2004).

For years, the International Labour Organization (ILO) and the U.S. Government have raised concerns over the industrial relations system in Mexico. Much of the process began in 2009 when several international and national unions filed a complaint to the ILO on violations of Convention 87, ILO Case No. 2694. This began a series of reviews by the ILO in the years that followed. The ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) called on the Government of Mexico “to take all necessary legislative and practical measures without delay to find effective solutions to the obstacles to the exercise of freedom of association posed by the so-called protection trade unions and protection contracts” (CEACR 2017:147). Such concerns were echoed by the U.S. Government. In its 2016 Human Rights Report, the U.S. State Department noted that Mexican government bodies “did not adequately provide for inclusive worker representation and often perpetuated a bias against independent unions, in part due to intrinsic conflicts of interest within the structure of the boards exacerbated by the prevalence of representatives from ‘protection’

³⁶ A “spillover” case refers to a case in which the RRLM was not activated, but that the threat of a potential RRLM petition contributed to an employer taking action to respect workers’ rights that it would not otherwise have taken.

³⁷ “*Confederación Patronal de la República Mexicana*” (“Employers’ Confederation of the Mexican Republic”)

(unrepresentative, corporatist) unions” (U.S. Department of State, 2016:28). The United States also raised these concerns in response to numerous submissions filed under the NAALC (Compa, 2022).

Mexico began substantial labor reforms in 2017³⁸ when the government reformed Article 123 of its Constitution and in 2019 when it reformed its Federal Labor Law. The changes, which have their roots in 2008, came about in the context of 2015–2016 Transpacific Partnership negotiations with the Obama administration, and the considerable pressure it put on the Mexican government for reforms (Bensusán & Middlebrook, 2020). The focus of the Constitutional reform was the adoption of “a new impartial system of labor justice independent of the executive branch and the creation of an autonomous authority for the registration of trade unions and collective agreements” (Bensusán Areous, 2020:19). The 2019 labor law reform required worker choice over trade union representation, including voting on initial collective bargaining agreements (CBAs) and yearly revisions, via universal, free, direct, and secret ballots. It also required gender representation on the executive board of trade unions reflecting the gender proportionality among the work force (Ibid.). The reforms further established new institutions, notably a new labor court system and federal decentralized institution—the Federal Center for Conciliation and Labor Registration—that is independent of the executive branch for the registration of trade unions and the resolution of conflict.³⁹

The enactment and implementation of the 2019 labor law reforms have been led by the administration of Andrés Manuel López Obrador of the left-oriented MORENA party, which took power in 2018. A critical part of these reforms included “legitimation votes,” a process by which workers in unionized workplaces voted on whether to approve (legitimize) or reject (vote down) existing CBAs. Prior to the vote, employers were required to share copies of existing CBAs with workers. The process was designed to address the problem of protection contracts that were signed by undemocratic trade unions with employers behind the backs of workers. Some of the first RRLM cases focused on violations of workers’ rights and irregularities during the legitimation vote process. The legitimization process concluded on July 31, 2023.⁴⁰ Out of 139,000 registered CBAs before the start of the legitimation process,⁴¹ some 30,520 were legitimized and thus remain active. A total of 286 contracts were voted down by workers. In some cases, independent unions won representation rights and negotiated new contracts. As a result, 108,184 contracts were terminated for failure to hold a legitimation vote.

³⁸ More limited reforms were pursued in 2008 by the administration of Felipe Calderón, who sought to limit the power of corrupt unions while also providing for more flexible labor markets. Additional reforms in 2012 sought to generate jobs by increasing labor market flexibility with measures that facilitated short-term contracts and “just cause” dismissals. (Bensusán Areous, 2020)

³⁹ In Spanish, *el Centro Federal de Conciliación y Registro Laboral* (CFCL).

⁴⁰ Some legitimation votes took place after this date, indicating some flexibility on the part of the authorities regarding this deadline.

⁴¹ See: <https://www.gob.mx/stps/prensa/100-dias-para-concluir-el-plazo-de-legitimacion-de-contratos-colectivos?idiom=es> (accessed November 5, 2023). The original number of contracts in the country was 550,000. However, of these, 411,000 were found to be duplicates.

Part II: The Facility-Specific Rapid Response Labor Mechanism

As noted above, the USMCA includes a Labor Chapter (23) and a Dispute Settlement Chapter (31). Annex 31-A establishes the United States-Mexico Facility-Specific RRLM. The purpose of the mechanism is to remediate denial of rights at covered facilities. The RRLM calls on parties, prior to panel formation, “to make every attempt to cooperate and arrive at a mutually acceptable solution” (Annex 31-A:2.3). Any party⁴² can initiate an enforcement action based on a “good faith basis belief that workers at a Covered Facility are being denied the right to freedom of association and collective bargaining” (Annex 31-A.2). Enforcement actions can be self-initiated by a party or in response to petitions filed by the public. The RRLM allows for a review by a panel of independent labor experts, which has only happened once.

Any person can submit petitions to the Interagency Labor Committee for Monitoring and Enforcement (Interagency Labor Committee) using the U.S. government portal established by the Department of Labor.⁴³ The Interagency Labor Committee has an obligation to review the petition within 30 days of submission and determine whether a facility is a Covered Facility as defined under the RRLM and if there is “sufficient, credible evidence of a denial of rights (as so defined) enabling the good-faith invocation of enforcement mechanisms.”⁴⁴ The U.S. Government can then request the respondent Party (in this case, the Mexican government) to review the alleged denial of rights. The respondent Party has 10 days to notify the complainant Party if it intends to conduct a review.

If the respondent Party determines there is a denial of rights, it has 45 days from the time of a request for review to seek to remediate the issue. Article 31-A.4.6 encourages dialogue and negotiations, noting, “[T]he Parties shall consult in good faith for a period of 10 days and shall endeavor to agree upon a course of remediation that will remediate the Denial of Rights *without interrupting trade*” (emphasis added).⁴⁵ If there is no agreement between the Parties on a course of remediation, then the complainant Party may request a review by a panel of experts. To date, there has been one request for a panel: On August 22, 2023, the U.S. Government requested a panel to review whether workers at the San Martin mine of the Grupo

⁴² The U.S. Congress’s USMCA Implementation Act does not impose a requirement that a petitioner have a legal or economic interest in the subject of the petition. See: [Notice of Guidelines](#); [Guidelines](#).

⁴³ The Committee is co-chaired by the U.S. Trade Representative and the Secretary of Labor. See: <https://www.federalregister.gov/documents/2023/06/22/2023-12865/notice-of-interagency-labor-committee-for-monitoring-and-enforcement-final-procedural-guidelines-for>

⁴⁴ <https://www.congress.gov/116/plaws/publ113/PLAW-116publ113.pdf>, p. 74.

⁴⁵ When the United States decides to move forward with a case, the U.S. Trade Representative (USTR) may direct the Secretary of the Treasury to suspend liquidation for all unliquidated entries of goods from the facility. This action threatens an accounting of duties calculated at a non-USMCA tariff rate owed until the USTR determines that the issue is resolved. The phrase “suspension of liquidation” refers to the bond that businesses post to cover tariffs for importing goods. Money is not exchanged on each transaction, so employers post a bond and there is an accounting periodically. When an RRLM is filed, the U.S. Government has the option to freeze the bond until the dispute is resolved. This is because in the event of a trade violation, the beneficial tariff standing could be removed and then a significantly higher tariff would apply. The “suspension of liquidation” thus does not have an immediate economic impact on the facility. That would only come later if the denial of rights at the facility is not addressed and is subject to sanctions associated with a panel of experts’ decision.

Mexico conglomerate were being denied their freedom of association and collective bargaining rights.⁴⁶ A panel has been selected and that request is pending.

If the panel determines there has been a denial of rights, the complainant Party may impose remedies, including the suspension of preferential tariffs or penalties on goods manufactured at the covered facility. After repeat violations, a firm's product or services could be denied entry into the United States (Polaski, 2022). Once there is agreement that the denial of rights has been remedied, the complainant party must remove all sanctions immediately. [See Figure 5, Case Study 2 Appendix 2.] In sum, the RRLM—in interaction with Mexican labor law reforms—provides a binding, cross-border mechanism for worker voice through which workers and their unions can address violations of freedom of association, collective bargaining, and strike rights.

Regarding the six components of effective worker voice outlined in this report's framework, (mostly) positive components for each are found within the RRLM:

Elect: The RRLM helps to enforce the Mexican labor law reforms of 2019, which call for “universal, free, direct, and secret ballots” for elections related to trade union representation and activity, including collective bargaining. Indeed, many of the RRLM cases to date have focused on addressing violations of the rights of workers to free and fair elections.

Represent: The RRLM reinforces the collective representation function of trade union worker voice by allowing independent trade unions to freely exercise their right to represent workers. Several RRLM cases have addressed employer harassment of independent unions and privileged access given by employers to management-controlled unions.

Include: Many of the independent unions that have most benefited from the RRLM are led by women, and the labor reforms that the RRLM is built around include extensive language and articles of law that address gender equity. In this case, the impact of the RRLM is indirect.

Protect: Sections of the Procedural Guidelines that govern submission of Labor Chapter or RRLM petitions protect those who submit complaints by allowing petitions to be filed anonymously and ensuring that identifying information is exempt from public inspection. Facilities that fire workers for exercising their rights may be the subject of a RRLM complaint and corresponding sanctions.

Enable: Many remediation plans in the RRLM enable worker voice by providing workers' union representatives access to workplaces and including strong training programs for unions, companies, and government officials. Worker voice is also enabled through access to information, such as making CBAs available to all workers prior to relevant votes (Annex 23-A, g(i)).

⁴⁶ [USTR, Grupo Mexico.](#)

Empower: Worker voice is empowered through the RRLM because there are real consequences for violations of rights through potential sanctions. More importantly, by strengthening state protection of freedom of association, collective bargaining, and strike rights, the RRLM is empowering workers to exercise voice.

Part III. Outcomes and Case Studies

As of this writing, 13 cases have moved forward through the RRLM. By and large, the results are very positive. In many of the cases, workers were able to vote down protection contracts, vote independent unions in, and negotiate and vote for collective bargaining agreements that substantially improved terms and conditions of labor. In one case, although not fully concluded, the employer, VU Manufacturas, closed down its facility after being the subject of two RRLM complaints. In two cases where the U.S. Government found denial of rights and requested review by the Government of Mexico, Grupo Yazaki and Grupo Mexico, the Mexican government did not agree with the U.S. Government's determination. In response to the latter rejection, the U.S. Government has requested a review by a panel of experts. [See Table 2, Case Study 2, Appendix 2 for a summary of the cases and their outcomes.]⁴⁷

Thirteen cases might seem like a relatively small number given the tens of thousands of export companies in Mexico. However, it is important to note that these cases cover some of the biggest exporters in the country supplying some of the largest corporations in the world. It is also important to note that there are "spillover cases," in which employers modified their behavior to respect workers' rights out of a concern that an RRLM petition *might be* initiated against them. To better understand the RRLM and some of these outcomes, following are three case studies: General Motors in Silao, Goodyear in San Luis Potosi, and the spillover case of 3M in San Luis Potosi.

General Motors, Silao

In 1995, General Motors (GM) began production in Silao, Mexico. Today, approximately 6,000 workers at this site produce the Chevrolet Silverado and the GMC Sierra. For decades, the work force was controlled by a CTM (*Confederación de Trabajadores de México*, Confederation of Workers of Mexico) protection union, under a contract negotiated by the plant and union leadership. However, RRLM and labor reforms opened the possibility for change. On April 5, 2021, workers at the plant voted on whether to approve the existing CBA. During the voting process, several irregularities were documented, including the destruction of ballots, which resulted in the Mexican Secretary of Labor and Social Provisions (STPS) suspending the voting process. Then, on May 10, 2021, the U.S. Government self-initiated the first RRLM complaint process based on these and other alleged freedom of association violations at the plant.

The Mexican government agreed to review the case and entered into discussions with the United States to establish a remediation plan, signed on July 8, 2021, that included a new legitimization vote. The vote took place on August 17–18, 2021, with international (including ILO) observers, and was validated by the STPS. The majority voted against the existing protection

⁴⁷ The author thanks Luis Mendoza for his valuable contribution to this research for this table.

contract. In September 2021, the United States and Mexico agreed on the successful conclusion of the remediation process but continued to monitor the facility (De la Cruz, 2022). A subsequent vote on February 1–2, 2022, allowed workers to decide which union they wanted as their representative. Seventy-eight percent of workers (4,192 votes out of 5,389 valid ballots)⁴⁸ voted for a new independent union, SINTTIA.⁴⁹ SINTTIA, which is led by María Alejandra Morales, began bargaining for a new contract with GM in the spring of 2022, a process that resulted in an 8.5% wage increase, bigger bonuses, a 14% increase in grocery vouchers, more paid holidays, working groups to negotiate work schedules, and a protocol for dealing with sexual harassment cases.⁵⁰

In sum, the GM Silao RRLM case contributed to collective worker voice for thousands of workers at the facility. Based on freedom of association and collective bargaining violations, GM faced the real threat of economic consequences that could have meant paying a 25% U.S. import tariff.⁵¹ The RRLM case filing and its outcome empowered workers, providing them with the leverage they needed to establish a democratic process. The independent union was then able to exercise its rights and organize workers, bargaining to improve terms and conditions of employment. Workers were enabled through training and full access to relevant material, including the collective contract. And the process was gender-inclusive: in an industry dominated by men, a powerful woman leader rose through the ranks and led the union through this important organizing and bargaining process.

Goodyear, San Luis Potosi

Goodyear began production at its tire factory in San Luis Potosi in 2017. Two years earlier, the company had already signed a protection contract with a CTM union. In April 2018, workers went on strike demanding recognition of an independent union, and the company responded by firing approximately 50 workers, leaving a corporatist CTM union and its employer-protection contract in place at the facility.⁵² The labor law reforms of 2019 and the RRLM gave independent unions an opportunity to exercise their voice in a way that was not available before, and on April 20, 2023, the *Liga Sindical Obrera Mexicana* (LSOM; “The League”), led by its General Secretary, Julieta Mónica Morales Garcia, presented a RRLM petition. The petition focused on the failure of the company to apply the sectoral contract for the rubber sector.⁵³ The Goodyear contract signed by the company and the CTM union was at the enterprise level, was adopted to avoid applying the sectoral contract, and contained contractual clauses well below those established in the sectoral contract; a clear violation of Article 417 of the Mexican labor law.

⁴⁸ <https://www.solidaritycenter.org/mexico-independent-union-wins-landmark-election/>

⁴⁹ *Sindicato Independiente Nacional de Trabajadores y Trabajadoras de la Industria Automotriz* (The National Independent Union of the Automotive Industry)

⁵⁰ *Reuters, GM Wage Hike*, <https://www.reuters.com/business/autos-transportation/gm-agrees-hike-wages-85-major-mexico-plant-union-says-2022-05-12/>.

⁵¹ *Reuters GM*, <https://www.reuters.com/business/autos-transportation/us-asks-mexico-review-gm-plant-labor-allegations-test-new-trade-deal-2021-05-12/>.

⁵² *IndustriALL*, <https://www.industriall-union.org/goodyear-mexico-fires-workers-for-setting-up-their-own-union>.

⁵³ *Contrato Ley de la Industria de la Transformación del Hule en Productos Manufacturados*

The League petition called for the suspension of a pending vote to legitimize the enterprise collective bargaining agreement, since the contract violated the law. Despite the petition, the vote to legitimize the contract went ahead on April 23–24, 2023. During the vote, union representatives of the official CTM union stole the ballot box in apparent collusion with Goodyear security personnel, forcing the STPS to stop the vote.⁵⁴ The Federal Center re-scheduled the vote, brought in observers, and took an active role in overseeing the voting process. The new vote took place on May 78, with 727 of the 1,149 eligible workers (71%) voting against the CTM protection contract.⁵⁵

This was an important step forward for FoA rights, but it did not resolve the issue of the sectoral agreement, and on May 22, the United States asked Mexico to review whether workers at the facility were being denied their rights by not abiding by the terms of the agreement.⁵⁶ Mexico accepted the U.S. Trade Representative (USTR) complaint, investigated, and, on July 19, together with the United States, announced a course of remediation that required Goodyear to apply the sectoral agreement and clauses in the enterprise agreement that were superior to the terms of the sectoral contract. The agreement also contributed to enabling worker voice by requiring the dissemination of information and calling for trainings on FoA rights.

As a result of the RRLM process—as well as the strong organizing work of the union—Goodyear SLP workers now earn 30% more, have a larger savings fund, Christmas bonus, and vacation bonus. Their weekly working hours also will be reduced.⁵⁷ The final step in the process was a vote to see which union would represent the workers on the contract. The League union, the Independent Union of Goodyear Mexico Workers (SITGM) and the CTM union competed for that right on August 7–8, 2023, and SITGM won 91% of the vote. The union is now in place to fully represent the workers and negotiate future modifications to the bargaining agreement. In sum, much like the GM, Silao case—albeit with the additional issue of the sectoral agreement—workers at the Goodyear facility in San Luis Potosi successfully leveraged the RRLM to empower their voice, enhance organizing, enable their collective action, and achieve significant and sustainable improvements.

3M, San Luis Potosi

It may seem counterintuitive to include a facility that did not invoke the RRLM in a case study about the RRLM mechanism. However, the 3M San Luis Potosi case is relevant because it was the threat of the RRLM complaint that contributed to success at this facility. It illustrates the

⁵⁴ [Reuters, Goodyear, https://www.reuters.com/world/americas/mexico-orders-re-do-goodyear-worker-vote-after-union-meddling-2023-04-24/](https://www.reuters.com/world/americas/mexico-orders-re-do-goodyear-worker-vote-after-union-meddling-2023-04-24/).

⁵⁵ [El Sol de Mexico, https://www.elsoldemexico.com.mx/finanzas/gana-liga-sindical-obrero-mexicana-el-cct-en-goodyear-slp-10032474.html](https://www.elsoldemexico.com.mx/finanzas/gana-liga-sindical-obrero-mexicana-el-cct-en-goodyear-slp-10032474.html).

⁵⁶ [USTR, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/may/united-states-seeks-mexicos-review-alleged-denial-workers-rights-goodyear-slp](https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/may/united-states-seeks-mexicos-review-alleged-denial-workers-rights-goodyear-slp).

⁵⁷ [El Universal, https://www.eluniversal.com.mx/cartera/tras-mecanismo-laboral-t-mec-trabajadores-de-goodyear-ganaran-30-mas-en-prestaciones/?fbclid=IwAR0xNq_-on8r_bUDMgOp4QumtK_J_CfbfxSIYBuwuIFKv987MoXvpPsBY4](https://www.eluniversal.com.mx/cartera/tras-mecanismo-laboral-t-mec-trabajadores-de-goodyear-ganaran-30-mas-en-prestaciones/?fbclid=IwAR0xNq_-on8r_bUDMgOp4QumtK_J_CfbfxSIYBuwuIFKv987MoXvpPsBY4).

spillover impacts on worker voice of the RRLM and exemplifies how leverage of the RRLM goes well beyond the 13 cases presented to date. It also reflects conditions referenced in Chapter 23 of the USMCA that call for secret, democratic, union elections. Production at the 3M facility in San Luis Potosi began in the 1990s. Currently there are 1,700 workers at the plant. As in the GM and the Goodyear cases, these workers were denied their rights to freedom of association and were subjected to a CTM protection contract. Using the labor reforms linked to the USMCA that require secret elections on existing contracts, on January 7, 2022, workers voted to reject the collective contract that had been negotiated by the CTM union.⁵⁸ This opened the door for new union representation by a League-affiliated union.

Workers associated with the union began gathering signatures in March and April of 2022 to represent 3M workers, with the intent of winning the right to negotiate a new contract. On April 13, 2022, U.S. Department of Labor Acting Secretary, Julie Su, and the Deputy Undersecretary for International Labor Affairs, Thea Lee, visited San Luis Potosi and spoke to 3M workers, including those associated with the League union. The company noticed, and soon afterwards, 3M headquarters in Minnesota issued a statement in which they committed to respecting workers' rights and not attempting to influence the organizing process.⁵⁹ This greatly increased the ability of union organizers to access workers within the facility.⁶⁰ On October 31, 2022, the union won the right to represent workers at 3M, and on March 28, 2023, successfully negotiated a new collective contract.⁶¹ The union achieved an 8% salary increase and a 3% increase in benefits.⁶² Soon afterwards, 1,025 workers of 1,685 eligible workers (77%) voted in favor of the contract. In sum, as in the cases of GM, Silao, and Goodyear, the RRLM effectively contributed to empowered and collective voice for 3M workers. The difference in this case is that this was achieved indirectly, illustrating the importance of the spillover impact of the RRLM.

Conclusions

Analysis of the RRLM and its outcomes to date indicate that it is an effective mechanism for enhancing collective and empowered worker voice as defined in the framework. It provides a model for labor and dispute resolution chapters for other trade agreements going forward. Relative to the dispute resolution mechanisms in other trade agreements and enforcement of freedom of association, collective bargaining, and strike rights in many national jurisdictions, the RRLM provides an important example of a mechanism that contributes to effective worker voice.

⁵⁸ [Daina Beth Solomon, Reuters, Nov. 31, 2022, https://www.reuters.com/business/independent-union-wins-bargaining-rights-3m-central-mexico-2022-11-01/.](https://www.reuters.com/business/independent-union-wins-bargaining-rights-3m-central-mexico-2022-11-01/)

⁵⁹ Author's interview, San Luis Potosi, March 2023.

⁶⁰ Ibid. The union still faced challenges, including the government's rejection of worker signatures due to the color of the ink. But the union addressed this and achieved the necessary number of signatures to represent the workers.

⁶¹ [Maria del Pilar Martinez, El Economista, March 28, 2023, https://www.economista.com.mx/amp/empresas/3M-logra-acuerdo-contractual-con-La-Liga-Sindical-Obrero-Mexicana-20230328-0064.html.](https://www.economista.com.mx/amp/empresas/3M-logra-acuerdo-contractual-con-La-Liga-Sindical-Obrero-Mexicana-20230328-0064.html)

⁶² Ibid.

Figure 5, Case Study Appendix 1: Rapid Response Labor Mechanism

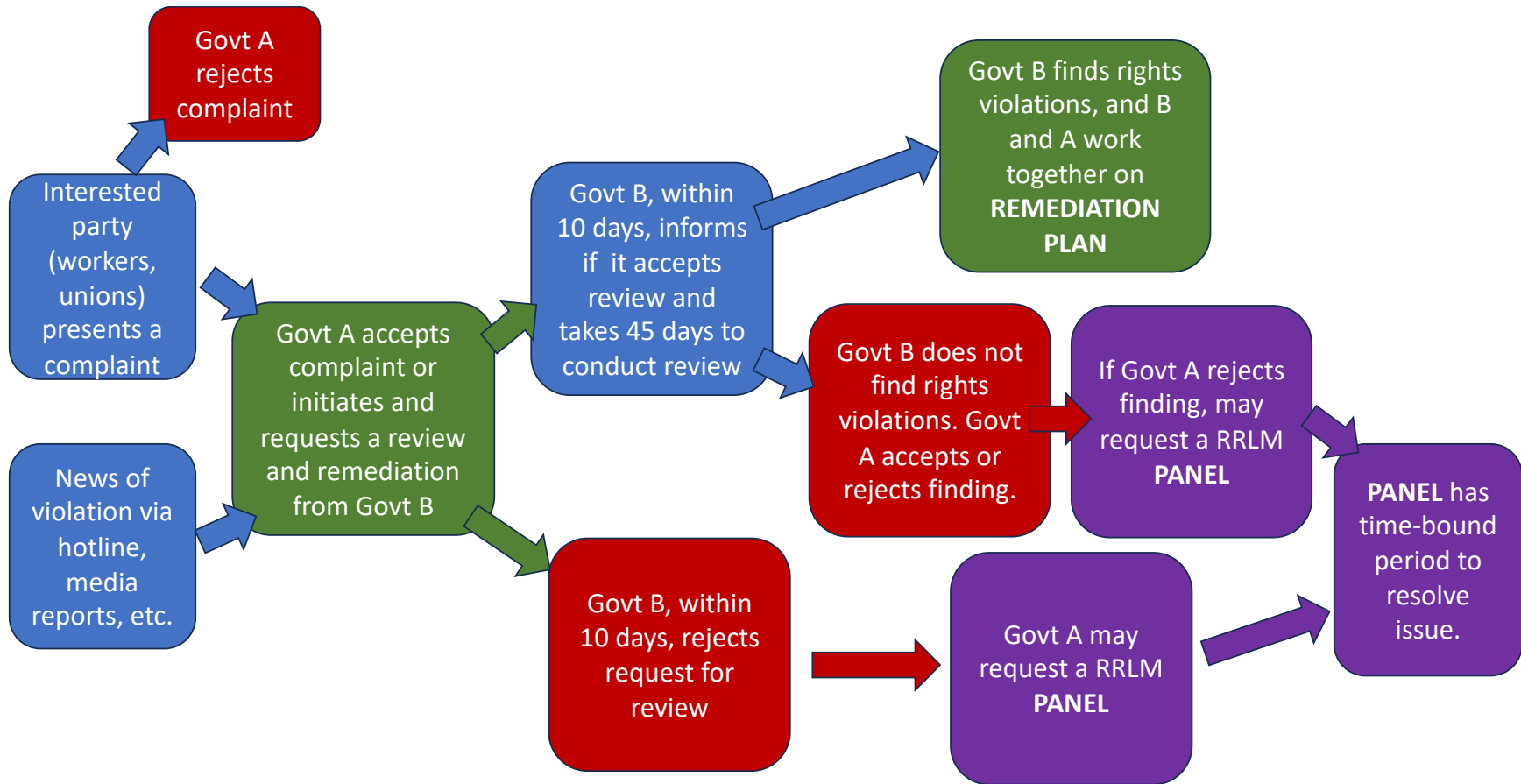


Table 2, Case Study 2 Appendix2: RRLM Case

No.	Case Name	Location (# production workers)	Sector	Main complaint	Initial date	Immediate Impact	Outcome
1	General Motors de México S. de R.L. de C.V.	Silao, Guanajuato (6,232)	Autos, final assembly	Tampering with contract legitimation vote; destroyed ballots by official CTM union.	<u>5/12/21</u>	USTR presents complaint, May 12, 2021. On the same date, the request for suspension of benefits was issued. Mexican gov't accepts. Develops the first course of remediation plan with the U.S. Results in new legitimation vote on August 17-18, 2021. Protection contract gets voted down. The request for resumption of benefits was issued on September 21, 2021. Feb. 1-2, 2022, workers vote for independent union, SINTTIA.	In March 2022, SINTTIA begins bargaining for new CBA, which it achieves on May 10, 2022 (CBA 2022-2024). CBA gives workers an 8.5% wage increase and other benefits. CBA 2022-2024
2	Tridonex S. de R.L. de C.V.	Matamoros, Tamaulipas (1,272)	Auto parts (brakes, electronics, engine, etc.)	Company fired 154 workers who tried to organize an independent union.	<u>5/10/21</u>	USTR presents complaint, June 9, 2021. USTR and Tridonex sign agreement on August 10, 2021, this first action plan. New legitimation vote by August 20, 2021, payment for unfair dismissals to 154 workers, and cooperation of the company with labor inspectors.	February 28, 2022, workers vote overwhelmingly for an independent union (SNITIS), and on March 22 the Federal CAB certifies the election. CTM union challenges. In August 2022, independent union, SNITIS, is recognized as the legitimate union. The CBA ratified on July 31, 2023.
3	Panasonic Automotive Systems de Mexico S.A. de C.V.	Reynosa, Tamaulipas (2,150)	Auto parts (audio systems)	The company signed a CBA with a lack of proper union representation. Two independent leaders attacked by CTM.	<u>5/18/22</u>	USTR presents complaint, May 18, 2022. On the same date, the request for suspension of benefits was issued. Based on the action plan, the company terminates the CBA it had signed with a union that lacked lawful bargaining authority and reimburses workers for dues the company had deducted from workers' paychecks on that union's behalf. The request for resumption of benefits was issued on July 14, 2022.	Independent union, SNITIS, wins representation vote on April 21 and 22, bargains and signs new CBA that includes a 9.5% direct salary increase on Sep. 12, 2022. A second negotiation in February 2023 produced an additional wage increase of 11.92%.
4	Teksid Hierro de México, S.A. de C.V.	Frontera, Coahuila (814)	Auto parts (cylinder blocks & heads, engine components, transmissions)	Company refusal to recognize independent union (SNTMMSSRM) despite worker vote in favor. Firing of independent unionists. Favorable treatment/access to CTM union.	<u>5/5/22</u>	USTR presents complaint, June 6, 2022. On the same date, the request for suspension of benefits was issued. 2nd course of remediation. Independent union and company agreed on July 14, 2022, that the company will transfer union dues to the independent union. Teksid agreed to reinstate workers and have a neutrality statement. The request for resumption of benefits was issued on August 16, 2022.	New legitimation vote on September 19, 2022; independent union won. 2nd CBA in February 2023: 9% wage increase and additional benefits. [Note: Oct. 2022, Cummins INC. signs an agreement to purchase all of the equity ownership interest of Teksid Hierro and Teksid, Inc. from Stellantis N.V. for approximately €115 million. CBA.
5a	Manufacturas VU (Case 1)	Piedras Negras, Coahuila (400 when the case was filed)	Auto parts ("soft trim" products and assemblies)	Company supports company union.	<u>6/21/22</u>	USTR presents complaint, July 21, 2022. On the same date, the request for suspension of benefits was issued. Agreement on Action Plan to supervise union representation election, ILO observers. On Sept. 9, 2022, the Federal Center issues independent union, LSOM a certificate of representation, authorized to bargain. The request	New election on August 31, 2022. La Liga wins with 65% support. On Sept. 9, 2022, the Federal Conciliation and Labour Registry Center certify the new union.

No.	Case Name	Location (# production workers)	Sector	Main complaint	Initial date	Immediate Impact	Outcome
						for resumption of benefits was issued on September 14, 2022.	
5b	Manufacturas VU (Case 2)	Piedras Negras, Coahuila (250)	Auto parts ("soft trim" products and assemblies)	Company promotes company union and marginalizes the independent union.	<u>1/30/23</u>	USTR presents complaint on January 30, 2023. On the same date, the request for suspension of benefits was issued. 3rd course of remediation starts on March 30, 2023. The company told to make a public, written statement in favor of FoA and allow public authorities to conduct in-person workers' rights trainings.	VU manufacturing shuts down its operations in Mexico. Course of remediation in effect until September 30, 2023. U.S. and Mexican governments discussing next steps.
6	Saint Gobain México, S.A. de C.V.	Cuautla, Morelos (1,900)	Auto parts (glass panels)	Denials of workers' rights of free association and collective bargaining.	<u>9/27/22</u>	During the United States' review of FoA issues, the Mexican union petitioners won the representational vote at the facility and the situation at the facility improved for workers.	The independent union won with 62% of the votes on September 28 and 29, 2022. On March 4, 2023, the independent union negotiates a collective bargaining agreement. The signed agreement includes a 9% pay rise and a 2% increase in benefits.
7	Unique Fabricating de México, S.A. de C.V.	Queretaro (255)	Auto parts (non-metallic die-cut parts)	Denial of workers' right to FoA and collective bargaining, right to organize, select, and engage with a union of their choice.	<u>2/2/23</u>	USTR presents complaint on March 6, 2023. On the same date, the request for suspension of benefits was issued. Mexico accepted the complaint for review on March 17. The request for resumption of benefits was issued on April 24, 2023.	Independent union (Transformacion Sindical) wins representation vote on April 14, 2023. Case satisfactorily concludes on April 17, 2023, in favor of the independent union. On April 30, 2023, the first meeting of the new union took place. The company signed an agreement with the new union in July. However, in November 2023, it announced it was closing.
8	Goodyear-SLP, S. de R.L. de C.V.	San Luis Potosi, San Luis de Potosi (1,149)	Auto parts (tires)	Company refuses to apply the Sectoral CBA; signs an enterprise CBA with a company union with lower terms. (Afterward, company union steals ballots.)	<u>4/20/23</u>	USTR presents complaint on May 22, 2023. On the same date, the request for suspension of benefits was issued. Mexican govt accepts 4th course of remediation on July 19 with neutrality statements, most favorable rule for workers, and non-interference in union votes.	New legitimation vote takes place on May 7–8, 2023. Enterprise CBA voted down (ILO observers) for around 80% of the votes, and independent union, SITGM, wins vote for union representation. Remediation plan indicates company must apply the most favorable rule between the sectoral and company CBA. Result is a 30% increase in wages and benefits.
9	Draxton	Irapuato, Guanajuato (400)	Auto parts (brakes, powertrain & transmission)	Company blocks independent union organizing; fires union official. Interference to control the union. Workers not given a copy of CBA by company before voting on whether to legitimize it.	<u>5/31/23</u>	USTR presents complaints on May 31, 2023. On the same date, the request for suspension of benefits was issued. Mexico reviews and enters into 5th course of remediation on July 28. Workers terminated due to union activities shall be reinstated, full back pay and benefits, from the date of termination until the date of reinstatement. Neutrality statements and company guidelines.	Unfairly fired union leader is reinstated on August 17. The company union CONASIM still has representation. U.S.-Mexico remediation plan with an Oct. 31, 2023, deadline. SINTTIA—sectoral independent union—requested a vote to obtain control of existing CBA.

No.	Case Name	Location (# production workers)	Sector	Main complaint	Initial date	Immediate Impact	Outcome
10	Industrias del Interior (INISA)	Rincón de Romos, Aguascalientes (700)	Apparel	Company coerces workers to accept the company's CBA. Workers vote "yes" for CBA, but new union wins election. Workers voted "no" in the new legitimation vote. On March 3, 2023, workers vote for independent FAT union group.	<u>6/12/23</u>	USTR presents complaint on June 12. On the same date, the request for suspension of benefits was issued. Mexican gov't accepts the US decision, and in August 2023, works out a remediation plan with the U.S. government. The facility commits to relocate the union's office and individuals employed to perform union work to a different work area that is separate from human resource department and accepts neutrality on workers' union choices.	The independent union has access to the facilities and the company recognizes it as a legitimated union. In June 2023, the facility and the independent (FAT) union signed a collective agreement that was recognized by the remediation plan in August.
11	Grupo México San Martín	Zacatecas (1,000)	Mining	Company resumes operations despite an ongoing strike, bargains with a coalition of workers despite the fact that petitioners (Los Mineros) hold the right to represent workers.	<u>5/15/23</u>	USTR issues complaint on June 16. On the same date, the request for suspension of benefits was issued. Mexican gov't rejects complaint. U.S. Gov't requests a panel formation to review denial of rights.	Panel selected.
12	Grupo Yazaki	León, Guanajuato (2,800)	Auto parts (electronics)	Spreading false information about a scheduled CBA legitimation vote, including about the purpose of the vote and impact of the vote on workers' existing salaries and employment benefits.	<u>8/7/23</u>	USTR issues complaint on August 7. On the same date, the request for suspension of benefits was issued. Mexican gov't rejects complaint. The request for resumption of benefits was issued on October 4, 2023.	Case is pending; waiting to see if U.S. requests a panel.

No.	Case Name	Location (# production workers)	Sector	Main complaint	Initial date	Immediate Impact	Outcome
13	Aerotransportes Mas de Carga (Mas Air)	Mexico City (340)	Airline that provides cargo transportation services	Workers denied the right of free association (pilots' union) and collective bargaining in connection with their right to approve their governing collective bargaining agreement and the May 9, 2023, legitimization vote; carried out anti-union dismissals.	<u>8/30/23</u>	U.S. issues complaint on August 30.	Government of Mexico reviewing denial of rights.
14	Teklas Automotive Mexico, S.A. de C.V.	Aguascalientes (600)	Automotive fluid systems	Company threatened and dismissed workers in retaliation for undertaking union organizing activity.	<u>9/25/23</u>	USTR issues complaint on September 25, 2023. On the same date, the request for suspension of benefits was issued.	Case is pending.

Case Study 3

Worker Voice Mechanisms in Domestic Work

Lead Author: Katherine Maich, Penn State University

Introduction to Key Aspects of Domestic Work

Domestic work can be defined as the labor of cleaning, cooking, or caring for another person's home, and it is uniquely characterized by its employment relations in a specific location—the home.⁶³ This work is usually underpaid or unpaid, and too often involves cases of modern-day slavery, forced labor, and verbal, physical, and sexual abuse.⁶⁴ Domestic workers in the U.S. are three times as likely as other workers to be in poverty (Wolfe et al., 2020). Despite the difficult circumstances that domestic workers experience in the U.S. and globally, they have long asserted their rights in powerful ways. For a number of key reasons, domestic work is of particular interest as a case study to explore mechanisms of worker voice in practice.

First, domestic work is universal and nearly ubiquitous. In Latin America, approximately 30% of households are involved in paid domestic work either as workers or employers, with more than 15 million women domestic workers across the region (Blofield & Jokela, 2018; Paz, 2023). In the United States, domestic workers are one of the largest groups of informal workers. Some iteration of hiring help for elder or childcare, cooking, and cleaning exists across the world, and this type of care work and reproductive labor continue to be organized hierarchically, with more privileged employers hiring workers in positions of less social, economic, and geopolitical power.

Second, it is a highly informal industry, and like other workers in the informal economy, domestic workers must contend with a lack of workplace guarantees, exclusion from collective bargaining rights, and little regulation of working conditions, job protections, wage standards, and legal recourse. Yet the location of domestic work in the private sphere of the home sets it apart. Legal governance of the home often privileges ownership of private property over the rights of those working inside the home. And unlike other informal workers who labor in public locations—such as day laborers, waste pickers, and street vendors—domestic workers are hidden inside private domains, where employer abuse occurs behind closed doors. These disaggregated, private worksites can prove challenging for organizing, and so domestic workers often resort to mobilizing in public spaces like parks, central squares, shopping malls, and places of worship.

⁶³ The International Labour Organization follows the specific definition adopted at the 20th International Conference of Labour Statisticians: “Workers of any sex employed for pay or profit, including in-kind payment, who perform work in or for a household or households to provide services mainly for consumption by the household. The work may be performed within the household premises or in other locations” (ILO, 2021).

⁶⁴ The highly publicized international case of Indonesian domestic worker Erwiana Sulistyarningsih who was severely abused by her Hong Kong employer is just one of many examples (Tsang, 2019). Additionally, many migrant domestic workers face situations of modern-day slavery upon arrival in their new country of employment (Mantouvalou, 2015).

Third, states and employers tend not to recognize domestic work as an employment relationship. Many people who hire domestic workers do not consider themselves as employers and do not inform themselves of relevant regulations, let alone respect the labor rights of their employees (Maich, 2020). Many national and sub-national laws do not recognize the household as a place of employment, meaning domestic workers are often not recognized as “real” workers with labor rights. Laws often do not recognize freedom of association or collective bargaining rights of domestic workers (McBride et al., 2021). Employers often pay “off the books” via cash, and many governments do not document domestic work employment relationships, relieving employers from contributing to pension, sick leave, maternity, and other social protection programs (Blackett, 2020).

Fourth, domestic labor is highly intersectional, bringing together articulated axes of inequalities around race, ethnicity, caste, gender, language, nationality, and legal status. Additionally, it is important to note the legacy of slavery that shapes the industry through its continued legal exclusions from labor protections and worker recognition, dating back, in the United States, to New Deal legislative decisions to exclude agricultural workers and domestic workers (Perea, 2011). Domestic work is unique because it is one of the only occupations whose employment relations are generally conducted “between women” (Rollins, 1987). There are few if any other types of work that are so deeply gendered in this way, as reproductive labor has long been naturalized as “women’s work” (Palmer, 1989). The work is usually performed by women of color who are immigrants or internal migrants of lower economic status than those households where they are employed, and in India, caste differences also shape the domestic work employment relationship. Domestic workers also skew older than other formal and informal workers, though child labor also remains a serious problem and many young women and girls still work as domestic workers, even though local labor codes may technically prohibit them from doing so (Wolfe et al., 2020; Maich, 2014).

Finally, domestic workers migrate internationally and within their home countries across “global care chains” that are racialized, gendered, and change with time (Hochschild, 2004). Migrant domestic workers often face concerns around legal status, immigration barriers, employer dependency and fears of deportation. In Peru, domestic workers tend to migrate from the rural highlands to urban centers, while Paraguayan domestic workers tend to emigrate to work in wealthier Chile or Argentina. The Philippines has a labor export policy which directly encourages emigration outflows, especially of domestic workers, to countries including Italy and Israel (Brown, 2016; Parreñas, 2015), while Polish women tend to predominately work as caregivers and domestic workers in Germany (Brown, 2016).

Key Characteristics of Worker Voice for Domestic Workers: Alternatives and Creative Organizing

Given these characteristics of the industry, then, what does worker voice look like for domestic workers? The following sections provide insights into the components and mechanisms of worker voice throughout the sector.

Collective

Traditional forms of collective action do not necessarily apply the same way as for other sectors, but domestic workers have nevertheless organized collectively, belying narratives about them being “unorganizable” (Jiang & Korczynski, 2016). Some of the challenges involve the nature of disaggregated employers all employing individual workers, or at most a handful of workers, which limits gathering together at the same workplace. Yet even with their atomized, spatially separate workplaces, domestic workers have historically organized collective action including marches, protests, rallies, and even strikes (Boris & Nadasen, 2008). Domestic workers were excluded from the U.S. National Labor Relations Act of 1935 under the spurious categorization of their work as outside of labor regulations (Perea, 2011). Yet domestic workers of color in the U.S. have organized regardless by forming worker associations and worker collectives throughout the country’s history, often quite successfully (Das Gupta, 2008; Nadasen, 2015). In fact, regulatory exclusion in many countries has shaped the way that domestic workers have exercised worker voice through multifaceted and creative means within various political contexts.

Worker centers have created mechanisms for worker voice, particularly in sectors like domestic work where workers lack state protection of collective bargaining rights. Given the fact that there is a more individual, one-on-one employment relationship present, and since domestic workers are often not recognized as workers by law, this results in a “de jure exclusion from the right to organize and bargain collectively” (Hobden, 2015). Importantly, then, worker advocacy organizations support domestic workers to exercise collective action, to share their experiences, to learn about legal protections, to organize public pressure against abusive employer practices, and to support legal enforcement campaigns. They can also facilitate domestic workers’ solidarity by building community through language classes, cooking and nanny certifications, popular education, and cultural exchanges (Maich, 2020).

Internationally, domestic workers have organized defiantly as well. In India, the National Domestic Workers’ Movement (NDWM) began at the country’s founding in 1950 (McBride et al., 2019). The International Domestic Worker Federation (IDWF), founded in Montevideo, Uruguay, in 2013 from the International Domestic Worker Network, is the largest global union of women workers with over 670,000 domestic workers in 89 unions representing 68 countries (Paz, 2023). The IDWF uses an affiliate structure, elects their delegates and leadership, fosters worker-driven campaigns, and campaigns to ratify and implement ILO Convention 189, Decent Work for Domestic Workers.

Democratic

The IDWF slogan, “Nothing for us, without us,” conveys the importance of democracy to domestic worker voice. Domestic worker organizations and networks also embody democracy in their governance models. The IDWF structure comprises affiliates from each represented country participating regionally and internationally in leadership direction, discussions, and elections. In 2018, two members from each of the six regions—Africa, Asia, Europe, Latin America, Caribbean, and North America—were elected to serve on the Executive Committee. From that group, three members were named to executive leadership as president, vice-

president, and general secretary. Subsequently, at the 2023 Congress in Belgium, new members transitioned into these official positions, including delegates from the Middle East and North Africa region (Jordan, Kuwait, and Qatar).

While the challenges domestic workers face in organizing can give rise to initiatives not directly led by the workers themselves, there are also important examples of key domestic worker organizations in the U.S. and beyond. The National Domestic Worker Alliance (NDWA) in the U.S. is one of those non-profit organizations that advocates for domestic workers through creative campaigns, with some domestic workers in leadership positions. However, the non-profit model, its reliance on external funding and leadership structure comprising non-worker executives, can provide challenges for democratic decision making (Kochan & Kimball, 2019). There are also ways for worker centers to promote worker-led (rather than staff-directed) leadership and involvement through various campaigns. An example of this is Long Island's The Workplace Project, which successfully organized its immigrant members to draft an unpaid wage bill as part of a statewide campaign, among other collective efforts (Fine, 2005).

In the Global South, power disparities can limit domestic workers' democratic organizing as well. The international NGO Women in Informal Employment: Globalizing and Organizing (WIEGO) has enabled domestic worker movements around the world, providing key support especially in contexts of extreme hostility toward domestic workers, yet there remain challenges in facilitating the emergence of organizations led directly by domestic workers (Fish, 2017).

One mechanism that offers potential for domestic workers to influence public policy while maintaining independence from governments is tripartite sectoral boards. Based on formative models from the Global South such as the Self-Employed Women's Association (SEWA) in India, domestic workers' advocacy led to the establishment of similar mechanisms for the first time in the U.S., based in Nevada and Seattle, Washington. In Nevada, the community-based NGO *Casa Latina* and union SEIU 1107 have led the campaign to establish and implement the Home Care Standards Employment Board. This is the first standards board of its kind in the U.S., and it functions as a type of wage board or bargaining panel that, like those created by SEWA in India, is more akin to European, union-led sectoral collective bargaining—it sets industry-wide standards, rather than targeting one individual employer. In Seattle, the Domestic Workers Ordinance provides domestic workers explicit representation in a sectoral standards board with a mandate to legislate worker protections, including wage and benefit levels.

Despite popular attention around it, digital, algorithm-based platforms do not appear to be an effective mechanism for domestic workers to exercise worker voice. Recent research has examined algorithmic management of domestic work through care provision platforms, noting that platforms can “shift risks and rewards for workers in different ways,” including by disadvantaging workers who lack polished, competitive digital skills, and by “offloading inefficiencies and hidden costs directly onto workers” (Ticona et al., 2018). Yet there is insufficient evidence that platforms can serve as an outlet for worker voice for domestic workers or that they truly foster democratic worker control over their wages, working

conditions, and employer selection. Early research on domestic worker digital platforms in South Africa demonstrates the undemocratic nature of algorithmic management for domestic work, as the client ratings system put additional pressure on workers and offered no control over their working time (Sibiya & du Toit, 2022).

Domestic workers are nevertheless innovating to assert voice in algorithm-mediated jobs. In 2021, NDWA partnered with Handy to create a pilot program for domestic workers in Indiana, Kentucky, and Florida, ensuring a USD \$15/hour minimum wage, paid time off, and occupational accident insurance coverage that will be administered by NDWA through its portable benefits program (Andrias & Sachs, 2021). While still in its pilot phase, this is an important move to ensure that workers are treated as “real” workers with benefits and insurance coverage, significantly stronger benefits than what traditional gig workers are guaranteed.

Inclusive

Domestic worker movements are deeply inclusive, coming from origin stories of exclusion, exploitation, and racial segregation, and moving forward an identity as workers and from a whole-of-person approach deserving of dignity and respect. In their mobilization, Brazilian domestic workers utilize intersectionality as a tool for strengthening their movement, giving the term new life beyond academic circles. In this way, their movement is akin to other movements of marginalized groups that have theorized gender as part of a multiethnic movement mobilizing around various intersecting oppressions to build power beyond narrow class-based interests (Bernardino-Costa, 2014; Guimaraes, 2021). Additionally, caste oppression and migrant women workers have a great risk of experiencing gender-based violence and harassment; in response, intersectionality has also been a key tenet of Indian domestic worker organizing (McBride et al., 2019).

Early iterations of domestic worker organizing have roots in racial inclusion. In 1881, Black laundresses in Atlanta formed a trade organization, the Washing Society (AFL-CIO, n.d.). While 98% Black, they included white women—a powerful sign of interracial solidarity uncommon for that era, coordinated with Black ministers throughout the city, and called a strike for higher pay, respect, and autonomy over their work as industry standards across the city. Within three weeks, the Washing Society grew from 20 strikes to 3,000, and they eventually gained self-regulation of the industry (Ibid).

In recent years, domestic workers have actively organized to support racial inclusivity, workers’ rights, and civil rights, including such key moments as when Alicia Garza, head of the NDWA “We Dream in Black” campaign, co-founded the Black Lives Matter Movement (Brown & Bayard, 2015). Internationally, the IDWF exemplifies inclusivity. The IDWF commitment to worker power and inclusivity is articulated in its constitution and implemented in practice.

Protected

For domestic work, effective worker voice must be protected in that workers do not fear abuse, violence, sexual assault, deportation, or termination as a form of retaliation, though legal

protections have been hard fought and slow to win for domestic workers. Indeed, Doellgast and Wagner (2022) illustrate this point through cross-national comparisons, demonstrating how more job protection equates to more effective voice even across different country and regional contexts. Yet even in countries with legal labor protections for domestic workers, either through national ordinances, ratification of ILO Convention 189 and corresponding labor reforms, or a combination of both, there is often a lingering gap between law and practice.

Yet an important shift has happened over the last 20 years in terms of these legal protections, as many governments have shifted to establish equal rights protections under the law for domestic workers. There is a range from weaker to stronger laws across countries that have enacted them, though they all to some extent contribute to workers' ability to effectively exercise voice. Latin America has led this shift, as currently nine countries across the region have guaranteed equal legal rights to domestic workers (Blofield & Jokela, 2018). Through their advocacy, domestic workers are making Latin America a region of rights protection.

Uruguay has been an important leader in demonstrating protected domestic worker labor standards, as domestic workers have been guaranteed social security there dating back to 1942 (Goldsmith, 2013). Additionally, the regional network *Confederación Latinoamericana y del Caribe de Trabajadoras del Hogar* (CONLACTRAHO: Latin American and Caribbean Confederation of Household Workers) was founded in Uruguay in 1988, just three years after the country's return to democracy. In 2012, it became the first country to ratify C189, as well. Uruguay is also unique because in 1995, the *Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay* was formed to represent employers.⁶⁵ The Liga seeks to recognize the work that women do as housewives and since 2008, they have represented employers of domestic workers in Uruguay's tripartite wage councils, which is a significant task given that nearly 10% of all households there employ a domestic worker (Amarante & Espino, 2008: 70; Goldsmith, 2013).

One way that domestic worker organizations globally have sought to establish protections is bypassing direct employers and targeting the state itself to stand in for the role of employer or an arbiter of labor standards (McBride et al., 2019). The Belgium Service Voucher System, implemented in 2003, is an important example. It is a tripartite system subsidized by the Belgium government. An individual employer pays an officially recognized agency, which functions as the employer of record for the performance of household labor by an employee of said agency (Fair Work Belgium, 2023). Pre-established standards included in a sectoral agreement set the conditions of the employment relationship. For example, the employer pays for a work uniform and a travel allowance. In this way, the state functions as the employer and upholds the labor standards, including setting a minimum wage and holiday paid time off. It also guarantees temporary unemployment benefits for domestic workers, and workers can

⁶⁵ This organization translates to the "League of Housewives, Consumers and Users of Uruguay" (LACCU), which is part of the *Unión Intercontinental de Amas de Casa y Consumidores* (UNICA, the Intercontinental Union of Housewives and Consumers), the *Confederación Iberoamericana de Amas de Casa* (CIAC, Ibero-American Confederation of Housewives) and the *Federación de Amas de Casa, Consumidores y Usuarios del MERCOSUR* (Federation of Housewives, Consumers and Users of Mercosur)" (Goldsmith, 8:2013).

raise concerns around treatment or pay with the Social Laws Inspection Service (Fair Work Belgium, 2023).

Empowered

For workers to be empowered, they must have leverage. Work stoppages by individual domestic workers remain a threat that affects employers' behavior in that employers are counting on their domestic workers to come from a place of trust and to show up to clean, cook, or care. However, domestic workers are dispersed, reducing their ability to collectively utilize strike leverage in the same way as other workers.

Additionally, domestic workers have long been sidelined from the mainstream labor movement. Yet this has not hindered domestic workers' efforts to improve their working conditions and seek respect and recognition on the job. In fact, it is that very exclusion that granted them independence and creativity that required a more nuanced approach to seeking voice, dignity, and respect. As such, workers drew upon the very traits that employers valued in them, such as their importance to the household and their intimate association with family life, as leverage in negotiations with their employers (Nadasen, 2015:105).

However, in recent years strategic partnerships are growing between trade unions and domestic worker movements. In some countries domestic worker organizations are constituted legally as trade unions, while in others they may self-identify as trade unions and as part of the labor movement, even if they are not technically a trade union. The labor movement's growing, inclusive embrace of domestic worker organizations has led to a strengthening of partnerships with these organizations globally. The IDWF is an affiliate of the International Trade Union Confederation (ITUC), for instance, which recognized the IDWF for winning the Arthur Svensson International Prize for Trade Union Rights in 2023. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and the Council of Global Unions (CGU) also stood in solidarity with the IDWF when its General Secretary Elizabeth Tang was investigated and jailed by Hong Kong authorities in April of the same year. These relationships with the trade union movement and its political and economic infrastructure have been crucial for advancing the gains of domestic workers in the U.S. as well at the local, state, and national levels, and the trade union movement has embraced domestic workers more than other informal sectors, benefitting from their innovation, strategic vision, and coalition building.

In India, domestic workers organized a major strike in 1959 to include domestic workers in federal labor law. Though the strike was unsuccessful with respect to its policy demands and goals, workers went on to form domestic worker unions throughout the 1970s and 1980s. These movements were reflective of the gender makeup of domestic workers in India at the time, which were largely male workers employed as groundskeepers and drivers. The gender balance shifted in the 1980s as a new wave of domestic worker organizing took place led by women that targeted the exploitative treatment by individual heads of householders. They established the National Domestic Workers' Movement (NDWM), which continues today with

millions of domestic workers involved in their advocacy and outreach, even though they remain outside the legal labor framework (McBride et al., 2019; NDWM, 2023).

In the Global North, domestic workers have also long asserted voice through strikes. Dating back to 1933 in El Paso, Texas, Mexican domestic workers organized the *Asociación de Trabajadoras Domésticas* which consisted of more than 700 domestic workers who lived in El Paso, USA, and Ciudad Juárez, Mexico (Ruiz, 1987).⁶⁶ Facing low wages and exclusion from the New Deal legislation, they organized a strike and won higher wages (Vargas, 2005). A decade later in Harlem, New York City, the Domestic Workers Union (DWU) led a strike to protest their exclusion from wage and hour laws. DWU was formed by African Americans and immigrants from Finland and the Caribbean who met while caring for their employers' children in Sunnyside, Queens (Guglielmo, 2019). On International Domestic Workers' Day, June 16, 2022, a group of undocumented domestic workers led a strike in Brussels, Belgium, demanding an end to abuses and establishment of decent working conditions. An estimated 80,000 domestic workers in Belgium work without formal contracts in Belgium. Through striking, they sought access to training and means to report abuse at work.

In the U.S., domestic workers have also successfully advocated local and state legislatures to pass historic Bills of Rights in various states. Domestic workers built on this legal recognition with successful campaigns that led policymakers to establish tripartite wage boards in the cities of Seattle and Philadelphia and the State of Nevada.

Enabled

For domestic workers, worker organizations can enable their exercise of effective worker voice. For example, an organization can provide space in which to organize, trainings on legal protections and safety protocols, such as “green cleanings” that mitigate risks of cleaning with harmful chemicals, and access to information around legal and social services in their local community. Worker organizations can also counter domestic workers' isolation by bringing them together to collectively analyze and address their employment experiences and build community.

Models of enabling domestic worker voice vary around the world. In the early 2000's during the nascent organizing days of the New York Domestic Worker Bill of Rights, the main organizer of the bill, Domestic Workers United (DWU), partnered with Cornell University's Worker Institute. The Worker Institute provided DWU rent-free space to meet and plan, logistical support, and a Nanny Training Program complete with Cornell University certificates for the graduates—tools and professional credentials to enable the workers to bring dignity to their work and advocate for themselves in the labor market (Maich, 2020). As another example of enabling domestic worker voice, in 2013, the Peruvian Ministry of Labor added working hours on Sundays dedicated specifically to hear domestic workers' concerns, and the local unions and worker centers in Lima disseminated information about the Ministry's Sunday hours to its members.

⁶⁶ The organization was called “Association of Domestic Workers.”

For many who work the other six days of the week, these actions created new access to legal remediation of employment abuses.

Conclusion

While the diversity of successes mentioned here are broad, notable, and important, the issue of scale remains significant. Domestic work employment relationships are indeed unique and present significant obstacles, yet the examples profiled here show domestic workers creatively exercising worker voice in diverse contexts. For domestic workers to exercise voice effectively, there is a strong need to scale up from individual employer-employee relationships to collective relations between organized workers and employers, though practical and logistical barriers to organizing remain. The global IDWF network presents potential as its affiliate members continue to grow in numbers and capacity. Sharing successful campaigns for C189 ratifications and national-level legislation has been important for building solidarity across IDWF affiliates, who are making a global domestic workers movement. Nationally, extending labor law coverage, including freedom of association and collective bargaining rights, to domestic workers would increase protection of their exercise of worker voice. Sub-nationally, portable benefits systems and sectoral boards, such as those developed in India and the U.S., offer policies to build on and adapt to diverse contexts.

Case Study 4

Worker Voice in Agricultural Employment in the United States

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Agriculture employed 27% of the world's workers in 2021 (FAO, 2022), yet worker voice in agriculture is impeded by denials of legal protections and disempowering effects of the contemporary organization of food supply chains. These impediments to farmworker voice are widespread (ILO, 2015b; IUF & GLJ-ILRF, 2020), and determinant in the United States, where 2- to 3 million farmworkers make the United States the largest agricultural exporter in the world (Rural Migration News, 2020). In the context of impeded worker voice, U.S.-based farmworkers have strategically innovated to improve their livelihoods, and they face significant limitations.

This case study highlights mechanisms that impede and others that support U.S. farmworkers' effective exercise of voice through three examples of farmworker initiatives in different sub-national contexts.⁶⁷ The United Farm Workers (UFW) and *Familias Unidas por la Justicia* (FUJ) have established union collective bargaining by leveraging sub-national laws in California and Washington, respectively. The Coalition of Immokalee Workers (CIW) negotiated cross-supply chain, multiparty agreements that enable enforcement of employment standards in Florida and elsewhere in the Southeast region. Their approaches, gains, and setbacks demonstrate the characteristics of effective worker voice as collective, democratic, inclusive, empowered, enabled, and protected.

The Context for Worker Voice in Agriculture in the United States

The environment in which U.S. farmworkers exercise voice is shaped by labor and immigration laws and the organization of food supply chains. This section outlines these three legal and economic determinants of the effectiveness of worker voice in U.S. agriculture.

First, labor law lacks protections of farmworker voice. The National Labor Relations Act (NLRA) excludes agriculture, reflecting longstanding sectoral interests in wage suppression and racial hierarchy (Fuller, 1955; Perea, 2011).⁶⁸ This exclusion contravenes International Labour Organization Conventions Nos. 11, 87, 98, and 141, which direct member states to protect agricultural workers' freedom of association, collective bargaining, and strike rights and to proactively support farmworker organizations' participation in public policymaking (ILO, 2015b).⁶⁹

⁶⁷ These three labor initiatives are presented in this case study as indicative examples. Others that could offer similar findings regarding worker voice in U.S. agriculture include the trade union Farm Labor Organizing Committee (FLOC) and the worker centers *El Comité de Apoyo a Los Trabajadores Agrícolas* (CATA, The Farmworker Support Committee), *Alianza Agrícola* (Agricultural Alliance), and *Pineros y Campesinos Unidos del Noroeste* (PCUN, United Forestry and Peasant Workers of the Northwest).

⁶⁸ 29 USC Section 152(3), excepting from the Act's coverage "any individual employed as an agricultural laborer."

⁶⁹ The United States has not ratified these ILO instruments that apply to agricultural workers' rights.

Furthermore, applicable national employment laws are under-enforced. The Fair Labor Standards Act's (FLSA) minimum wage requirement applies to agricultural employers hiring more than seven workers, although its overtime pay provisions do not apply to agriculture. The U.S. Department of Labor Wage and Hour Division reports violations in 70% of agricultural employer inspections, yet agricultural employers have less than a 1.1% chance of being inspected (Costa, Martin, & Rutledge, 2020). Employment law inspections of agricultural employers reached a record low in 2022 (Costa & Martin, 2023).

Sub-national laws also affect U.S. farmworker voice. While exclusions from labor protections generally characterize state-level laws (Rodman et al., 2016),⁷⁰ California, Hawaii,⁷¹ and New York enacted explicit protections of farmworkers' collective bargaining rights. California accounts for one-third of the U.S. agricultural workforce and established the Agricultural Labor Relations Act (ALRA) in 1975.⁷² Under the ALRA, the Agricultural Labor Relations Board (ALRB) oversees implementation, like the National Labor Relations Board for the NLRA. Unlike the NLRA, the ALRA permits secondary boycotts, requires the ALRB to supervise union recognition elections within 48 hours of certifying a strike, includes a process for binding contract mediation,⁷³ and protects union security clauses.⁷⁴ New York enacted the Farm Laborers Fair Labor Practices Act (FLFLPA) in 2019, establishing state-level protections of collective bargaining rights but prohibiting strikes by farmworkers. Since its enactment, workers have organized several unions; to date none have reached a first collective bargaining agreement. Additionally, 19 states and Puerto Rico enacted Little Norris LaGuardia Acts (LNLAs) that do not explicitly protect collective bargaining rights but establish state-level protection of concerted activity for the purpose of mutual aid or protection relating to terms and conditions of employment, including by agricultural workers.⁷⁵

Second, immigration laws impede worker voice in U.S. agriculture. The ILO (2015: ¶128) advises that "the fact of being a foreign worker should not present an obstacle;" Conventions Nos. 11

⁷⁰ On the low level of enacted laws at the state level, see <https://www.farmworkerjustice.org/general-map/>. Enforcement of state laws generally requires workers to file complaints and is weakened by low levels of funding. In 2019, Washington State became one of the first states to enact a law to fund enforcement of employment laws applicable to the agricultural sector (see Bacon, David. July 5, 2019. "Since Washington, D.C., Won't Oversee Its Guest Worker Programs, Washington State Will." Food Justice, July 6. <http://www.foodjustice.org/blog>).

⁷¹ Since the relocation of the pineapple industry out of Hawaii, agricultural employment decreased, and is currently around 5,000 workers (see Hawaii Agriculture Department's "Farm Labor Statistics" reports <https://hdoa.hawaii.gov/add/market-analysis-news-branch/>).

⁷² CA Labor Code Section 1140.2

⁷³ While termed "mediation," ALRA Section 1164 establishes that upon exhaustion of mediation, the mediator "establishes the final terms of a collective bargaining agreement," a process more typically described as arbitration.

⁷⁴ Through union security clauses in the United States, workers covered by a collective bargaining agreement are dues-paying members of the union or pay a smaller amount in fees to the union to fund its negotiation of the contract and representation of them in grievance procedures.

⁷⁵ U.S. jurisdictions with LNLAs include California, Connecticut, Hawaii, Idaho, Indiana, Louisiana, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, Utah, Washington, Wisconsin, and Puerto Rico (see Editors. 1944. "Current Legislative and Judicial Restrictions on State Labor Injunction Acts" *The Yale Law Journal* 53(3):553–571).

and 141 cover all agricultural workers “without distinction whatsoever.” Seventy percent of U.S. agricultural workers are born outside the country, and nearly half are undocumented immigrants (JBS, 2022), meaning Immigration and Customs Enforcement may deport them anytime. An increasing number, currently 10% of all farmworkers, are employed with H-2A visas that authorize their presence and agricultural work for up to 10 months per year. The enactment and enforcement of laws prohibiting unauthorized immigration and work in the United States has not reduced its immigrant population (Hanson & Spilimbergo, 1999; Hanson et al., 2002; Davila et al., 2002; Hanson & McIntosh, 2010; Massey & Riosmena, 2010; Angelucci, 2012; Massey et al., 2014). As the renowned migration specialist Douglass Massey and colleagues found, “From 1986 to 2008, the undocumented population of the United States grew from 3 million to 12 million persons, despite a five-fold increase in Border Patrol officers, a four-fold increase in hours spent patrolling the border, and a 20-fold increase in nominal funding” (Massey et al., 2016).

Both legally constructed statuses, undocumented and H-2A, impede worker voice by raising the stakes of employer retaliation. For undocumented workers, employers can retaliate against workers’ exercising voice by calling on immigration authorities for enforcement actions, including deportation. Undocumented status further reduces workers’ bargaining power by shrinking the labor market to jobs offered by employers who engage in the illegal activity of employment of unauthorized workers. The vulnerability of workers with H-2A visas is heightened by their inability to change employers and loss of authorization to reside and work in the country upon dismissal by their employer (Bauer & Stewart, 2013; Bauer & Perales Sanchez, 2020). These mechanisms impede effective worker voice in U.S. agriculture, directly for immigrant and temporary visa farmworkers and, given their majority share of the agricultural workforce, indirectly for all farmworkers.

Third, the organization of food supply chains weakens farmworker voice. Commercial agriculture is the production link in contemporary food supply chains, which have been organized to direct value created in them away from farmworkers and toward food retailers and financial firms (McWilliams, 1935; Reardon et al., 2003; Burch & Lawrence, 2007; McMichael, 2013; Corrado et al., 2016). These food chains rely on flexible employment of workers, facilitated by loose labor markets and labor subcontracting, which is implicated in widespread violations of applicable labor laws and insulates companies benefiting from the cheapened labor from legal accountability (Costa & Martin, 2023).

Pressure against worker voice in food supply chains also stems from competition policy that supports market domination (Dicken, 2011: Ch. 9; Fischer-Daly, 2023). The “consumer welfare” doctrine has guided U.S. antitrust law, facilitating market domination, since the 1980s (Lynn, 2006; Olson, 2014; Edlin, 2018). Concentration has increased such that four retailers control more than 40% of food sales (USDA ERS, 2022). One, Walmart, accounted for one-third of U.S. food sales in 2020 (Fischer-Daly, 2023:127). Market dominance empowers these food retailers to extract extraordinary value from suppliers (Petrovic & Hamilton, 2007; Kuhns & Okrent, 2019). The retailers’ ability to capture an outsize share of the value created in production squeezes the margins of supplying firms, which in turn keep labor costs low to remain

competitive (Anner, 2020). This pressure on labor costs is acute in food supply chains due to natural impediments to profiting from investment in agriculture.⁷⁶

Farmworkers Exercising Voice in U.S. Agriculture: Three Demonstrations

Despite lacking legal protections and the disempowering effects of food supply chains, workers have exercised voice in U.S. agriculture. Three examples, varied by time and sub-national location, demonstrate why effective worker voice is collective, democratic, inclusive, empowered, enabled, and protected.

The United Farm Workers (UFW)

The first example is the UFW, a union organized in California in the 1960s–1970s.⁷⁷ Collectively, the UFW provided members extensive, mutual self-help programs and articulated its struggle as *La Causa* (The Cause), transformation of exploitative economic, social, and political systems (Grossman, 2014).⁷⁸ Democratic debate between participants with diverse perspectives produced its innovative combination of strikes, boycotts, marches, broad-based coalitions, collective bargaining, and political advocacy (Ganz, 2000).⁷⁹ Inclusively, the goal and achievement of the union’s first major strike was to unite Mexican and Filipino workers (Bardacke, 2012:146–166). Increased undocumented immigration following the 1965 Immigration and Nationality Act tested its inclusiveness.⁸⁰ The UFW initially opposed hiring of undocumented workers, primarily to defend its strikes; since the mid-1970s, it has supported immigrant rights, having learned the inseparability of labor and immigrant rights (Gordon, 2007; Bardacke, 2012:488–506). Meanwhile, agribusiness’s shift from vertically integrated companies, which contributed to UFW’s achievement of its first union contracts, to contemporary food supply chains disempowered the UFW (Martin, 2003:164–165).

The UFW’s primary strategies to address the absence of government protection of farmworker voice were economic and political. The NLRA exclusion of agriculture prohibits the national

⁷⁶ In agriculture, nature is in control, scheduling production cycles seasonally and thus extending the time for returns on investment in time-saving technologies. Between planting and harvesting, invested capital lies stagnant, awaiting plant maturation. Labor power cannot be used constantly without destroying the crop, limiting employers’ ability to increase work time. Predicting agricultural yields is limited by natural elements such as weather and pests, increasing the risks of investing capital. Geographically, crop production is limited to locations with conditions conducive to plant growth, and the timing of crop sales is limited to the period between harvesting and spoiling. (Most prominently, see Mann and Dickinson, 1978).

⁷⁷ The National Farm Workers Association was established in 1962 and merged with the Agricultural Workers Organizing Committee in 1966 to form the United Farm Workers Organizing Committee in 1966, which changed its name to the United Farm Workers in 1972.

⁷⁸ UFW services included healthcare, insurance, credit union, newspaper (*El Malcriado*), radio, gas station programs.

⁷⁹ During its formative years, the UFW leadership included men and women with experiences as fieldworkers, labor contractors, labor union leaders, civil rights activists, religious ministers, and lawyers; formal education ranging from primary through graduate school; Mexican, Filipino, and European American heritage; and Catholic, Jewish, and multiple Protestant Christian religious traditions (see Ganz, 2000; Bardacke, 2012).

⁸⁰ The 1965 Immigration and Nationality Act established the first numerical limits on immigration from the Americas, marking the beginning of significant numbers of people with undocumented status in the United States (Massey & Pren, 2012).

government from ordering agricultural employers to collectively bargain, and while sub-national governments may protect collective bargaining, as noted in the previous section, few do so. The absence of government protection does not prohibit agricultural collective bargaining but increases workers' reliance on economic pressure to convince employers to negotiate. The UFW pressured employers by leading strikes during crop harvests, enlisting union allies to refuse to transport time-sensitive produce, and mobilizing up to 12% of all U.S. consumers to boycott products of companies that resisted bargaining (Majka & Majka, 1995; Bardacke, 2012). The approach resulted in 180 UFW contracts covering 67,000 farmworkers by 1973, raising wages around 40% (Martin, 2003:194), up to USD \$12 per hour by 1979 (\$50 in 2023 U.S. dollars) (Bardacke, 2012:2).

Politically, the UFW advocated for workers' rights protections by the State of California. The union helped enact California's ALRA in 1975. Securing state protection of collective bargaining rights partly enabled the UFW to continue improving employment terms through contract negotiations while relieving difficulties of sustaining strikes, allied unions' disruptions of the supply chain,⁸¹ and consumer boycotts. However, the state governor's discretion to appoint ALRB members meant uneven enforcement of the ALRA, most notably a pattern of underenforcement in the 1980s that contributed to a steep decline in UFW contracts and membership (Grossman, 1991). The union reported 4,682 members in 2023.⁸² Nevertheless, the UFW continues successful advocacy, helping enact and improve California laws requiring employers to pay overtime pay rates to all farmworkers, nearly 1 million (Martin et al., 2019), and to mitigate heat exposure for all outdoor workers, a total of 3.8 million (Dahl & Licker, 2021).⁸³

The Coalition of Immokalee Workers (CIW)

The second example of farmworkers' exercising voice in the United States is the CIW, which created the Fair Food Program (FFP), a private, non-union regulation system, after struggling unsuccessfully for collective bargaining in Florida for a decade. Workers of Guatemalan, Haitian, and Mexican heritage united, responded to workplace abuses with collective actions, and founded CIW in the 1990s (Marquis, 2017). In the absence of any governmental protection of collective bargaining rights and the anti-union culture of Florida (Sellers & Asbed, 2011), they established CIW as a worker center.⁸⁴ The founders' inclusiveness continues to shape CIW's

⁸¹ NLRA prohibitions of secondary boycotts and "hot cargo" clauses mean that allied union members' refusals to transport produce from companies struck by the UFW might have been deemed unfair labor practices and resulted in fines against the unions whose members were involved.

⁸² <https://olmsapps.dol.gov/query/getOrgQry.do>

⁸³ There were an estimated 989,500 workers, 2.3 workers per average full-time-equivalent job, in agribusiness in California in 2016 (Martin, Hooker, & Stockton, 2019) and additional workers in other outdoor jobs.

⁸⁴ Worker centers in the United States provide access to services, support organizing, and advocate enforcement of existing labor protections and legislation of others, primarily for marginalized workers, in their communities. Under U.S. labor law, employers have duties to collectively bargain with trade unions but not with worker centers. Under the U.S. tax code, trade unions are 501c5 labor organizations, permitted to engage in political advocacy as a secondary activity, and worker centers are 501c3 charitable organizations, with more restrictions on political activities. Most worker centers rely on philanthropic funding for operating expenses, some have membership dues, and some receive fees for services. (See Fine, 2005, 2007, 2011; Fine, Narro, & Barnes, 2018; Kochan et al., 2022).

struggle for protection of immigrant, women’s, and labor rights. Democratically, CIW uses popular education methodologies for workers to lead themselves, which involve political education of their membership base, collectively analyzing problems and creating strategies to address them, regular meetings, peer-to-peer trainings, and their *Radio Conciencia* station.⁸⁵ CIW won wage increases of 13-25% through strikes, public marches, and hunger strikes in the 1990s (Asbed and Hitov 2017: footnote 52), but no employers conceded to demands for collective bargaining, given no legal duty to bargain and their position as price-takers from the buyers in their supply chains. CIW’s participatory approach facilitated their power analysis of the industry and a change in tactics. They redirected collective action toward consumer-facing companies that buy from—and therefore have leverage over—their employers and enlisted student and faith-based activists to strengthen their case to and put pressure on companies to join the FFP.

With the FFP, the CIW combines its participatory practice with a supply chain strategy. Under the FFP, participating buyers sign legally binding agreements to purchase products from suppliers in good standing, cease purchasing from suspended suppliers, and pay the Fair Food Premium that suppliers pass through to workers. Good standing means compliance with employment standards developed by CIW. The specificity of the FFP standards to CIW members’ workplace issues demonstrates the importance of workers identifying problems and solutions.⁸⁶ The Fair Food Standards Council (FFSC) audits employers against the standards—which enables it to access and interview at least half the workforce—suspends non-compliant employers and manages a 24/7 worker complaint system. FFSC has maintained independence from employers by operating as a 501(c)3 non-profit organization and obtaining grants to fund its operations. The FFP has raised compensation, reduced health and safety risks, and eliminated forced labor, child labor, and gender-based violence for approximately 30,000 workers at 20 employers supplying 14 retail, fast-food, and food-service companies.⁸⁷

The CIW has also responded to the absence of protected worker voice with co-enforcement, coordination with government regulators to jointly “produce labor standards enforcement” (Amengual & Fine, 2017:129), specifically through anti-forced labor efforts at workplaces outside the FFP. Co-enforcement aims to improve labor law compliance by leveraging complementary capacities: Workers have first-hand knowledge of employment practices; worker organizations can inform workers of their rights, enable uniquely labor mechanisms such as strikes, and facilitate communication between workers and regulators based on

⁸⁵ While there is variation in popular education methodologies, common principles include participants’ recognition of each other’s knowledge, experiences, and agency, use of dialogue, and non-verbal communicative exchange as an epistemic practice to collectively perceive social, political, and economic contradictions, and prioritizing social improvement by linking theory and practice (Freire, 1970; Delp et al., 2002).

⁸⁶ An example in FFP standards is the piece-rate standard for tomato pickers, which is a full bucket; workers negotiated for the standard to be a photo of a bucket full to the top, which stopped the practice of supervisors counting only overflowing buckets, which meant workers not being paid for all tomatoes picked. The Fair Food Working Group of CIW representatives and FFP-participating farms address emergent issues with standards by consensus (Asbed & Hitov, 2017:FN103). Standards also cover wages, child labor, work time, contract modalities, safety and health, and housing (see <http://www.fairfoodstandards.org/resources/fair-food-code-of-conduct/>).

⁸⁷ See FFP participating companies <https://www.fairfoodprogram.org/partners/>

industry expertise and trust; and government regulators have unique capacities to set standards, incentivize and compel behavior, and add public legitimacy to workers' claims (Fine & Gordon, 2010; Fine, 2018).⁸⁸ In Southeastern U.S. agriculture, through its community-based, participatory approach to worker organizing, CIW has encountered modern-day slavery, then supported local, state, and federal authorities to prosecute 18 employers for enslaving workers. Their co-enforcement has freed more than one thousand workers since 1997 (Sellers & Asbed, 2011:30; CIW n.d., 2022).

Familias Unidas por la Justicia (FUJ)

The third example is the FUJ, a union formed by workers that has established collective bargaining by combining economic, political, and social forms of pressure on their employer in Washington State. Collectively, workers responded to management's firing a worker in 2013 by striking during peak harvest, marching to management's office, and over the subsequent weeks electing representatives and the name of their union, Families United for Justice. FUJ studied UFW's combination of tactics with former UFW staff and founder of Community-to-Community, Rosalinda Guillen, and met with the Landless Workers Movement (MST), to adapt their participatory, solidarity economy approaches to FUJ's context.⁸⁹ Members also incorporated democratic decision-making practices used in their heritage, indigenous communities, which informed FUJ's indexing of staff pay to members' wages to institutionalize representative union leadership. Workers voted for FUJ as their bargaining representative, union officials, a union shop,⁹⁰ and the first and subsequent iterations of their union contract. Inclusively, FUJ meetings are multilingual, enabling participation of its English-, Mixteco-, Spanish-, Triqui-speaking members. Since negotiating access to the fields, multilingual staff visit workers while on the job.

FUJ countered the lack of protections under national labor and immigration laws using multiple tactics. The union conducted intermittent strikes and organized a boycott. They blocked their employer's attempt to replace them with the H-2A program by submitting 490 statements by

⁸⁸ Studies of co-enforcement possibilities in the United States highlight high rates of labor law violations, governmental inability to prevent and remediate all instances of law violations, fissured employment relationships and high rates of violations among labor subcontractors, lack of resources for regulators, immigration law that limits international migrant workers' employment rights despite demands for their labor by U.S. employers, and use of a complaint-driven approach that is unlikely to capture violations endured by workers in precarious employment (Fine, 2013, 2018; Amengual, 2014). While increasing inspection capacity with more personnel, training, and resources and strategic enforcement (targeting resources to maximize regulatory impact) can improve enforcement, these approaches fail to leverage the unique capacities of workers and worker organizations (Amengual, 2014). Co-enforcement approaches vary across national—for example, German law establishes a labor law enforcement role of legally required works councils (Waas, 2021), and U.S. Occupational Safety and Health establishes rights of workers to authorize representatives to accompany OSH inspections (Fine, 2018)—and industry contexts (Amengual, 2014).

⁸⁹ On the Washington-based organization Community-to-Community, see <https://www.foodjustice.org/>. On the MST, see Wolford, 2010; Carter, 2015.

⁹⁰ In the United States, union (or agency) shop means workers covered by the collective bargaining agreement pay union dues or agency fees.

workers expressing their availability for work to the Department of Labor.⁹¹ FUJ also recruited allies, who provided legal services, participated in the boycotts, and advocated to local authorities to prevent immigration enforcement from halting the workers’ unionization campaign. For example, FUJ directed its boycott toward Driscoll’s after a union ally provided research showing that the corporation, which dominates berry sales and was supplied by their employer, was preparing a major advertising campaign (Fischer-Daly, 2023). With allied legal advocates, FUJ won a series of court cases that recognized the farmworkers’ concerted activity rights under Washington’s LNLA.⁹²

In 2016, FUJ became the first new trade union to win employer recognition in decades (Bacon 2016).⁹³ Since, FUJ has negotiated collective bargaining agreements covering 500 berry harvesters at Sakuma Brothers that have improved wages, job security, healthcare access, employment law compliance, and employment relations. To set wage rates, the union and management conduct daily test picks to calibrate the quantity of harvestable berries expected of an average worker and current market price signals. Building on their unionization, FUJ members have also created the Tierra y Libertad cooperative to reduce their dependence on wage employment. In their first five years, they obtained sixty acres of land through a state development grant, produced and sold sufficient fresh berries to local businesses to generate a surplus, and invested the surplus in further development, including diversifying crops.

Effective Worker Voice in U.S. Agribusiness

The UFW, CIW, and FUJ have exercised worker voice through multiple mechanisms, including strikes, boycotts, lawsuits, political advocacy, union collective bargaining, enforceable cross-supply chain agreements, co-enforcement, and a workers’ cooperative. Their strategic choices of mechanisms respond to contexts shaped by national and sub-national laws and policies as well as contemporary food supply chains. Their outcomes demonstrate the importance of each component of effective worker voice, including how the absence of protection impedes effectiveness.

Table 3: Effective worker voice in U.S. agribusiness

	Collective	Democratic	Inclusive	Empowered	Enabled	Protected	Outcomes
UFW	union	votes, workplace delegates	multi-ethnic unity; immigrant rights advocacy	strikes, boycotts, political advocacy, collective	worker training; member dues; access to worksite,	federal: NLRA, FLSA exclusions	better wages, job security, health & safety, no child, forced labor, discrimination

⁹¹For an employer to hire workers under the H-2A program, they must certify that “A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed” (8 USC § 1188(a)(1)).

⁹² See https://columbialegal.org/impact_litigations/familias-unidas-por-la-justicia-v-sakuma-brothers-farms/

⁹³ The UFW first gained recognition by an employer in 1966, and the Farm Labor Organizing Committee first gained recognition in 1986.

	Collective	Democratic	Inclusive	Empowered	Enabled	Protected	Outcomes
				bargaining agreements	financials via contract	state: ALRA	
CIW	worker center	popular education, FFSC worker interviews	multi-ethnic unity; immigrant rights advocacy	strikes, boycotts, corporate campaigns, FFP agreements, co-enforcement	worker training; grant funds; access to worksite	federal: NLRA, FLSA exclusions state: none	better wages, job security, health & safety, no child, forced labor, discrimination
FUJ	union	popular education, votes, workplace delegates, staff-member indexed earnings	multi-ethnic unity; immigrant rights advocacy	strikes, boycotts, lawsuits, collective bargaining agreements, worker-owned cooperative	worker training; member dues; access to worksite, financials via contract	federal: NLRA, FLSA exclusions state: LNLA	better wages, job security, health & safety, no child, forced labor, discrimination

As shown in Table 3, the UFW, CIW, and FUJ have improved farmworkers' livelihoods. Their strategies have varied, in response to their sub-national contexts. The UFW and FUJ organized union collective bargaining by leveraging favorable state politics and laws. In unfavorable state contexts for unionization in the Southeast, CIW organized as a worker center and shifted from demanding collective bargaining in the 1990s to creating the FFP since the 2000s. As unions, UFW and FUJ membership voting is their primary structure for internal democratic decision-making. Workers participate in the CIW and FFP through weekly meetings, peer-to-peer training, and the FFSC interviews of workers. All three demonstrate inclusiveness through cross-ethnic unity and advocacy for immigrant rights.

In terms of power sources, all three use economic leverage. Differently, the UFW's and FUJ's collective bargaining agreements (CBAs) establish signatory employers' duties to regularly bargain terms and conditions of employment. The CIW FFP agreements bind employers to pre-agreed upon employment standards and buyers to purchase from employers complying with the standards. The UFW and FUJ enforce their CBAs through strikes, strike threats, and grievance mechanisms, the last step of which is binding arbitration. The CIW enforces FFP agreements through the FFSC suspensions, suspension threats, and the FFSC-managed complaint system. Also reflecting their different contexts, the three vary in the UFW's state-level legislative advocacy, CIW's co-enforcement against widespread forced labor, and FUJ members' cooperative. Their approaches to enabling worker voice derive from their strategies. Membership dues fund the UFW and FUJ, and CBA clauses provide them access to workers on the job and company financials. Grants fund the CIW and FFSC, and the FFP agreements provide them access to workers at worksites.

Although the UFW, CIW, and FUJ have all improved terms and conditions of employment, the total number of workers covered by these and peer initiatives (37,072, including Farm Labor Organizing Committee members) is less than 2% of U.S. farmworkers. Nationally, a fifth of farmworkers receive incomes below the poverty line; most rely on public assistance and endure high rates of occupational injuries and illnesses with little access to healthcare (JBS, 2022). Eighty percent of women farmworkers have experienced sexual abuse at work (Human Rights Watch, 2012; Morales Waugh, 2010; Oxfam, 2015). While farmworkers will continue to assert voice and make improvements, scaling up their initiatives is impeded by the legal and economic context.

Strengthening worker voice in U.S. agriculture requires increasing government protection. There are three big opportunities. First, extending federal protection of farmworkers' collective bargaining rights, in alignment with ILO conventions, would set a national standard, reducing wage-based competition across states, avoiding regulatory complexity for national employers, and potentially avoiding partial protection, such as the denial of strike rights under New York State's FLFLPA. Second, eliminating the risk of deportation as an outcome of exercising voice and enabling immigrant and H-2A workers to seek a job with any employer would strengthen the effectiveness of all U.S. farmworker voice. Third, enforcing anti-trust law against monopolistic practices would alleviate pressure on farmworker wages by reducing the power of lead firms to set prices with suppliers in contemporary food supply chains.

Case Study 5:

Migrant Worker Voice Through Transnational Labor Rights Corridors

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An estimated 169 million workers, nearly 5% of all workers worldwide, are international migrants (ILO, 2021b), defined internationally as “a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a national.”⁹⁴ International migration is driven by economic development, conflict, and climate change and influenced by individual cost-benefit and household risk mitigation analyses, social capital networks, economic supply and demand, and social changes from migration itself (Massey, 1999). International migrant workers endure extraordinarily low wages, high rates of occupational injury, lack of social protections, and high risks of labor rights violations—conditions that result from laws and regulations and impede effective worker voice (ILO, 2017).

The United States and Canada together account for one in five international migrant workers (ILO, 2021b). Since the 2000s, the population of unauthorized international migrant workers in the United States has remained approximately 11 million (CRS, 2022), while temporary work visa programs have expanded, and tripled for agricultural work (Costa, 2022). While Mexican nationals account for the largest share of both groups, their share has been decreasing as migration from Central America and Asia has been increasing (Lopez et al., 2021; Martin, 2022). Both groups of migrant workers endure widespread abuses enabled by laws and policies, including illegal fees to recruiters, bonded and forced labor, discrimination, retaliation based on threats of deportation, wage theft, and lack of access to redress (Bauer & Stewart, 2013; Garrison et al., 2015; GAO, 2017; Costa, 2022).

International migrant workers have organized transnational labor rights corridors (TLRCs) to exercise their rights. Transnational labor rights corridors can be defined as networks of migrant worker centers and allied advocacy organizations that provide access to legal and other services, advocate for government protections of migrant workers’ rights, and support organizing trade unions and collective bargaining. An emergent mechanism, the TLRCs build on decades of migrant worker initiatives, including the creation of worker centers and advocacy at international, national, and local levels. This case study provides an overview of the context, the creation of TLRCs as a worker voice mechanism in response to the context, and the lessons emerging from TLRCs on effective worker voice.

The Context for People Migrating to Work in the United States

People born outside the United States account for 18% of the country’s labor force and work at higher rates than the U.S.-born population (BLS, 2023). Unauthorized international migrants work primarily in agriculture, construction, hospitality, services, and manufacturing (Passel & Cohn, 2018). Two important temporary work visa programs are the H-2A for agricultural work

⁹⁴ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Article 2.

and the H-2B for non-agricultural work. Both groups, unauthorized and temporary visa workers, face obstacles to exercising voice when seeking, during, and after employment in the country.

Political, economic, and social disruptions have contributed to increasing migration from Central America to the United States. Civil wars ravaged communities for 36 years in Guatemala and 12 years in El Salvador, where deportations of thousands of gang members then spurred another, ongoing pattern of violence (REMHI, 1999; USAID, 2006; Musalo, 2021). In Honduras, a *coup d'état* in 2009 was followed by one president charged, the next indicted by the U.S. Department of Justice for drug trafficking (Reuters, 2021; USDOJ, 2022). All three countries have among the highest homicide and poverty rates worldwide (CRS, 2019). While violence has limited economic opportunities, policies of privatization, economic liberalization, and austerity tied to international debts have contributed to high levels of inequality (Forster et al., 2019). Furthermore, eco-systemic disasters are increasingly a driver of migration, especially in Guatemala and Honduras.⁹⁵

International migrant workers access employment in the United States through recruitment, for those in temporary visa programs, and through social networks, for those unauthorized. Although unauthorized migrant workers account for large shares of workforces in sectors such as agriculture and domestic work, to access the jobs, increased federal spending on deterrence has directed migrants to legally dangerous routes and increased apprehensions near and far from the border (Rodriguez, Calderón & Días, 2021; Zundl & Rodgers, 2021; JBS, 2022).⁹⁶ Increased deterrence has increased the unauthorized population by reducing circular migration (Massey et al., 2016); therefore, most have lived in the country for more than a decade (CRS, 2022). Most migrants working with temporary visas report paying fees to recruiters that are prohibited by the programs and reduce migrants' ability to refuse work despite poor terms and conditions (National Guestworker Alliance, 2012; Ancheita & Bonnici, 2013; Bauer & Stewart, 2013; ILRWG, 2013; CDM, 2018, 2020; Montes de Oca, 2021; Polaris, 2022). Recent data indicated that a worker paid the average wage on an H-2B visa would need to work 34 days to pay the average debt from recruitment fees (Polaris, 2022), creating conditions of debt bondage (Costa, 2022).

During employment, immigration status is used to suppress worker voice. Undocumented migrant workers face the dual threat of deportation and replacement by workers hired through the temporary work visa programs (Nevins, 2012; Ford, 2019; Fischer-Daly, 2023). Although unauthorized workers are in principle covered by labor laws, in practice employers tend to pay below minimum wage, engage in wage theft,⁹⁷ and retaliate against the exercise of worker

⁹⁵ The Internal Displacement Monitoring Centre reports displacement by violence and eco-systemic disaster, 2008–2022: 1.9 million and 124,000 in El Salvador, 8,900 and 811,000 in Guatemala, and 18,000 and 1.1 million in Honduras (<https://www.internal-displacement.org/>).

⁹⁶ U.S. Customs and Border Protection claims authority to apprehend unauthorized migrants without a warrant anywhere within 100 miles of national borders, an area that includes two-thirds of the U.S. population (American Civil Liberties Union, 2023. <https://www.aclu.org/know-your-rights/border-zone>)

⁹⁷ Wage theft may be best defined as “an employer’s failure to pay a worker the wages they are entitled under law or an employment contract, in full and on time” (Migrant Justice Initiative, 2023).

voice (Bernhardt et al., 2009; Bobo, 2009). Wage theft is widespread for unauthorized and temporary visa workers (Sarathy & Casanova, 2008). An estimated USD \$81.5 million is owed each year just to H-2B workers (Costa, 2022). Discrimination in hiring, especially based on nationality, gender, age, and ethnicity is common, in part due to recruitment occurring outside the United States and the legal precedent of “non-extraterritorial application of U.S. anti-discrimination statutes” (Compa, 2017:223; Costa, 2022; Lee & Micah-Jones, 2022).⁹⁸ Discriminatory practices are also documented for unauthorized workers (Holmes, 2013). Unauthorized workers earn an estimated 13% less than legal permanent residents (Donato & Massey, 1993; Kossoudki & Cobb-Clark, 2002; Phillips & Massey, 1999), and workers with temporary visas earn similarly lower wages (Apgar, 2015), reflecting inadequacies in the programs’ prevailing wage rules and enforcement (Costa, 2022).

International migrant workers lack access to redress, including in the United States (Farbenblum & Berg, 2021). They frequently lack access to information and legal assistance to file complaints and confront barriers to pursuing claims due to the high costs and inability to stay in the country (Ibid; Polaris, 2022). Regarding recruitment abuses, companies in the supply chains in which international migrants work benefit from their labor and are rarely held responsible for legal violations by the labor recruiter or contractor supplying their workers (Farbenblum & Berg, 2021). Concerning workplace abuses, the U.S. Congress prohibited publicly funded lawyers from representing unauthorized and H-2B visa workers (Guerra, 2004).⁹⁹ The U.S. Supreme Court denied unauthorized workers access to backpay in cases of labor law violations.¹⁰⁰ Employers have prevented access by legal advocates to workplaces of international migrant workers (Compa, 2000). Workers in visa programs underreport abuses due to “fear of being fired, sent home, or other retaliation against themselves or their families” (GAO, 2017). Upon losing a job, they “must leave the country quickly or face deportation” because their right to be in the country is tied to employment exclusively with the employer that sponsored their visa (Sukthankar, 2012:8). In a recent survey of workers in temporary visa programs, most reported threats to call on immigration enforcement, and many reported additional coercions, including withholding their documents and threats to blacklist them (Polaris, 2022).

⁹⁸ In *Reyes-Gaona v. NCGA*, 250 F.3d 861 (4th Cir. 2001), the 4th Circuit Court held that the Age Discrimination in Employment Act of 1967 does not cover foreign nationals in recruitment processes for jobs in the United States. The *Centro de los Derechos del Migrante* (CDM) argues that the federal government has failed to apply anti-discrimination laws to the temporary work visa programs by devolving power to employers and under-enforcing the laws, even though there is no legal presumption of non-extraterritorial application of non-discrimination laws when the “conduct being regulated occurs in the United States” and the recruitment discrimination abroad may create demographically-profiled labor markets for certain industries (Lee and Micah-Jones, 2022). The Equal Employment Opportunity Commission has proposed guidance that federal anti-discrimination laws cover foreign workers applying to jobs in the United States (EEOC-CVG-2016-2).

⁹⁹ On the exclusion of unauthorized immigrant and H-2B visa workers, see § 504(a); U.S. Congress subsequently permitted H-2B workers only in forestry access to the Legal Services Corp (see Legal Servs. Corp., *Temporary Forestry Workers Now Eligible for LSC Funded Services* (Jan. 10, 2008), available at http://www.lsc.gov/press/updates_2008_detail_T220_R0.php.

¹⁰⁰ *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board*, 535 U.S. 137 (2002).

Transnational Labor Rights Corridors

“Rights of workers to migrate, rights of governments to document,” is how an international migrant worker described the goal of transnational labor rights corridors (author interview, 2023). TLRCs emerged as a worker voice mechanism that builds on decades of innovative international migrant labor strategies, including worker center networks, legal and policy advocacy, and combining these approaches with union collective bargaining. They are informed by “transnational labor citizenship,” an alternative immigration policy framework under which a government would permit international migrant workers to enter, stay, work, and change employers in their jurisdiction on the conditions that the international migrant workers a) join networked workers’ organizations representing workers’ interests in the origin, transit, and destination countries and b) refuse and report employers offering terms below legal standards (Gordon, 2007). The multipronged TLRC strategy incorporates approaches to strengthening international migrant worker voice developed primarily by international migrant workers over decades.

During the last 40 years, international migrant workers laid the foundations for TLRCs by leading U.S. trade unions to support migrant worker rights, creating worker centers to represent their interests, and advocating for protections of their worker voice (Milkman, 2011). One TLRC building block is worker centers, which facilitate access to services (legal, language learning, rights education, healthcare, financial), support workers to organize in their communities and at workplaces—including through leadership training, and advocate for rights protections through research, public reporting, strategic lawsuits, and policy proposals (Fine, 2005). Worker centers have likely had the most impact on working conditions at individual worksites and local-level policies, although some have also created national networks, and the largest have supported unionization—combining advocacy, mutual aid, and collective bargaining reminiscent of prior effective social movements (Fine, 2005; Fine et al., 2018). Worker centers often operate as coalitions of workers and allies, especially human rights lawyers. Scholars also note that their funding reliance on grants makes for unpredictable funding and means not raising membership dues—a process that can strengthen workers’ ability to act as a collective and bargaining power (Fine, 2005; Kochan et al., 2022).

The National Day Laborer Organizing Network (NDLON) exemplifies the development of the worker center strategy into TLRCs.¹⁰¹ International migrant day laborers began collectively learning their rights and organizing to protect them during soccer matches and other community gatherings in multiple U.S. cities in the 1980s. Over the next decade, they created multiple worker centers, collectively pressured employers to pay unpaid wages, and successfully litigated against ordinances prohibiting public solicitation of employment as violations of the U.S. constitution. Worker centers in different cities began exchanges, leading to national coordination among them and shared tools (e.g., a wage claim booklet). In 2001,

¹⁰¹ See <https://ndlon.org/about-us/our-history/> and Meyerson, Harold. (2021) “Helping the Powerless Build Power: Pablo Alvarado: An oral history.” *The American Prospect*, August 31, 2021. <https://prospect.org/labor/the-alt-labor-chronicles-america-s-worker-centers/helping-the-powerless-build-power-pablo-alvarado/> (accessed October 28, 2023).

twelve worker centers united to found NDLO as a worker center network to protect labor and civil rights, create more worker centers, facilitate leadership training and organizing of day laborers, and advocate for legalizing unauthorized workers. NDLO registered as a non-profit 501(c)3 organization, developed a mutually supportive coordinating strategy with the Laborers' International Union of North America, the largest U.S. construction workers union, and established formal coordination with the AFL-CIO in 2006. Indicating the centrality of cultural expression, from NDLO's work emerged the music band *Los Jornaleros del Norte* (Day Laborers of the North), and in 2006, NDLO honored an indigenous tradition of spiritual journeys for unity with the Run for Peace and Dignity from California to New York to raise awareness of the issues and engage day laborers across the country. As the public policy scholar Nik Theodore observes (2015, 2020, 2023), NDLO enables day laborers to collectively establish and enforce employment standards in labor markets where government regulators are not reaching. NDLO, now with 70 worker center members, expanded this work by helping to create TLRCs.

A second building block of TLRCs is transnational expansion of worker-center networking. Through interactions with U.S. immigration law, international migrant workers created worker centers in their countries of origin with solidaristic ties to U.S.-based worker centers. When immigration authorities deported members of NDLO, they formed the Center for Migrant Integration (*Centro de Integración para Migrantes*, CIMITRA) in El Salvador. NDLO provided fiscal sponsorship, and, signaling interest in strategic expansion to include union collective bargaining, Salvadoran union leaders support CIMITRA as members of its governing board. Demonstrating the policy advocacy dimension of networked worker centers, NDLO and CIMITRA united with peer organizations to form the Temporary Protected Status (TPS) Alliance, which has successfully advocated for the extension of TPS to multiple countries, including El Salvador, Haiti, Honduras, Nicaragua, and Nepal.¹⁰²

A third building block of TLRCs is the coalition work of international migrant workers, their worker centers, trade unions, and allied legal advocacy organizations. These coalitions developed multilevel strategies to advance "portable rights," meaning the workers' exercise of rights prior to migrating, during employment, and when returning to their countries of origin (Bada & Gleeson, 2020). Legal advocates expanded representation of international migrant workers to recuperate unpaid wages. For example, the legal advocacy organization Justice in Motion led the formation of the Defenders Network of 40 peer organizations in El Salvador, Honduras, Guatemala, Mexico, Nicaragua, and the United States.¹⁰³ As worker centers had been finding, litigating individual cases could be endless, leading to increasing collaboration between workers and allies focused on collective labor rights (Fine, 2005).

¹⁰² TPS is a U.S. government program that permits migrants from home countries considered unsafe the rights to live and work in the United States for a fixed and extendable period of time (see <https://www.uscis.gov/humanitarian/temporary-protected-status>). On the TPS Alliance, see <https://www.nationaltpsalliance.org/>

¹⁰³ Justice in Motion was previously named Global Workers Justice Alliance.

Iteratively, coalitions developed mutually reinforcing organizing and advocacy strategies. An example is the struggle for labor rights of international migrant farmworkers in North Carolina. In the 2000s, the U.S.-based legal advocacy organization Farmworker Justice Fund and the Mexico-based Independent Agricultural Worker and Peasant Organization (*Central Independiente de Obreros Agrícolas y Campesinos*, CIOAC) filed a complaint under the North American Agreement on Labor Cooperation seeking remediation of employer interference in H-2A workers' efforts to organize with the union Farm Labor Organizing Committee (FLOC) in North Carolina.¹⁰⁴ While the U.S. Government did not respond, FLOC made use of the pressure on the industry by leading a boycott that brought the North Carolina Growers Association to negotiate a collective bargaining agreement covering 7,000 H-2A workers.¹⁰⁵ Assuming responsibility for representing H-2A workers, FLOC opened offices in workers' home communities in Mexico, where the union's work continues, focusing on leadership training during the offseason.¹⁰⁶

With worker centers, legal and policy advocacy, and coalition strategies as building blocks, TLRCs emerged to strengthen international migrant worker voice through transnational network organization. Two TLRCs focus on the Central America-Mexico-United States-Canada migration corridor and exemplify the multipronged, transnational strategy.

One example is the Network of Corridors for Justice in Labor Migration (*La Red de Corredores por la Justicia en Migración Laboral*, RCJML). The RCJML includes 17 organizations based in eight countries (see Table 4). It aims to “highlight and transform the systematic rights violations and criminalization of migrant workers in places of origin, transit, and destination” and to advocate for justice and the wellbeing of migrants and their families throughout the American continent.¹⁰⁷

Table 4: Members of *La Red de Corredores por la Justicia en Migración Laboral*, RCJML

Organization	Country
Visión ML	Canada
Sanctuary Health Vancouver	Canada
Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec (RATTMAQ, Support Network for Agricultural Workers of Quebec)	Canada
Movimiento de Acción Migrante (MAM, Migrant Action Movement)	Chile
Asamblea Abierta de Migrantes y Pro-Migrantes de Tarapacá (AMPRO Tarapacá, Open Assembly of Migrants and Pro-Migrants of Tarapacá)	Chile
Centro de Derechos Laborales Sin Fronteras (CDL, Center for Labor Rights Without Borders)	Costa Rica
IRCA Casa Abierta	Costa Rica

¹⁰⁴ See https://www.dol.gov/sites/dolgov/files/ILAB/submissions/mx_2003-01_carolina_submission.pdf

¹⁰⁵ See <https://floc.com/cross-border-organizing/>

¹⁰⁶ <https://floc.com/cross-border-organizing/mexico-organizing/>

¹⁰⁷ See <https://ndlon.org/comunicado-desde-la-red-de-corredores-por-la-justicia-en-la-migracion-laboral/> and <https://ndlon.org/wp-content/uploads/2023/07/NEWSLETTER-III.pdf>

Organization	Country
Centro de Integración para Migrantes (CIMITRA, Migrant Integration Center)	El Salvador
Grupo de Monitoreo Independiente de El Salvador (GMIES, Independent Monitoring Group of El Salvador)	El Salvador
Asociación Civil Guatemaltecos Por Nuestros Derechos (AGUND, Association of Guatemalans United for Our Rights)	Guatemala
Asociación de Retornados Guatemaltecos (ARG, Association of Returned Guatemalans)	Guatemala
Comisión de Acción Social Menonita (CASM, Mennonite Social Action Commission)	Honduras
Coalición de Trabajadoras y Trabajadores Migrantes Temporales Sinaloenses (CTTMTS, Coalition of Temporary Migrant Workers of Sinaloa)	Mexico
Proyecto Derechos Económicos, Sociales, y Culturales (ProDESC, Economic, Social, and Cultural Rights Project)	Mexico
Red Nacional de Jornaleros Agrícolas (RNJA, National Agricultural Day Laborers Network)	Mexico
Global Labor Justice, International Labor Rights Forum (GLJ-ILRF)	USA
National Day Laborers Organizing Network (NDLON)	USA

RCJML members are worker centers and advocacy organizations, the majority established in the last two decades, that extend the entire Western Hemisphere. Each provides migrant workers access to essential services, including legal representation; educates migrant workers on the immigration and labor laws, regulations, and procedures of their countries of origin, transit, and destination; and advocates for protections of international migrant workers' rights. They also provide training on leadership, skills for peasant agriculture, and small-business development. Combining culture and livelihood resilience, several have formed *Radio Jornalera* (day laborer) stations in multiple countries and provide training and support for artisanal textile production. Several coordinate with trade unions. For example, in addition to NDLON's work with LIUNA, AGUND arranged legal support from the United Food and Commercial Workers, and CDL partners with *Sindicato de Trabajadores de la Industria de la Caña* (Sugarcane Industry Workers' Union) to support migrant workers in exercising their rights at work in Costa Rica's sugarcane industry. Additionally, several network members support migrant workers' reintegration in their countries of origin by providing mental and physical healthcare, legal advising, job placement, and small-business classes (e.g., accounting, financing, and marketing).

As a network, RCJML strengthens each member's work and overall impacts through transnational activities. At regular RCJML summits, members combine their expertise to develop transnational strategies.¹⁰⁸ The network bases advocacy on internationally recognized rights of migrants and workers and implements programs to disseminate international

¹⁰⁸ For example, see https://www.facebook.com/watch/live/?ref=watch_permalink&v=282628936488268

standards in collaboration with the United Nations International Organization for Migration.¹⁰⁹ The network issues news bulletins and statements publicizing their collective perspective as international migrant workers. To facilitate the enabling component of worker voice, it also provides training to member organizations, in particular on advocacy and public communications. The network has successfully advocated for policy changes. For example, its advocacy against workplace immigration enforcement raids contributed to the U.S. Department of Homeland Security issuing an instruction to stop the raids, describing them as “resource-intensive operations” “used as a tool by exploitative employers to suppress and retaliate against workers’ assertion of labor laws” (Chappell, 2021).

The second example of the TLRC strategy is the *Corredor de Justicia Laboral Transnacional* (CJLT, Transnational Labor Justice Corridor), an initiative of *Proyecto de Derechos Económicos, Sociales, y Culturales* (ProDESC, Economic, Social, and Cultural Rights Project), based in Mexico. The CJLT aims to facilitate workers’ collective action as they migrate between Mexico and the United States. It builds on ProDESC’s legal and policy advocacy against labor recruitment fraud under the H-2 programs, in which ProDESC highlights how this fraud benefits the lead firms of global supply chains by lowering production costs. ProDESC’s advocacy has contributed to policy changes, including the 2022 rule change to the H-2A program (USDOL, 2022), clarifying joint employer status of recruiters and companies that benefit from recruited workers’ labor, and a 2023 program by the Mexican and U.S. governments to return USD \$6.5 million in wages owed to 13,000 Mexican H-2A workers (Lee, 2023). With the CJLT, ProDESC integrates networked worker centers and trade union organizing into its strategy. The CJLT has supported migrant workers to create worker centers at two locations with high migration flows, the *Coalición de Trabajadoras y Trabajadores Migrantes Temporales Sinaloenses* (Coalition of Migrant Temporary Workers of Sinaloa) and the *Centro de Acompañamiento y Organización a Personas Trabajadoras* (Center for Accompaniment and Organizing Working People) in Ciudad Juárez. The centers support workers to organize unions, collectively bargain with employers, and advocate toward the Mexican and U.S. governments.

Toward Effective Worker Voice for International Migrant Workers

Transnational Labor Rights Corridors (TLRCs) respond to particular impediments to effective exercise of worker voice faced by international migrant workers. With few livelihood opportunities in home and destination countries, risk of retaliatory use of immigration law, and social ties weakened by displacement, international migrant workers have limited ability to refuse poor terms and conditions of work. Their access to redress is impeded by limited extraterritorial application of laws, low levels of labor law enforcement, and barriers to legal representation—impediments difficult to change without the political influence derived from voting rights. TLRCs offer a potent response by deliberately establishing key components of effective worker voice, summarized in Table 5.

Table 5: Effective worker voice components and Transnational Labor Rights Corridors (TLRCs)

¹⁰⁹ For example, see <https://ndlon.org/wp-content/uploads/2023/10/Acuerdo-de-Organizaciones-de-Sociedad-Civil-3.0.pdf>

Collective	Inclusive	Democratic	Enabled	Un- Empowered	Un- Protected
Organizational representation in countries of origin, transit, destination	Worker-advocate alliance; attention to diverse migrants	Worker-created & governed affiliates; participatory decision-making	Providing training & legal representation; potentially more sustainable funding as a network	In destinations, low economic power due to labor market restrictions & retaliatory use of immigration law, & low political power as non-voters	Non-extraterritorial application labor law, low labor law enforcement, barriers to redress

TLRCs strengthen international migrant worker voice by establishing four components. The TLRC network structure supplants individual vulnerability with collective organization. Instead of migrating individually, workers gain collective representation throughout migration between countries of origin, transit, and destination. The TLRCs demonstrate inclusivity through a cross-class alliance of workers and advocates and the practice of welcoming migrant workers of diverse characteristics, including nationalities, ethnicities, and genders. Democratically, TLRCs primarily comprise organizations created and governed by international migrant workers and have incorporated their participatory decision-making practices. They enable worker voice by providing training and access to legal representation for migrant workers. TLRC participating organizations are limited in their capacity to require membership dues by the economic vulnerability of worker members; therefore, the organizations primarily rely on grants. The TLRC network formation may facilitate access to and capacity for implementing larger grants.

Despite TLRCs’ potential, empowering and protecting international migrant worker voice remain key challenges. After departing their home countries for better livelihood opportunities, international migrant workers’ economic power in destination countries is limited due to restricted labor market participation—to one employer for temporary visa workers and to employers willing to illegally employ them for unauthorized workers—and an employer’s ability to use immigration status to retaliate against worker voice. Their low political power as non-voters in their destination countries increases the challenge of improving labor law protection and redressing abuses.

Toward effective voice for international migrant workers, this case study on TLRCs identifies several implications for policy and practice.

1. Establishing a prompt process for international migrant workers to obtain permission to work with full rights under national labor laws would reduce vulnerability to exploitation

by employers based on immigration status (Costa, 2022). The process could build on and strengthen TLRCs by tying permission to membership in TLRC organizations.

2. Enabling all workers to choose and change employers would support exercise of worker voice (Costa, 2022; Polaris, 2022).
3. Increasing labor law enforcement vis-à-vis employers and recruiters, including by increasing resources allocated to the U.S. Department of Labor, would reduce retaliation against workers' asserting voice (Costa, 2022; Polaris, 2022).
4. Protecting workers engaged in labor disputes and witnesses to disputes from immigration enforcement and facilitating participation in dispute resolution processes from any location would increase access to redressing rights violations (Farbenblum & Berg, 2021; Polaris, 2022).
5. Creating and administering public registries of workers, recruiters, and employers involved in temporary work programs would support the participation of all parties in labor disputes (Costa, 2022; Polaris, 2022).

Case Study 6

Worker Voice in Authoritarian Regimes: Myanmar

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Introduction

Workers voice is a powerful tool that can cross borders and engage international actors and allies. In the case of authoritarian regimes, workers and their trade unions are curtailed from expressing their demands at the workplace, sector, and national government levels. Still, even in the most repressive conditions, workers and their unions can come together, often with other allied groups, to lend their voice and their power to the struggle for labor rights and democracy within their country. This is increasingly evident in Myanmar, where workers and their unions demonstrate, firsthand and on a daily basis, how strong and independent unions can play an effective role in the context of volatile transitional political environments and authoritarian regimes.

On February 1, 2021, the Myanmar military seized power in a coup, detained key political figures, shut down the operations of an elected parliament, enacted a state of emergency, and became the sole authority for the executive, legislative, and judiciary branches, abolishing the democratic governance and the system of checks and balances. Myanmar's resistance movement, known as the Spring Revolution, emerged in response. Workers from various sectors and industries went on a mass strike, known as the Civil Disobedience Movement (CDM), that was mobilized by unions united in their public protests for a return to democracy. Initially, the CDM was a widespread work stoppage in which public sector employees—including those in the civil service, health, education, banking, railway, oil and gas, engineering, legal, and security sectors—refused to work for the junta. Over time, the CDM evolved to include various forms of resistance, such as private businesses withholding tax payments, boycotts, citizens making noise by banging pots and pans at night, honking horns in the broad daylight, and “silent strikes,” in which people stay indoors and businesses close (*Progressive Voice*, 2023). In the private sector, Ms. Moe Sandar Myint, president of the Federation of General Workers Myanmar (FGWM) and union representatives organized workers and arranged logistics and buses to march on the Yangon streets on February 6, 2021 (author interview, June 7, 2023). As such, the first response to the coup was a powerful, collective mobilization of workers' voice by workers, their organizations, and their allies across civil society in Myanmar and internationally.

On February 26, 2021, the regime declared 16 trade unions and labor civil society organizations to be illegal. In April, the entire social movement came together to form the National Unity Government (NUG), a *de jure* civilian exile government, and the National Unity Consultative Council (NUCC), a political coalition of pro-democracy forces. The Myanmar Labor Alliance (MLA), an initial coalition of 18 labor organizations, became a part of NUCC. At different times during the movement, union leaders and labor rights activists had to go into hiding as the regime escalated its crackdown on dissent, issued arrest warrants, declared passports null, and revoked citizenship. The majority of the leaders have been displaced to regions along the

country's borders. Some have been forced outside of the country and continue to participate in the movement in exile, exercising worker voice through trade unions' internationalism and the national coalition.

This case study on labor, democratization, and response to the authoritarian regime in Myanmar examines three examples of workers' voice. First, the Myanmar Labour Alliance is examined, including its efforts to represent worker voice at the national level and contributions to the struggle for democracy in its campaign for Comprehensive Economic Sanctions (CES) through international organizations and fora. Second, the role of unions and worker voice through international labor solidarity and the ILO's Commission of Inquiry is examined, followed by the Action, Collaboration, Transformation (ACT) Freedom of Association Guideline, its fast-track Dispute Resolution Mechanism (fast-track DRM), and its Framework for Workers' Safety and Terminations. In the final section, the challenges to worker voice in the context of the authoritarian regime in Myanmar are analyzed.

The regime's crackdown on trade unions in Myanmar made it almost impossible to access workers, union members, and leaders. Despite this challenge, the research methodology comprised a focus group discussion with labor practitioners and unionists from global and local unions, supported by a team of labor experts and researchers. This was complemented by seven in-depth interviews conducted throughout the spring and summer of 2023.

National Solidarity and the Myanmar Labor Alliance

Myanmar's decade of democratization and fragile democracy (2010–2020) allowed for the formation of unions with legal rights enabled by the 2011 Labor Organization Law. Institutional power gradually increased over time, as workers could legally form unions and participate in collective bargaining, dispute settlements, and national-level labor law reforms. There were 2,861 registered unions by mid-2020 (Boudreau, Macchiavello, Minni, & Tanaka, 2021).

The national effort to build worker power through greater coordination and partnership within the Myanmar labor movement—the Myanmar Labor Alliance (MLA)—was, in fact, not a post-coup initiative. Discussions for the MLA started in 2019, prior to the COVID-19 pandemic and the coup, to build a coalition between the established unions and labor civil society organizations to form a united front on economic and political concerns that affect workers and provide a coordinating role among the expanding number of independent unions (Myanmar Labor News; author interview, March 23, 2023). Alliance activities before the coup, to name a few, included the push for the resumption of the minimum wage-setting mechanism in early 2020, the campaign for policies and regulations to protect workers' health and safety in response to the pandemic, and the endorsement of workers' candidates contesting for the general election in November 2020.

As a member of NUCC, the MLA engages with a range of actors crucial for a shared vision of Myanmar's democratic future as divergent stakeholders struggle to overcome historical grievances (Chan & Ford, 2021). Union leaders and workers' representatives play a vital role in NUCC, rooted in organizing and with dialogue skills accumulated through years of training and

experience in collective bargaining and tripartite social dialogue on labor law reforms. The NUCC convened the First People’s Assembly on January 27–29, 2022, which Union Leader U Maung Maung facilitated on behalf of the Myanmar Labor Alliance for the success of a multiethnic and multi-interest assembly. The Assembly ratified the Federal Democratic Charter, a precursor for a new constitution to replace the military-drafted 2008 constitution. The Charter comprehensively addresses labor rights in Articles 50 and 51, providing the vision for upholding workers’ rights and interests in participants’ shared vision of a “federal democratic society.”

In August 2021, 16 members of the Myanmar Labor Alliance called for Comprehensive Economic Sanctions (CES) and pressured businesses and the international community to divest from Myanmar (ILO, 2022c), because workers’ rights could not be protected nor due diligence effectively carried out under the military regime (BHRRC, 2023). In terms of national solidarity, the MLA continued its efforts to express worker voice on a global scale. The result of global labor solidarity is reflected in the IndustriALL Global Union’s Third Congress in September 2021, which achieved a [Resolution in support of Democracy in Myanmar](#) with the participation of 434 unions from 111 countries. The resolution called for multinationals doing business in Myanmar to take immediate action to cease their operations, divest, stop placing new orders, and halt business relations in Myanmar (IndustriAll, 2021).

International Solidarity and the ILO Commission of Inquiry

Myanmar has been a member of the ILO since its independence from the British Empire in 1948 and has ratified several Conventions throughout various military regimes. Myanmar’s modern trade unionism and workers’ struggle for democracy and freedom of association, including worker voice in the workplace and society, are historically grounded in transnational and global internationalism. Under various military regimes, trade unions were suppressed, and during the 1974 protests and the 1988 uprising, workers largely participated in anti-government protests and strikes. Notably, these movements lacked centralized leadership and were primarily led by strike committees comprising workers, farmers, and students (Henry, 2015). The brutal military crackdown in September 1988 prompted many activists to flee the country and seek refuge on the Thai-Myanmar border. Many of them came together and formed the Federation of Trade Unions of Burma (FTUB) in 1991 to seek international support, exert pressure on the military regime in Myanmar, and advocate for workers and their rights within the country via International Labour Organization (ILO) mechanisms (Henry, 2015). The unique tripartite structure of the ILO, through its Governing Body (GB) and the International Labour Conference (ILC), gives voice to workers, employers, and governments, and the decisions made reflect the perspectives and interests of all parties involved.

<p>The ILO’s regular supervisory procedures include its tripartite working group: the Governing Body (GB) that meets three times a year; the Committee of Experts on the Application of Conventions and Recommendations (CEACR) that examines governments’ reports on the measures they take to implement ratified Conventions; and the Committee on the Application of Standards (CAS) that reviews CEACR reports for discussion and adoption at the</p>

International Labour Conference (ILC) held annually with participation by 185 member states and worker and employer representatives from each.

ILO special procedures enable constituents to raise with the ILO alleged shortcomings by States that have failed to observe ratified international labor standards or realize the fundamental principles of the ILO. The ILO constitution mandates the key special procedures that include:

- Article 24: Employers or workers' organizations make a complaint to the Office regarding the Member State's non-observance of a ratified Convention.
- Article 26: When a complaint is filed, the Governing Body considers appropriate action to secure the observance of the ratified Convention and may at any time decide, also of its own motion, to establish a Commission of Inquiry (CoI) to consider the complaint and to report on it.
- Article 29: Within three months of the report published by CoI, the government concerned is to inform whether or not it accepts the recommendations contained in the report of the CoI, and if not, whether it proposes to refer the complaint to the International Court of Justice (ICJ).
- Article 33: When a government fails to carry out the recommendations of a CoI or the decision of the ICJ, the Governing Body may recommend to the International Labour Conference any action it deems wise and expedient to secure compliance.

In 1991, FTUB established connections with the International Confederation of Free Trade Unions (ICFTU) and filed complaints with the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) alleging the military breach of the ratified Forced Labor Convention, 1930 (No. 29). Subsequently, in 1993, FTUB presented detailed allegations under Article 24 of the ILO Constitution. Following the failure of the Myanmar military government to respond, and based on the dedicated reporting of FTUB and ICFTU, together with other human rights organizations such as the Karen Human Rights Organization, Chin Human Rights Organization, Amnesty International, and Human Rights Watch, the workers called on the ILO to establish a Commission of Inquiry (CoI) in accordance with Article 26 of the ILO Constitution, the highest level of investigative procedure established to address persistent and serious violations of ratified Conventions by a member state (author interview, September 5, 2023). The Commission of Inquiry released its report in 1998. Then, at the 2000 International Labor Conference, a historic vote took place to invoke Article 33 of the ILO Constitution for the first time, with the ILC adoption of a resolution that provided for appropriate measures against Myanmar for failing to carry out the recommendations of the CoI (ILO, n.d.; 2000). The workers' group took up the decision by the ILC to further advocate for economic sanctions against the regime.

The Myanmar Trade Unions' use of the ILO mechanism in the wake of the 2021 coup has largely followed the same approach, with allegations expanding to include violations of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), in addition to

the Forced Labor Convention, 1930 (No.29). In just one month after the coup, the ILO Governing Body first discussed Myanmar's situation in its regular March 2021 session, with the Office reporting on the developments and the junta's serious violations of workers' and human rights. Also in March, the ITUC and Education International (EI) submitted a complaint under Article 24 representing the workers and signifying the exigencies of the situation in Myanmar. When the International Labour Conference was held in June 2021, a resolution on Myanmar was adopted. Then, the Governing Body followed up on the Myanmar situation in its June and November regular sessions. By March 2022, the Governing Body invoked its rights to set up the ILO Commission of Inquiry on Myanmar.

These milestones were achieved within 2 years of the coup; it took almost 10 years to reach the same result from 1991 to 2000. The duration of these procedures depends on the timing of their start, the periodicity of the ILO regular supervisory systems, the severity of the violations including prior Col implementations, and cooperation between the complainant organization and the government concerned. The national and global unions' dedicated reporting and advocacy and the information on violations made available to the ILO more quickly than for the previous Col, aided by technology, contributed to achieving such actions in a shortened period. The ILO's 2nd Commission of Inquiry on Myanmar released its report "[Towards Freedom and Dignity in Myanmar](#)" in October 2023. The regime must respond to the ILO Office within three months (by December 2023) indicating whether it accepts the recommendations contained in the report, and if not, whether it proposes to refer the complaint to the International Court of Justice. The Col finds far-reaching violations of Convention Nos. 29 and 87 and urges the military to take "immediate action, so as to stop egregious violations of the two Conventions and prevent further abuses" (ILO, 2023c).

The Myanmar unions' push to use their voice to call for sanctions and their confidence in their effectiveness stems from their past success in having sanctions imposed, effectively respected, and, when appropriate, getting them lifted. Looking back at the sanctions imposed on Myanmar in 2000, the ILO eased some restrictions in 2012 (ILO, 2012), and in 2013, the CAS voted to remove all ILO sanctions on Myanmar. This decision came after a decade of Myanmar's isolation by the ILO's recommendation for Member States to limit their relations with Myanmar. The lifting of sanctions was contingent upon Myanmar's progress in protecting and promoting labor standards; commitment to move away from forced labor practice by signing a Memorandum of Agreement (MOU) with the ILO to implement the time-bound action plan to eliminate forced labor by 2015; and the agreement to draft a law on labor organization allowing trade unions to be legally established in Myanmar (author interview, September 5, 2023). The 2010 democratic reforms and the enactment of the 2011 Labour Organization Law were part of the evidence that the military used to convince the international community that it was serious in its political reform agenda. With the support of trade unions, international sanctions serve to incentivize authoritarian regimes to improve labor rights, including trade union rights.

In addition, international solidarity for Myanmar workers and unions is achieved in various ways via the global unions' campaigns and support. As early as one week into the coup on February 11, 2021, the global unions organized "[The Sound of Democracy: A Global Noise](#)

[Barrage for Myanmar](#)” campaign in solidarity with the Myanmar workers on strike to defend democracy and human rights. In the second year into the coup, the Council of Global Unions comprising 12 global unions (BWI, EI, IDWFED, IFJ, IAEA, IndustriALL, ITF, ITUC, IUF, TUAC, PSI, UNI) released statements and called for affiliated unions to demand their national governments’ recognition of the exiled civilian government (NUG) and to put pressure on multinational companies they work with to cut all ties that benefit the junta directly or indirectly. The global organizing and solidarity efforts also included regular news coverage about Myanmar on union websites as well as fundraising campaigns for workers and union leaders detained, such as the ITUC fundraiser to defend democracy in Myanmar, the Asian Pacific American Labor Alliance (APALA) fundraiser for Myanmar, and the Monidiaal FNV solidarity campaign. The workers continue to use their voice in the ILO Governing Body meetings and the ILC to advocate for Myanmar democracy and call on the ILO as an Office not to engage with the military. The ILO remains the only Office among the UN agencies operating in Myanmar that does not work or engage with the military regime in any way (author interview, September 5, 2023).

What is important in all these efforts is that Myanmar workers were able to use their organizations, networks, and long-standing relationships with the international community stemming from their earlier campaigning experiences to express their voice to the international trade union movement. Subsequently, the international trade union movement listened to their voice and continues to use their leverage to contribute to the demand for democracy.

Mechanisms and Protocols that Worked: ACT Agreement

Action, Collaboration, Transformation on Living Wages (ACT)—officially launched in 2015—is an agreement between the IndustriALL Global Union and 19 global brands and retailers in the garment, textile, and footwear industries to achieve living wages for workers. Its goal is to promote sustainable living wages for garment workers through industry-wide collective bargaining, supported and enabled by purchasing practice commitments made by global brands under the ACT agreement. Worker voice is present in this mechanism through the co-governance of ACT and, potentially, through expanded collective bargaining. Member brands and retailers have signed a Memorandum of Understanding outlining commitments necessary to establish freedom of association, collective bargaining, and living wages within global supply chains.

In the context of Myanmar's post-coup developments, ACT has achieved two significant milestones for the protection of workers’ rights and remediation. The first achievement was the fast-track Dispute Resolution Mechanism (fast-track DRM) that operated from March–October 2021; the second success was the 2021 June Framework on Workers Safety and Terminations, which was established after the junta imposed a ban on trade unions with a ruthless crackdown on unionists and workers on strike. The Industrial Workers’ Federation of Myanmar (IWFM), led by President Ms. Khaing Zar Aung, in affiliation with the Confederation of Trade Unions of Myanmar (CTUM) and IndustriALL Global Union, played a crucial role in the success of the ACT mechanism.

The fast-track DRM was possible due to the Freedom of Association (FoA) Guideline formulated in good faith before the pandemic and the coup (author interviews March 2, April 3, May 5, 2023). The IWFM, IndustriALL, and the Employer Working Group, consisting of Myanmar and foreign-owned factories producing in Myanmar for ACT member brands, jointly developed and agreed on the [Myanmar Guideline on Freedom of Association \(FoA\)](#) in 2019 with the aim of stable and predictable industrial relations and to realize the ILO principles and standards on Freedom of Association. ACT brands made compliance with the FOA Guideline a business requirement with zero tolerance for violations starting April 2020 amidst the COVID-19 pandemic. Suppliers who violated the Guideline or refused to participate in the DRM outcome would be immediately removed as a supplier factory to ACT brands (Fincher, 2022). The FoA Guideline was crucial in setting up the ACT fast-track DRM in the wake of the coup. The FoA Guideline has 10 sections based on International Labor Standards. It covers a wide range of topics, including the right to freedom of association, dismissal procedures, a collective bargaining mechanism and negotiation process, strikes, lock-out and picketing, and standards of conduct for management and trade unions, to name a few. Notably, Section (9) states:

“Develop a dispute resolution procedure to address any conflicts that may arise in the implementation of this Guideline. Once established, the dispute resolution procedure will automatically become an integral part of the FOA Guideline.”

The DRM was piloted in August 2020 during a period of upheaval and uncertainty due to the pandemic. The pilot was overseen by a joint body called the Guideline Monitoring Committee (GMC), drawing equal numbers of representatives from IWFM and the employer working group (DIEH, 2021). Based on this experience, a fast-track DRM was established in March 2021 and adapted from the pilot DRM framework (ACT, 2021a). The fast-track DRM served as a mechanism to address any type of allegation received regarding the respect of workers’ rights as a result of the circumstances in Myanmar, including but not limited to Freedom of Association. It followed a mediated arbitration process. During its eight months of operation, the DRM received 38 complaints in total. Among them, 24 complaints were eligible for remedy due to the factory having a business relationship with ACT brands. Nineteen cases were resolved (Fincher, 2022).

On March 14, 2021, Myanmar workers witnessed a targeted massacre when junta forces killed 100 protesters and bystanders (ILO, 2023d), including 65 individuals in Hlaing Tharyar township, an industrial suburb of Yangon, where many trade union members and workers live and work (HRW, 2021a). On the same day, the Chinese factories were destroyed and set on fire, which the junta referred to as being initiated by workers in retaliation for the mass killings. The junta declared martial law in six townships, including Hlaing Tharyar (AP, 2021). Due to a lack of safety and protection, migrant workers returned to their rural hometowns.

Against this backdrop, the IWFM, IndustriALL, and the brands held rigorous discussions and negotiations, which resulted in the Framework on Workers’ Safety and Terminations introduced on June 18, 2021 (ACT, 2021b). The framework informed the factories producing ACT brands that:

“...workers who have been absent from work for more than three consecutive days for safety reasons can only be terminated upon payment of adequate compensation (severance pay), or, if possible, be granted unpaid leave for a period agreed between the worker and the employer.”

Such an approach directly addresses the Myanmar national law that stipulates workers are allowed to take casual leave for a maximum of three consecutive days at any one time,¹¹⁰ leave is intended for unexpected events,¹¹¹ and that this entitlement cannot be combined with other kinds of leave.¹¹² However, an employer may make an exception and allow an employee to take casual leave longer than three consecutive days for individual reasons,¹¹³ which the ACT Framework utilizes to ensure workers’ safety is protected and rights are respected in times of crisis. The goal was to ensure the “protect” component of effective worker voice.

The IWFM's participation in the development of these mechanisms under ACT represents the importance of independent trade unions, even in times of crisis where the very existence of the union is under threat, to effectively resolve problems, provide remedies, and protect the rights of workers. The mechanism was effective in part because of the active role played by the IndustriALL Global Union, as well as those brands sourcing from Myanmar. It is a successful private, enforceable model of co-governance that worked during the crisis period when state-sponsored violence was prominent, standard government dispute settlement mechanisms no longer functioned, and the rule of law had completely broken down. ACT ceased operations in Myanmar in December 2021 with the withdrawal of IWFM because it could no longer operate freely under the regime (ACT, 2021c).

Challenges to Worker Voice

This case study on Myanmar examined the garment sector specifically to uncover obstacles that hinder the development of collective worker voice. Garments/footwear were the country’s most important export sector before the pandemic and the coup, accounting for approximately 30% of exports (OEC, n.d.). Foreign investment in the garment sector can also symbolically demonstrate that Myanmar is internationally accepted, which the regime desperately desires.

While the military coup destroyed the ethical investment climate, raised questions regarding the existence of the rule of law, and caused problems to the financial sector as the junta sought to control funding toward resistance groups, the business community and global brands were captivated by the echo chambers of pro-business organizations, such as the Myanmar Centre for Responsible Business (MCRB), that support businesses in Myanmar (author interviews April 3, May 5, 2023) despite the trade unions’ ongoing advocacy and communication for respect for workers’ rights and divestment. The business community remained focused on the level of

¹¹⁰ Leave and Holiday Act, Article 5 (1).

¹¹¹ Leave and Holiday Rules, Article 2(g).

¹¹² Leave and Holiday Act, Article 5 (2).

¹¹³ Leave and Holiday Rules, Article 28.

productivity and the continued enjoyment of preferential market access in exporting products. Decent work was disregarded, the role of unions was seen as instigating strikes, and some investors saw the participation of workers in demonstrations demanding democracy as a justification for dismissing workers. Although the military regime is the primary source of authoritarianism and abuse of power, businesses and foreign investments disregard the role of unions, and the blatant dismissal of worker voice made them complicit in the exploitation and erosion of democratic principles and practices such as representation and participation. It remains unclear if those who disagreed with the call for the CES have put up any pre-conditions for business retention in Myanmar or have collectively used their leverage to negotiate with the Junta to stop violations against workers' rights. Workers' rights are linked to human and civil rights, and continuing foreign investment in Myanmar during state-sponsored violence indicates a direct support to junta's atrocities through tax and regulatory payments. Continuing engagement also indirectly means continuing to allow the junta's actions, including cracking down on trade unions.

On September 12, 2022, the Ethical Trading Initiative (ETI) published the Myanmar enhanced due diligence sectoral report. The report evaluated the garment sector's compliance with the UN Guiding Principles on Human Rights Due Diligence (UNGPD) and OECD guidelines, including monitoring, prevention, mitigation, and providing access to remedies where appropriate in Myanmar's current and developing context. Private consultancy firm Due Diligence Design prepared the ETI report after conducting thorough research and analysis, with contributions from research partners Impact, Shift, and Luther Law Firm, and consultation with Office of the United Nations High Commissioner for Human Rights (OHCHR), OECD, and ILO. The ETI position on Myanmar was publicized in September 2022. It indicates that the authorization of the assessment was made in early 2022, after a year into the coup. It took six months for the final report to be published. This highlights the importance of decision-making time, process, resource mobilization, impartiality, accountability, and timeliness for human rights due diligence mechanisms.

The ETI report provides credible evidence of forced labor and exploitation at a sectoral level. Workers face long hours, low wages, unpaid overtime, and harassment without the right to freedom of association. The report concludes that the ETI Base Code Standards are not being met, and implementing the UNGPD 'Respect, Protect, and Remedy' framework is exceptionally challenging. Based on the evidence of gross human rights abuses, the ETI report urges companies to reconsider their presence in the country and to refrain from making any additional investments in Myanmar during the current period. It also recommends that companies that choose to remain respect the principles of international human rights and meet the elements of the ETI Base Code with a transparent demonstration of the measures put in place to ensure the standards are being met. If the company chooses to exist, they are to do so responsibly in consultation with social partners on the impact of exiting (ETI, 2022). IndustriALL and several garment brands operating in Myanmar jointly developed a Framework Principles of a Brand's Responsible Business Disengagement from Myanmar published in February 2023. It is an agreement on what would constitute a responsible exit and not a commitment to cease

their operations in Myanmar (IndustriAll, 2023). The workers' collective voice is yet to be respected by the international business community.

Global brands, foreign investors, and international businesses' prolonged decisions to continue sourcing from the country directly hinder the right to freedom of association and collective bargaining, and subsequently a host of other rights, in Myanmar (author interviews April 4, June 7, 2023). One instance of such development is the MADE in Myanmar project. MADE in Myanmar (Multi-stakeholder Alliance for Decent Employment in the Myanmar Apparel Industry) is a EURO 3 million project funded by the European Union with additional contributions from the private sector. It began operations in December 2022 and is implemented by the European Chamber of Commerce in Myanmar and the German NGO Sequa gGmbH. MADE project goals include providing training, assessments, and advisory support on workplace safety and labor law compliance, facilitating dialogue between workers and employers, and supporting worker access to functional and credible grievance mechanisms at both the factory and, eventually, the industry level (MADE, 2023).

The Myanmar Labor Alliance has condemned the MADE project and stated:

“...the project activities could not be achieved under the rule of the military regime and martial law where legitimate rights, the elected civilian government, independent trade unions, and civil society cannot exist” (MLA, 2023).

Most fundamental, workers who exercise their right to worker voice are not protected, violating a core component of effective worker voice. This failure to protect includes not only dismissal but also possible arrest and physical harm. The MADE project cannot guarantee that workers will receive adequate protection. Moreover, when comparing the MADE project and the ACT mechanism, the ACT mechanism succeeded for a short period after the coup because “representative” trade unions were involved in the process, providing a genuine voice for workers, backed by commitment to FoA Guideline by all parties involved. However, in the case of the MADE project, the proposed industrial relations are one-sided and lack authentic representation of workers when the right to freedom of association is denied under the regime. The MLA denounced the MADE project as a potential tool for the military regime to present false reports to the ILO and the international community aided by businesses and their profit-seeking agendas (author interviews April 3–4, 2023). It comes at a time when there has been a rise in the formation of compliant unions and the emergence of labor NGOs replacing independent labor unions (author interviews April 3–4 and May 6, 2023). On the other hand, the established unions inside the country, such as Solidarity Trade Union Myanmar (STUM), are forced to cease union activities.

Conclusion and Recommendations

The labor situation in Myanmar since the coup has been constantly evolving and shaped by a range of actors, including labor unions, factory owners, global brands, chambers of commerce, pro-business organizations, labor NGOs, and international aid. In this complex and dynamic environment, workers in Myanmar are expressing their voice in myriad ways, nationally and

internationally. In addition to campaigns and funding, the international community could support the Myanmar labor movement by recognizing workers and unions partaking in the resistance. For instance, in March 2021, in the context of military killings, six professors from the University of Oslo publicly nominated the Civil Disobedience Movement (CDM) in Myanmar for the Nobel Peace Prize, calling global attention to the situation in Myanmar and workers' resistance (Stokke, 2021). The coordination and teamwork between pro-democracy forces inside the country and those abroad is one significant feature of the Myanmar movement, with the participation of workers from various professions. However, those inside the country are to be identified and celebrated—privately or in due time because of concerns for their safety and security in light of the regime's retaliation and targeted crackdown practices (author interviews April 4, June 7, 2023).

For the union leaders who fled and were displaced outside the country or at border areas, the delegation in international positions and the awards presented to them raise greater attention to the labor situation in Myanmar, create space for ongoing public discussion on the trade unions' fight against authoritarianism at international, national, industry, and workplace levels, and foster a global sense of belonging to the struggle for democracy, solidifying it as a global movement. At the 334th ILO Governing Body Session in March 2022, Myanmar trade union leader Ms. Phyo Sandar Soe, the general secretary of the CTUM, was accredited as a deputy worker member to the Governing Body for the 2021–2024 period (ILO, 2022d). Then, at the Building and Wood Workers' International (BWI) Global Union World Congress in October 2022, she was elected as one of the five Deputy Presidents for the 2023–2026 period and received the BWI Rights for All award (BWI, 2022a, b). Global recognition enhances Myanmar's worker voice and counters the regime's utmost attempt to eliminate union leaders by putting warrants on them and revoking their citizenship. It also reaffirms their credibility, legitimacy, and commitment to the fight for democracy.

When it comes to obtaining institutional support through formal channels, the timing of each action is crucial for achieving maximum impact and driving change effectively as seen in the studies of ACT mechanisms and the ILO Commission of Inquiry. It is essential to extend human rights due diligence practices in the workplace to promote human rights in society. At the workplace level, unions are the only organizations that can hold businesses accountable by representing workers and amplifying their collective voices. Moreover, the Myanmar unions' training, experience, international exposure, networks, and campaigning in the previous military regime have made them effective in supporting and being an active part of the struggle for democracy today. Therefore, the international community must continue to support Myanmar's unions and their efforts for democratization.

Case Study 7

Worker Voice and Organizing in Efforts to Eliminate Child Labor

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Context

Trade unions, the organization of workers, and worker voice have long been at the forefront of efforts to address child labor. Organized worker bodies such as the International Working Men's Association and the Working Women's Societies were among the first to advocate for an end to children's precarious labor in factories, mines, and other hazardous areas of work in the nineteenth century (Devreese 2006; Hansan, 2022). Their campaigns were motivated by the now-common position that first, children performing the work of adults for lower pay undermines adult workers' leverage for higher pay and employment rights, and second, such work can endanger these children's health and futures. They saw that effective child labor remedies necessitate adequate social welfare protections for children, their families, and society at large. However, back then as now, children were more likely to engage in prohibited labor in spaces where adult workers were systematically denied the right to organize and bargain collectively for better wages and work conditions (Fyfe & Jankanish, 1997; Myrstad, 1999; Roozendal, 2003; Islam & Rakib 2019; Novitz, 2020). These pioneering campaigners, therefore, argued that the successful eradication of child labor also required free, effective worker organization, collective bargaining, and better working conditions for adult workers.

Since 1919, when the International Labour Organization (ILO) adopted the eradication of child labor as one of its founding goals, this strategy has been central to its efforts. The ILO observes that effective worker organizing, collective bargaining, greater political power, and worker voice, as well as other aspects of social dialogue and tripartism, are essential to child labor remedial efforts because the benefits that accrue from these, such as higher wages, worker benefits, and labor standards, in turn support the conditions that reduce the need for children to engage in prohibited labor (ILO, 2020:15). Indeed, researchers have established that unionized workers enjoy higher wages, greater job security, better sick leave conditions, more predictable shifts, greater exercise of voice, employer pensions, and lower racial and gender workplace disparities than non-unionized workers (Card, 1996; Budd & Brey, 2003; Mishel, 2012; U.S. Department of the Treasury, 2023:5). It has been found that unionization also improves wages and working conditions for workers at non-unionized workplaces that compete with unionized workplaces for labor (U.S. Department of the Treasury, 2023:5)

In turn, higher pay, job security, improved racial and gender equality, and other benefits led to an increase in home ownership, education, intergenerational mobility, and other improvements in workers' families' socioeconomic conditions, which have been proven to be essential for reducing child labor and improving children's life outcomes (Edmonds, 2005; Fors, 2010; Soares, Kruger, & Berthelon, 2012; Filho, 2012; Tagliati, 2021). More generally, organized workers who have access to their labor rights and a forum to express their opinions are more likely to support labor law enforcement and child labor prevention measures. This is true of trade unions (defined in this report as organized waged and unwaged dependent worker

bodies) and worker cooperatives or collectives (often values-driven, independent, organized, formal and informal workers who own and manage individual or shared economic ventures), despite their differences in structure, mode of organization, national coverage, values, and sectors of concentration or influence (Wright, 2014; Esim, Katajamaki, & Tchami, 2019; ICETT, 2021).

The evidence and points outlined in the foregoing paragraphs are central to this report's main argument and theory of change, namely that:

Adult workers (and young ones of their country's legal employment age) who are able to freely unionize, enjoy collective bargaining, and effectively exercise their voice with employers, government, and other stakeholders achieve higher wages and other employment benefits that enable them to better support their families and communities, and achieve other conditions that reduce the need for their children to undertake prohibited labor.

The next section of the report briefly defines child labor and offers an assessment of current efforts to address this challenge. The report then explores the contribution of worker organizing to this international children's rights agenda and provides case studies that illustrate how better wages, working conditions, enforcement of higher labor standards, and other workplace benefits achieved by worker unions and collectives have helped to reduce child labor in workplaces, supply chains, and communities across the globe.

Defining Child Labor

The ILO defines child labor as work that deprives children of their childhood, their potential, and their dignity and that is harmful to their physical and mental health. This definition is based on parameters established by the ILO Minimum Age Convention, 1973 (No. 138, hereafter C138) and the ILO Worst Forms of Child Labor Convention, 1999 (No. 182, hereafter C182). C138 seeks to abolish child labor and promote children's development by establishing a universal legal minimum age standard for children's entry into work that is harmonized with the minimum age for the end of compulsory education. The convention sets age 15 as this global minimum standard, though it allows countries that require time to strengthen their economies, educational, and social welfare systems to set a legal minimum age of 14 years as a transitional measure, provided that children are not engaged in hazardous work. C138 further permits children aged 13–14 (in countries with 15 years as the minimum age for entry into work) or 12–13 (in countries with 14 years as the minimum age for entry into work) to undertake "light work," or that which does not harm their health, development, school attendance and learning, or their vocational training (as defined by Article 7, sections 1a and 1b of C138) of up to 14 hours per week, among other exceptions.

The call to eradicate child labor, therefore, does not imply the prohibition of all work for persons under the age of 18. Instead, the concern is with work involving children who are under the minimum ages set by C138 and the involvement of those under the age of 18 in the worst

forms of child labor per C182. These worst forms of child labor are outlined in Article 3 of C182 as:

- a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict.
- b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.
- c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.
- d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.¹¹⁴

The international community has resolved to eradicate child labor in all its forms by 2025, in line with Target 8.7 of the 2015 United Nations Sustainable Development Goals (SDGs). Governments, businesses, trade unions, civil society, academia, and the public have devoted substantial material, human, and financial resources to this mission, which has yielded progress in certain areas. The global incidence of child labor has decreased by 86 million since 2000, including a 38% decrease in the decade prior to 2020 (ILO, 2021c). On the policy front, C138 and C182 have been an international success for their widespread influence on national labor policy and regulatory regimes the world over, as Sabates-Wheeler and Sumberg (2021) observe. Remarkably, all 187 ILO member states have ratified ILO Convention C182, making it the first and only international labor standard in ILO history to achieve universal ratification at the time this report was written.

Despite these gains, the situation regarding child labor remains grave. The most recent global estimates on child labor indicate that 160 million children (1 in 10 of the world's children) are still engaged in prohibited work (ILO, 2021c:8). In addition, while the global incidence of child labor has decreased since 2000, the rate of decline “has not been one of quickening or even steady progress” (ILO, 2017:26), largely due to circumstances in Sub-Saharan Africa (ILO, 2017:26). There has been a continual decline in the incidence of child labor in Asia and the Pacific, Latin America, and the Caribbean. However, cases have increased in Sub-Saharan Africa since 2012 due to factors such as worsening socio-economic circumstances, unplanned population growth, socio-political conflict, and humanitarian emergencies (ILO, 2021c:8). This region currently has more child labor cases than the rest of the world combined, and the increase in cases here explains the ILO’s recent projection of an increase of 8.9 million in global child labor cases (ILO, 2021c:8–11).

This increase puts the goal of eradicating child labor globally by 2025 in jeopardy, especially as poverty, socio-political insecurities, and other factors have worsened in Sub-Saharan Africa and

¹¹⁴ ILO Recommendation 190 (R190) provides detailed guidance on identifying the types of work referred to under Article 3(d) of the C182:

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312528

elsewhere in the wake of the COVID-19 pandemic (Human Rights Watch, 2021b; Sumner, 2020; Idris, 2020; ILO, 2020; ILO, 2021c:9; Datzberger et al., 2023). Consequently, there is an urgent need for responses that are more suited to these challenges and the overarching objective of protecting children from prohibited labor.

Responses

The centuries of evidence on child labor abolitionist strategies, ranging from pioneering approaches such as the British Factory Act of 1883 and the formation of the National Child Labor Committee in the United States in 1904 to more recent efforts, show that there is no universal solution to this global issue. Child labor is also resistant to solutions that fail to properly comprehend and adequately address the economic, social, and cultural realities in which children and their families live and work. Such responses can violate the rights of child laborers, their families, and communities instead of protecting child laborers from current and future exploitation (Golo & Eshun, 2019; Donger & Bhabha, 2018; BBC, 2023; Faulkner, 2023; Okyere, Agyeman, & Saboro, 2021). In contrast, the social protection-based solutions advocated by unions and other worker organizations in the nineteenth century and reaffirmed by their successors today are safer and more likely to succeed.

The extant research does indeed show that social protection-derived responses, such as cash transfers, vouchers, microfinance, and food programs that are carefully planned and led by government with multistakeholders and due sensitivity to beneficiaries' gender and socio-cultural conditions, produce more positive long-term outcomes for child laborers, their families, and their communities than others (Devereux & Sabates-Wheeler, 2004; Tercelli, 2013; De Hoop & Rosati, 2014; Dammert et al., 2018; Borga & D'Ambrosio, 2021; Hidayatina & Garces-Ozanne, 2019). However, the widespread adoption of this supply-side response is hindered by the fact that governments, particularly in the poorest countries and regions where child labor is most prevalent, lack the economic and other resources necessary to implement and sustain social protection programs. Many have equally not managed to provide the conditions under which families, businesses, and employers can create enough decent, well-paying jobs that will improve their national economies and increase social protection. As Edmonds (2016) notes, these challenges exemplify the dual nature of the child labor issue as both a consequence and a cause of poverty and limited economic development.

Trade unions, worker collectives, and other organized worker bodies have similarly supported interventions on demand-side remedies to child labor, such as the introduction and enforcement of business codes, audits, certification, and other measures. These efforts have contributed to a decline in child labor in some formal sectors and downstream supply chains where their enforcement is relatively easier (Barrientos & Smith, 2007; Taylor, 2011; Reynolds, 2015). However, the picture of their enforcement in some upstream supply chains has been "more complex than anticipated" as a European Commission report concluded on efforts to reduce child labor in the Ivorian and Ghanaian cocoa sectors through such measures (EC, 2021:19). The challenge arises from the fact that children's prohibited work in cocoa farming in these two countries mainly takes place informally, on family or smallholder farms where audits and similar measures are harder to enforce (Sadhu et al., 2020).

Globally, at least 70% of all child labor takes place in such often poor, informal family and household farms or cottage enterprises (FAO, 2020:xv, ILO, 2017:12; ILO, 2021c:9, EC, 2021). Hence, on their own, certification, traceability, audits, and enforcement of codes for eliminating child labor in these challenging arenas may not be very effective (Shift, 2013; Kelly, 2016; Human Rights Watch, 2019). This is true even if governments, businesses, and other partners are really committed to enforcing them. Studies show, however, that these actors are not always motivated enough to adopt and enforce these measures, or they may do so to protect their reputations instead of protecting the rights of children and workers (Ford & Nolan, 2020; LeBaron, Lister & Dauvergne, 2017). Responses that target child labor in specific sectors can also be frustrated by children's movement into work in other prohibited areas instead. Some propose that the remedy is to impose outright bans on companies and products deemed to be tainted by child labor, but which cannot be easily audited or traced. Though this may help to disengage children in the short term, research shows that such sweeping measures can also have the unintended effect of penalizing the poorest working children and their families (Murshed, 2000; Rahman, Khanam, & Absar, 1999; ILO, 2018; Kalaf & Vaughn, 2022; Jafarey & Lahiri, 2002; Zilibotti & Doepke, 2009, Kolk & van Tulder, 2002; Kalaf & Vaughn, 2022).

The foregoing reaffirms the complexity of child labor and the need for complementary, holistic, multistakeholder, and multisectoral actions to address it (ILO, 2017:52; Boersma, 2017; Hennessey, 2023). Child rights advocates also strongly argue that children, especially those who are most affected by child labor, must be meaningfully involved in deciding on the solutions and their implementation. This is in line with their participation rights enshrined in the United Nations Convention on the Rights of the Child (Woodman, Roche, & McArthur, 2023:125; Forde & Martin, 2016; Thevenon & Edmonds, 2019; McMellon & Tisdall, 2020; Canosa & Graham, 2022; Abebe & Kjørholt, 2009; Concerned for Working Children, 2012; Chilwalo, 2015; Jijon, 2019; O'Kane & Barros, 2021). Such dialogue involving children regarding their country's legal age of employment is important to this report's main argument and theory of change,

As research shows, adult workers and young people of their country's legal employment age who are empowered to effectively exercise their voices and freely unionize are better positioned to engage in collective bargaining, resulting in higher wages and other employment benefits that enable them to better support their families and communities, thereby facilitating the conditions that reduce the need for children to engage in prohibited labor (Card, 1996; Budd & Brey, 2003; Mishel, 2012; U.S. Department of the Treasury, 2023). This is further demonstrated by the case studies presented in the next section.

Case Studies

Strong trade unions and worker collectives are important to efforts to end child labor for several reasons. Children are more likely to be engaged in prohibited labor in communities and industries where adult workers are not organized, denied collective bargaining, and unable to exercise their voice effectively (Roosendal, 2002; Islam & Rakib, 2019; Novitz, 2020). Organized workers are in a better position to advocate for and obtain higher wages and working conditions, which in turn contribute to improved household living standards, social mobility,

and other conditions that reduce the need for children to engage in precarious work (U.S. Department of the Treasury, 2023). In addition, organized workers are more likely to oppose the presence of child labor in their workplaces and support the enforcement of labor laws.

Unions and Child Labor-Free Zones

These points are illustrated by the role played by unions and other organized worker groups in the creation of child labor-free zones (CLFZs) to remove children from illegal labor. CLFZs do not necessarily imply the absence of child labor. This intervention instead refers to farms, factories, communities, regions, or geographical zones where everyone is convinced that all children should be in school instead of performing prohibited labor and works toward the systems that will achieve this objective (Hivos, 2015:7; ILO, 2013; ILO, 2014; SCL, 2017; Szyp, 2020; EC, 2021). At least 122 CLFZs have been created in coffee, cocoa farming, textiles, fishing, and mining communities in Kenya, Mali, India, Sri Lanka, Senegal, Uganda, Morocco, Ghana, Pakistan, Vietnam, Jordan, Cote d'Ivoire, and other countries. These have been credited with helping to disengage tens of thousands of children from child labor and prevent many others from entering (Hivos, 2015:95; SCL, 2015). The success of these CLFZ projects in several countries primarily stemmed from the initiative and activities of unions and worker collectives.

In accordance with the document's theory of change, unions and worker collectives in these nations took on the leadership and implementation of these CLFZs as part of their efforts to organize and energize themselves in pursuit of improved worker rights. The success of their group efforts, which led to higher wages, better working conditions, stricter enforcement of labor laws, and other benefits, had a positive effect on household income and living standards in the trial communities, which in turn helped to achieve the objective of reducing child labor through CLFZs. The cases of Ghana and Morocco, which will be discussed next, serve to illustrate this point.

Ghana—Local unions initiated and implemented CLFZ projects as part of their efforts to improve workers' unionizing and labor rights. This was, therefore, the first tangible step in the context of worker organizing and exercise of voice that ultimately led to the attainment of CLFZ objectives. Since 2013, the General Agricultural Workers' Union (GAWU), which is an affiliate of the Trades Union Congress of Ghana, the Inland Canoe Fishers' Association, which is a collective of artisanal fishers, and other informal worker groups have undertaken several of such CLFZ trials with financial, technical, and other support by the ILO, U.S. Department of Labor, Irish Aid, Stop Child Labor (SCL), Hivos, and other partners. The core strategy and objective of these projects has been to pursue unionizing, enforcement of labor laws, strengthened voice, and other benefits for workers and smallholder producers to help to create the conditions needed to reduce child labor in the fishing, oil palm, and cocoa sectors (ILO, 2016).

GAWU and the other worker collectives were aware that child labor in these sectors occurred primarily in informal family and smallholder contexts, which can be extremely difficult to address without collective action among smallholder farmers, agricultural laborers, fishers, and families who employ or work with children under prohibited conditions. Consequently, in accordance with their goal of organizing workers, they began by organizing sensitization

meetings with the thousands of informal workers in the target communities, the vast majority of whom were not unionized. Through these meetings, GAWU and the other worker collectives provided farm hands, small-scale growers, fishers, fish processors, canoe owners, and other waged and unwaged workers in the fishing and farming communities with information on labor rights, worker organizing, and the benefits of collective action. In addition, they highlighted how successful organizing and collective action can support the conditions for children's exit from precarious labor into education and other opportunities, which the participants mentioned in discussions about their hopes for their children. Convinced by the merits of the messages delivered by GAWU and their partners, 1,425 farmers and fishermen unionized and established 30 GAWU local unions and community child protection committees in their workplaces and communities to further support collective worker enforcement of labor laws (SCL, 2014).

This was a significant achievement given that at least 80% of employment in Ghana occurs in the informal sector, where worker organizing has traditionally been limited due to financial constraints faced by workers and unions, political and ethnic divisions, employer hostility toward worker organizing, disregard for national labor regulations, or misunderstanding of these, among other obstacles (Osei-Boateng & Ampratwum, 2011; Nimoh & Adu-Gyamfi, 2020; Hendriks, Verbuyst, & Kaag, 2022). The increased membership and support bolstered the efforts of GAWU and other worker collectives to improve working conditions and labor standards in the CLFZ trial areas. Campaigns for higher wages, social security, and other worker benefits, which had previously failed due to a fragmented worker front in non-unionized farming and fishing communities, were now revitalized by a stronger, more organized collective front and mandate. Campaigning as an organized front resulted in a meaningful social dialogue with employers, government, and growers, through which informal workers began to reach agreements on better pay rates, workplace health and safety improvements, and services.

Organized farm workers in farming communities were able to get better pay and better working conditions by setting minimum daily rates that were accepted by the owners of most of the smallholder farms where they worked. Due to their unstable jobs and incomes, many of these informal, non-contracted workers had trouble getting loans from banks and other institutions in the past. After getting organized and getting better pay, they started micro-credit programs and additional income-generating ventures such as beekeeping and mushroom farming to supplement their household income, enhance food security, and provide other benefits for themselves and their communities. In the fishing industry, they were able to persuade the government to include a divers' training and remuneration program in Ghana's national youth employment scheme. As a result, adults rather than children will be employed to disentangle nets and engage in other underwater fishing activities. Collectively, they decided on a minimum price for fresh fish to increase their income. In addition, they established processing facilities through which women were encouraged to form cooperatives in order to pursue fairer prices for processed fish, loan programs, and safer fish smoking techniques (ILO, 2016).

As part of their efforts to ensure the enforcement of labor laws in their respective fields, unions and worker collectives collaborated with employers, growers, and other stakeholders to

develop a code of conduct for addressing the worst forms of child labor. The unions have assumed responsibility for the implementation of this code by establishing child labor protection committees, through which their members identify children engaged in prohibited work and assist them in transitioning to education (ILO, 2016). Due to the multifaceted interventions and benefits resulting from their organizing efforts, GAWU parents and others in the trial areas could now afford school uniforms, supplies, and other necessities that frequently influenced their children's work on cocoa and oil palm plantations (Nhenga-Chakarisa, 2013:6). This allowed at least 1,481 children to stop working in the cocoa, oil palm, and fishing industries and prevented an additional 1,284 from entering these occupations, according to SCL (2015:108) and Solidarity Center (2020).

In conclusion, unions and worker collectives initiated the CLFZ trials to combat child labor by organizing informal agricultural and fishing sector workers who were historically non-unionized. In the trial communities, the success of their worker organizing efforts and effective use of their voices in negotiations with employers and the government resulted in increased wages and labor rights, improved livelihoods, social protection provisions, food security, and expanded educational opportunities for children. Collectively, these factors created favorable conditions for achieving the CLFZs' goal of reducing child labor. As a result of the success of the trials, the Ghanaian government has rolled out the CLFZ intervention as the country's primary child labor elimination strategy (Government of Ghana, 2021:12). The government's policy guidance rightly identifies labor unions and employee groups as key stakeholders for the success of this plan.

The key takeaway from this example is that it shows the pivotal role that worker organization can play in the complementary, holistic, multistakeholder and multisectoral actions that are needed to address child labor in the informal, hard to reach sectors of Sub-Saharan Africa. Adult workers frequently work alongside children in these areas and are, therefore, better placed to lead on efforts to address this problem. However, workers who are not sufficiently organized, empowered, or able to effectively exercise their voices may not be able to do this to any meaningful degree, if at all, as was the case prior to their registration with the union.

Morocco: Between 2012 and 2015, a CLFZ program was run in Safi, Morocco, with a focus on children who were at risk of dropping out of school before the age of 12 to work in mechanic shops, textile and ceramics production, and other fields (Hivos, 2015). Based on the success of this trial, a second was conducted from 2019 to 2020 in the Laawamra community of Morocco's Larache Province (Education International, 2019). The national teachers' union of Morocco, the *Syndicat National de l'Enseignement-Confédération Démocratique du Travail* (SNE-CDT), also initiated and executed these two CLFZ projects, as in the example of unions in Ghana. It is widely acknowledged that teacher unions and educators in general are ideally suited to lead the fight against child labor. They can educate children about their rights to protection from prohibited labor, monitor school attendance, raise concerns about labor exploitation of children, and advocate for better educational facilities and access for both learners and teachers to help keep children interested in schooling (Guarcello, Lyon, & Rosati, 2006; U.S. DOL, 2008; Djone & Suryani, 2019; EI, 2020; ILO, 2011; Wolf & Lichand, 2022).

Union members of the SNE-CDT have been working to end child labor for a long time as part of their efforts to educate children. In successive negotiations with the Moroccan government about sector-wide reforms to deal with precarious contracts, poor schooling infrastructure, and worker rights violations, the union identified how these changes can help reduce child labor in the country (Kouya, 2012; USAID, 2014; Kasraoui, 2019). They argued that poor educational infrastructure and deprivation of teachers' and other educational worker' rights demoralize this workforce, which has a negative impact on children's school attendance and education quality (EI, 2022). Thus, as with the Ghana case study, SNE-CDT union members viewed the implementation of CLFZs as a means by which they could leverage worker voice, worker rights advocacy, and the advancement of labor laws to achieve better working conditions that contribute to the elimination of child labor.

To this end, the union held meetings with the Regional Ministry of Education, schools, teachers, non-governmental organizations, the media, and parent associations to discuss plans and establish implementation agreements for the CLFZs. These meetings with government officials also afforded the union additional opportunities to bring up worker rights issues such as improved working conditions, school facilities, and investment in teacher training that had been neglected or stalled in previous negotiations. The unions utilized their CLFZ meetings with the media and parent associations to emphasize the significance of worker rights in the fight against child labor (Hivos, 2015:14). During their meetings with teachers, school administrators, and other educational sector employees, the unions discussed how they could organize and strategize more effectively to achieve the worker rights and workplace improvements they desired through the successful implementation of CLFZs.

The SNE-CDT union was able to improve the working conditions and environment of its members through these discussions and campaigns. First, they were successful in convincing the Ministry of Education to renovate educational facilities in CLFZs and provide teachers with resources for teaching and learning-enrichment activities such as painting and theatrical performances. In addition, the unions secured a commitment from the Department of Labor regarding the enforcement of adult labor rights and child labor laws, as well as a commitment from the Ministry of Education regarding the long-term funding of bridging schools designed to facilitate the reintegration of former child workers into mainstream education. The bridging schools were an additional method by which the SNE-CDT union increased employee benefits. The implementation of training programs to equip teachers and other educational professionals with the skills necessary to teach in these specialist schools provided some of the long-sought opportunities for career advancement and professional growth.

The profile of the SDT-CDT union has also been enhanced by these efforts and the implementation of CLFZs, which have paved the way for further collaborative worker rights initiatives with other labor unions and civil society groups in Morocco and beyond. Through these gains in their demands for improved teaching and learning environments, the unions enabled 3,786 children to remain in school rather than engage in prohibited work and prevented the re-entry of 3,741 children into such work (Hivos, 2015; Millard et al., 2015).

Worker Organizing in the Context of Employer and Government Obstacles

Liberia: The case studies of Ghana and Morocco illustrate how unions, worker voice, and the mainstreaming of adult labor rights into child labor abolitionist programs can contribute to the eradication of child labor by improving working conditions for adults. This symbiotic relationship is further illustrated by the efforts of Liberian plantation workers who organized and campaigned to secure better working conditions, thereby reducing the prevalence of child labor on plantations and in their country's rubber supply chain. Since establishing operations in Liberia in 1926, Firestone rubber plantations have been associated with serious violations of human, labor, and child rights (Brown, 1941; McCoskey, 2014; Patton, 2015). In 2005, the International Labor Rights Fund (ILRF), on behalf of 12 adult plantation workers and 23 children, filed a lawsuit against the company for slavery and child labor violations (WRM, 2006; Bergman, 2011; CRIN, 2015; Pailey, 2023). They reported that Firestone required workers to tap at least 650 rubber trees per day, a quota so unreasonable that adults were forced to work alongside their children in order to meet it and earn an average of USD \$3.38 per day (Pailey, 2007).

The lawsuit did not succeed. On July 7, 2000, more than 4,000 Firestone rubber plantation workers, emboldened by this event, elected the Firestone Agricultural Workers Union of Liberia (FAWUL) and its leaders to replace a previous union and leaders who were controlled by the company and frequently supported management decisions over workers' rights (Pailey, 2023). This co-opted union was an example of how worker voice mechanisms can be rendered ineffective or counterproductive to their intended purpose of fostering better industrial relations and practices. Firestone management opposed the workers' right to elect FAWUL and its leaders to represent them, as well as their demands for collective bargaining and social dialogue to improve working conditions. Therefore, they refused to acknowledge FAWUL's leaders and withheld members' voluntary union dues. Strike actions and demonstrations by workers calling for the recognition of their union and its elected leaders were violently broken up, leading to the deaths of at least two people (Redmond, 2011).

The role of national and international solidarity in assisting the organization of workers facing employer and structural oppression was illustrated in the case study. Throughout this difficult period, the American Federation of Labor, and Congress of Industrial Organizations (AFL-CIO) and the United Steelworkers (USW) supported FAWUL's organizing efforts. These fellow labor unions provided unionizing education and training workshops for FAWUL's leaders and members. USW and AFL-CIO members also offered financial assistance to support FAWUL's campaigns and lawsuit challenging the company's refusal to recognize the union and mandate of its elected leaders (Lauman, 2008). This assistance was crucial since Firestone management was withholding members' union contributions to frustrate their organizing efforts. It helped FAWUL sustain its organizing and campaigning until the Liberian Supreme Court ruling on December 21, 2007, that FAWUL and its elected leaders must be recognized as the lawful bargaining representatives for workers at the Firestone rubber plantation (ICEM, 2007).

Following this ruling, which came more than a year after the election of FAWUL's officers, in early 2008 the union entered negotiations with the company regarding wage increases and broader measures to eliminate "unfair labor practices, inhumane working conditions, and the

open secret of child labor” on the plantations (Lauman, 2008). After decades of worker rights violations, the two parties reached a landmark agreement after nearly six months of negotiations. This new deal comprised a 3.5% wage increase and a shift away from the backbreaking practice of workers carrying heavy rubber loads on their shoulders toward weighing stations and the use of mechanized transport instead (AFL-CIO, 2008; IndustriAll, 2010). Importantly, the union also demanded an explicit ban on child labor and a 25% reduction in daily rubber tree tapping quotas so that workers would not be forced to bring their children to work with them in order to meet their quotas (Mighty Earth, 2020; Pailey, 2023). Union leaders demanded the construction of better schools for children living on Firestone rubber plantations in order to provide them with safer, more accessible educational opportunities and an alternative to their precarious labor (Newman & Woods, 2011; U.S. DOL, 2011).

According to Lauman (2008), Firestone management demanded immediate ratification of the proposed collective bargaining agreement from the union leaders based on their prior experience with company-controlled union representatives. However, the new FAWUL leadership insisted that their members must be informed of the agreement and ratify it before they could do so themselves, in accordance with democratic union practice. On August 6, 2008, after these consultations and ratification by FAWUL members, the new collective bargaining agreement was signed by all relevant parties.

FAWUL has received numerous international labor and human rights awards for its perseverance and success in securing improved wages and addressing health and safety, education, housing, transportation, and child labor, among other issues affecting its members (AFL-CIO, 2008; Newman & Woods, 2011; U.S. Department of Labor, 2011). The obstacles they face in their pursuit of improved working conditions and benefits are by no means eliminated (Mighty Earth, 2020; Pailey, 2023). Nevertheless, their tenacity in organizing, selecting democratically elected leaders, and remaining committed to labor rights and social justice in the face of decades of extreme intimidation and repression represents a revolutionary development. Their efforts have already produced outcomes that would not have been possible had they not organized. In accordance with the theory of change presented in this report, future successes by FAWUL will continue to foster the conditions that enable more children to leave plantation labor for education and other safer developmental activities.

The main takeaway from this example is that effective worker organizing and exercise of voice require worker bodies that are independent of employer control. Furthermore, the support and solidarity of fellow unions and organized worker bodies within and across national boundaries is critical for energizing the organizing efforts of workers who face repression and other structural obstacles from employers or the state.

Peru: Collaborative Social Advocacy and Exercise of Worker Voice between Children of Legal Working Age and Adults

ILO (2011) reported that young workers aged 15–24 made up 15% (541 million) of the global labor force. Research shows that workers in this age group are frequently poorly organized or non-unionized and more likely to be engaged in low-paying, precarious employment than older

workers (Tailby & Pollert, 2011; Cahuc, Carcilla, & Zylberberg, 2014; Hodder & Kretsos, 2015). As the example of youth worker protests in Peru demonstrates, however, many young workers are exercising their voices, leading working organizing efforts, and playing crucial roles in the wider quest for workers' rights and tackling child labor. In 2014, the Peruvian legislature enacted *Régimen Laboral Juvenil* ("Youth Labor Regime" Law No. 30288), ostensibly to create more formal-sector employment opportunities for young workers aged 18–24, the majority of whom work in precarious jobs in the informal sector. According to proponents of the law, certain worker benefits and protections were eliminated for this age group of Peruvian workers in order to make their employment more attractive to businesses and employers.

However, the youth whom the government and law's proponents had identified as the law's intended beneficiaries opposed it vehemently. Thousands of students and individual and unionized young worker activists in the textile, agriculture, mining, and manufacturing industries, among others, staged five fierce protests against the new law over the course of a month, from December 2014 to January 2015. They argued that the government was attempting to exploit them as a source of cheap labor for the private and public sectors by denying or reducing their fundamental labor rights, such as social security, unemployment benefits, bonuses, profit sharing, and annual leave through this law (Mora, 2014; Ipsos, 2016; Pavlic, 2020; OECD, 2016). Some had honed their skills for such demonstrations—social dialogue, labor rights advocacy, and worker organizing—via student groups, youth politics, and rights organizations, such as Peru's working children's and adolescent movements (Hoetmer, 2015). Adult unions such as the Federation of Industrial Manufacturing Unions (FETRIMAP), the Autonomous Workers' Confederation of Peru, the *Confederación General de Trabajadores del Peru* (CGTP), and others agreed with the protestors that the law violated the rights of both young and older workers (Landesberg, 2015; Joly, 2015; INFANT, 2023).

There were also fears that employers who had lobbied the Peruvian government to pass the new legislation would use it as an opportunity to hire cheaper labor in the form of youth workers with reduced employment rights and lay off older workers (Meza, 2015; Cole, 2018:49; Pavlic, 2020). This fear was confirmed by a garment factory employee who stated in a video of the protests that three of his older coworkers had been fired by their employer, who was attempting to replace older workers with younger ones who had fewer worker benefits and protections (TeleSUR English, 2015). Ultimately, the voice of tens of thousands of individual and unionized young workers and adult labor unions led to the repeal of a law that, according to many, reduced labor rights for young and adult workers alike (Sullivan, 2015; Solidarity Center, 2015) and would have contributed to the worsening of children's precarious labor in the country by reducing income security for their families.

This case study provides multiple takeaways. One of these is the role that effective social dialogue and worker voice participation can play in preventing or reducing labor and industrial conflicts. Despite extensive evidence indicating that worker voice or social dialogue is essential to the development and implementation of labor and social policy (OECD, 2019), this vital dynamic was absent from negotiations that led to the passage of youth labor market reforms in Peru. Many young Peruvians who work in the informal economy earn less than the minimum

wage and lack basic worker protections, and Meza (2015) suggests that these young workers would have been better off working in the formal sector under the proposed law. However, their worker benefits and protections as formal sector employees would have been reduced, and the law was passed without proper consultation with labor unions, youth organizations, or other interested parties (Meza, 2015; OECD, 2019). Proper social dialogue with these key stakeholders could have helped eliminate the law's flaws, persuaded workers of its benefits, and generated support rather than opposition for its passage.

The second lesson is that while younger workers are more likely to experience workplace exploitation, precarious working conditions, and other labor rights violations, they are not passive bodies who rely solely on adults to solve their problems. The successful campaign of the Peruvian youth exemplifies this as well as the fact that young people with sufficient experience, resources, and support can significantly improve their own work and social conditions, as well as those of older workers. According to Hoetmer (2015), in order to have the greatest impact, workers' rights challenges increasingly necessitate collaboration and coordination of strategies between labor unions, worker collectives, young workers on the labor market and those about to enter, and their allies. The Peruvian youth activists who participated in the campaigns are an illustration of this creative leap and the continued importance of worker organization and voice in challenging the lowering of worker rights and labor standards in ways that may increase the socio-economic conditions leading to child labor and forced labor.

Conclusion and Key Takeaways

In accordance with their commitments to advancing worker rights, children's rights, and the enforcement of labor laws, organized labor groups have long been at the forefront of efforts to combat child labor. Research demonstrates that unionized workers are also in a better position to obtain higher wages, shift predictability, improved employment security, retirement and pension plans, and healthier and safer workplaces, among other benefits that are essential for reducing the need for children to engage in prohibited labor. Moreover, unions and organized worker groups are key stakeholders in social dialogue, which includes the various forms of negotiations and dialogue between or among employers, workers, and government agencies on their employment terms and conditions and human rights and socioeconomic issues, such as child labor.

Case studies of the various ways in which worker unions, unionizing efforts, and the exercise of voice have served as catalysts for reducing and preventing child labor in various parts of the world support the central ideas of the report's theory of change. Several important lessons can be drawn from the cases, including:

- Organized, empowered, independent worker unions and collectives are better positioned to lead or support the complementary, holistic, multistakeholder, and multisectoral initiatives necessary to reduce child labor.
- Worker organizing and voice must be free from employer control or coercion in order to support the establishment of conditions that facilitate the exit of children from precarious work.

- Effective social dialogue or worker voice (that meets the six criteria listed in earlier parts of this report) is necessary for effective worker organizing and can help create the social and economic conditions needed to reduce child labor.
- In a globalized world where labor and human rights issues transcend local and national geographic boundaries, the support and solidarity of fellow unions and organized worker bodies within and across national boundaries is crucial for energizing workers facing repression and other structural barriers to their organizing efforts.
- Young workers of legal working age must be recognized and supported as equal stakeholders in efforts to promote worker and workplace rights.

Expanding Worker Voice: Considerations for Research, Policy, and Practice

The breadth and depth of analysis conducted for this report supported the definition of worker voice articulated in the preceding sections with its six core and interacting components. This definition and the evidence underpinning it illuminate a series of implications for further research, policy, and practice. This section presents them in turn, for consideration by researchers, policymakers, and practitioners seeking to expand and strengthen worker voice.

Research Gaps Demanding Attention to Strengthen Worker Voice

While research on worker voice is vast, the importance of the subject continuously motivates new questions. Among them, four areas stand out as demanding more research attention (see Table 6).

Table 6: Worker voice research gaps

Research gap	Future research
Geographic Coverage	Increase worker voice research in under-studied regions, especially Africa and Central and South America.
Social Hierarchies	Integrate the study of intersectional social hierarchies into worker voice research.
Worker Voice, Child Labor, and Forced Labor	Expand research on worker voice as a means of countering child labor and forced labor.
Worker Voice and Ecological Crises	Increase research on worker voice as a means to mitigate ecological crises.

The first area that stands out is the geographic coverage of worker voice research, which remains concentrated. Despite deliberate prioritization of geographic diversity for this report, the geographic distribution of studies reviewed is indicative: 46% of them focused on worker voice in multiple regions, 32% in North America, 10% in Europe, 9% in Asia, 3% in Central and South America, and 1% in Africa. Expanding research is an opportunity. The second area is social hierarchies, including those based on caste, gender, nationality, race, and sexuality, which impede worker voice and are countered by worker voice.¹¹⁵ Yet the relationship between social hierarchies and worker voice is primarily studied in adjacent research fields, prompting increasing calls for more critical, intersectional engagement of the relationship by fields focused on labor and employment relations. Third, the relationship between worker voice and child labor and forced labor demands more research. Increasingly, international studies highlight the essentiality of worker voice for addressing the root causes and economic drivers of child and forced labor, as explored in this report’s case study on worker voice and child labor. Fourth, as

¹¹⁵ See the Penn State Worker Voice Literature Review for an overview of social hierarchies and worker voice. Studies reviewed include DuBois, 1935; Chen and Wong, 1998; Chakrabarty, 1989; Roediger et al., 2001; Dolan, 2004; Stirling & Tully, 2004; Fletcher & Gapasin, 2008; England, 2010; Rao, 2011; Greenberg, 2013; Gaddis & Pieters, 2017; Lee & Tapia, 2021; Lee et al., 2022; Robertson et al., 2020.

ecological crises transform the world, the environmental labor studies field and labor coalitions are advancing worker voice in strategies to mitigate effects and transition to more sustainability at workplaces and in communities at the national and international levels,¹¹⁶ yet much more attention is clearly needed from policymakers, practitioners, and researchers.

Worker Voice Research Implications for Policy and Practice

Extensive research on worker voice to date illuminates key considerations for policy and practice. These considerations are presented in clusters of national, tripartite, and workers' approaches, while recognizing the interactions between these levels of activity.

National level policy considerations

At the national level, this study highlights five key considerations for policymaking.

- 1. Public policy goals of reducing inequality and promoting democracy are directly supported by worker voice.** More than four decades of research has consistently found that unions reduce inequality by more equitably distributing capital. This research found reductions in inequality in multiple countries, including countries with high levels of informalized employment, by using different measurement methods, and through analysis based on different dimensions, including gender and race.¹¹⁷ Worker voice contributes to and is reinforced by democratic political institutions, as found by research spanning more than one hundred years.¹¹⁸ Several policy considerations flow from this robust finding.
- 2. Inclusive labor law supports worker voice.** As highlighted in this report and the ILO's 2022 flagship report on collective bargaining, worker voice enables the exercise of internationally recognized labor rights and needs legal protection. Excluding workers from laws protecting freedom of association, collective bargaining, and strike rights silences worker voice. Yet such exclusions remain widespread, based on sectors (e.g.,

¹¹⁶ See, for example, Räthzel, Nora, Dimitris Stevis, & David Uzzell. (2021). *The Palgrave Handbook of Environmental Labour Studies*. Cham, Switzerland: Palgrave MacMillan and the Trade Unions for Energy Democracy <https://www.tuedglobal.org/>.

¹¹⁷ For a review of studies on trade unions and inequality, see the Penn State Worker Voice Literature Review. Studies reviewed include: Ahlquist, 2017; Aidt et al., 2002; Banarjee et al., 2021; Blanchflower & Bryson, 2003; Blau & Kahn, 1996; Blau & Kahn, 2003; Bosch, 2015; Butcher & Rouse, 2001; Card, 1996; Card, 1998; Card et al., 2003; Card et al., 2004; Chattaraj, 2016; Cornia, 2014; Doucouliagos et al., 2017; Fairris, 2006; Farber et al., 2018; Farber et al., 2021; Farber et al., 2021; Fortin et al., 2021; Freeman & Medoff, 1984; Garner, 2020; Glass et al., 2021; Gould & McNicholas, 2017; Hayter & Weinberg, 2011; ILO, 2022a; Jäger et al., 2021; Jaumotte & Buitron, 2020; Metcalf et al., 2001; Morrissey, 2021; OECD, 2019; Parolin & VanHeuvelen, 2023; Pitts, 2008; Pontusson, 2013; Pontusson & Rueda, 2010; Robinson, 1989; Rosenfeld, 2006; Rosenfeld & Kleykamp, 2012; Rosenfeld et al., 2016; VanHeuvelen & Brady, 2021; Vaughan-Whitehead & Vazquez-Alvarez, 2018; Visser & Checchi, 2011; Western & Rosenfeld, 2011.

¹¹⁸ For a review of studies on worker voice and political democracy, see the Penn State Worker Voice Literature Review. Studies reviewed include Webb & Webb, 1897; Estey, 1928; Rees, 1962; Atleson, 2008; Ferreras, Battilana, Méda, & Mouillot, 2022; Cornell & Barenberg, 2022; Budd, Lamare, & Timming, 2018; Budd & Lamare, 2021.

agriculture and domestic work), contract types (e.g., informal, independent contractor, and digital platform-mediated employment), and worker characteristics (e.g., nationality and immigration status).¹¹⁹ The research also highlights that informal work is a policy outcome; the status of informality means the absence of government regulation of the employment relationship. This finding, indicated in this report's case study on [domestic work](#) and complementary studies, implies opportunities to strengthen worker voice, including through innovations such as sectoral standards boards.¹²⁰

- 3. Bargaining structures are another key area for policy consideration.** Multilevel collective bargaining systems present compelling means of maximizing social returns from worker voice.¹²¹ They require worker representation and forms of collective bargaining at the firm and sector levels and at the workplace and governing board levels of firms. They have been organized as dual systems in countries such as Germany, with trade unions negotiating sectoral agreements with employer associations, works councils co-determining workplace practices with management, and worker representatives on corporate supervisory boards. In other cases, such as Sweden, trade unions represent workers at each level.

- 4. Worker voice enables the realization of decent work.** Worker-government co-enforcement of labor laws has improved legal compliance in diverse contexts, from eradicating modern-day slavery from agriculture in the Southeast of the United States, as noted in this report's case study on [agriculture](#), to Germany, where national law (Works Constitution Act, section 80) empowers works councils to support labor law enforcement. Supporting worker voice contributes to eliminating child labor and forced labor. While the relationship between worker voice and [child labor](#) and forced labor continues to be explored, the findings to date indicate that interventions against these forms of coercive employment are more likely to be effective when supporting worker voice. Social protection programs and worker voice are complementary. Worker voice supports enactment of social welfare programs, and such programs enable worker voice

¹¹⁹ For a review of studies on exclusions of workers' rights, see the Penn State Worker Voice Literature Review. Studies reviewed include: Sassen, 2002; Compa, 2000, 2014; Massey et al., 2002; Gordon, 2007, 2011, 2022; ILO, 2008; Wills et al., 2009; Perea, 2011; Anderson & Ruhs, 2012; De Stefano, 2016; FAO, 2016, 2018; Agarwala & Saha, 2018; Eaton et al., 2017; Borkholder et al., 2018; Block & Sachs, 2020; Kissi & Herzig, 2020; Vogt et al., 2020; Asia Floor Wage Alliance, 2021; Fischer-Daly, 2021, 2023; IUF & GLJ-ILRF, 2021; Montes de Oca, 2021; Walia, 2021; Dale & Haag, 2022; Kochan et al., 2022; Quinn, 2023.

¹²⁰ For more on informal work and sectoral standards boards, see the case study on [domestic work](#) herein and the Penn State Worker Voice Literature Review, in which, studies reviewed include: Agarwala, 2008, 2014, 2016; Tilly et al., 2013; Carré et al., 2014; Agarwala & Saha, 2018.

¹²¹ For a review of studies on multilevel collective bargaining systems, see the Penn State Worker Voice Literature Review. Studies reviewed include: Visser 1998; Addison et al. 2001; Bryson and Wilkinson 2001; Iversen and Soskice 2001; Amable 2003; Turnbull 2003; Doellgast 2010; Lamarche 2013; Andreasson 2014; Godfrey et al. 2017; Garnero et al. 2018; Laroche 2020; Brandl and Braakman 2021; Devicienti and Fanfani 2021; Jäger et al. 2021.

by supporting workers' wellbeing.¹²² Influencing each of these relationships, sub-national regulations can both strengthen and weaken worker voice and are often overlooked. For example, this report's case study on [U.S. agriculture](#) highlights workers' exercise of voice by using the California Agricultural Labor Relations Act, which protects collective bargaining rights, and the Little Norris LaGuardia Act, which protects concerted activity. In contrast, this report's case study on the [U.S.-Mexico-Canada Agreement](#) includes an example of state-level regulation impeding worker voice.

- 5. Worker voice in policymaking beyond workplace regulation can contribute to public policy goals.** Worker voice in macroeconomic policymaking is a mechanism for balancing interests in profits, wages, and consumer prices that countries, especially in Scandinavia,¹²³ have implemented. Now, as economists debate means of managing labor markets and inflation,¹²⁴ may be an opportune moment to re-examine worker voice in macroeconomic policy. Competition, or anti-trust, policy can support worker voice by limiting monopsony power in labor markets. Historically associated with "company towns," observations of monopsonistic power in labor markets are raising concerns among economists.¹²⁵ The evidence also underlines that worker voice can support mitigation of crises. Responding to the COVID-19 pandemic outbreak and attendant disruptions, tripartite negotiations between trade unions, employers' associations, and governments mitigated social impacts, indicating a role for worker voice in mitigation of the climate crisis, future pandemics, and other crises.¹²⁶

International level policy considerations

At the international level, this study highlights two key considerations for policymaking.

- 1. Innovations in multiparty collective bargaining across supply chains have increased labor standards enforcement.** This is illustrated in this report's case study on

¹²² For a review of studies on worker voice and social protection programs, see the Penn State Worker Voice Literature Review. Studies reviewed include: Budlender & Sadeck, 2007; Doellgast et al., 2018; Natali et al., 2018; Banco de Previsión Social, 2019; Owoo et al., 2020; Banarjee et al., 2021; EPI, 2021; ILO, 2022a, 2022b, 2023a; Jacobs, 2022.

¹²³ For example, in Sweden national organizations of workers and employers negotiated wage levels, the government's policies on taxes and permitting less productive firms to close limited inflation, and national welfare policies compensated restrained wage levels (Meidner, 1986; Magnusson, 2006).

¹²⁴ The Nobel Prize winning economist Paul Krugman summarizes this debate in his *New York Times* article "Working Out: In Economics, A Game of Teams," *NYT* 14 July 2023 <https://www.nytimes.com/2023/07/14/opinion/inflation-economists-soft-landing.html> (accessed 15 July 2023).

¹²⁵ For a review of recent economic research on monopsonistic labor markets, see Ashenfelter et al., 2021.

¹²⁶ For a review of studies on trade unions and crisis mitigation, see the Penn State Worker Voice Literature Review. Studies reviewed include: Artz et al., 2021; Banarjee et al., 2021; Banco de Previsión Social, 2019; Bensusán, 2022; Budlender & Sadeck, 2007; Doellgast et al., 2018; EPI, 2021; Flecker & Schönauer, 2013; Glassner et al., 2011; González Fernández, 2013; ILO, 2022a, 2022b, 2023a; Jacobs, 2022; Natali et al., 2018; Owoo et al., 2020.

[enforceable brand agreements](#).¹²⁷ As the research highlights, among the innovations that can inform future initiatives are their enabling of worker voice in global supply chains and development of effective dispute resolution procedures for such internationally organized employment relations.

- 2. Linking labor, trade, and investment rights in international agreements can support worker voice.** This report's case study on the Rapid Response Labor Mechanism in the U.S.-Mexico-Canada Agreement highlights that the mechanism has strengthened worker voice and, through its implementation, has raised new questions, such as how to address intransigent firms.

Considerations for worker voice practice

Key considerations for practitioners also emerge from this study.

For exercising worker voice, workers organize trade unions, worker centers, and social movements. Each organizational form demonstrates strengths: union economic leverage, worker centers' community networking, and social movements' mobilization on issues beyond workplaces. Insightful research has highlighted the need for **more attention to synergies between worker organizations and to challenges, such as sustainable funding and scaling up impacts**.¹²⁸

In all organizational forms, inclusivity supports worker voice. As noted, research demonstrates that caste, gender, nationality, race, and sexuality impede worker voice and are countered by worker voice.¹²⁹ These findings, even if not fully incorporated into fields focused primarily on worker voice, imply that inclusiveness increases the effectiveness of workers' organizations.

Through inclusive workers' organizations, **political education and leadership training enable worker voice, as highlighted in several of this report's case studies and complementary research**.¹³⁰ Collaborations between workers and researchers often support such capacity

¹²⁷ In addition to the [case study](#) herein, studies on enforceable brand agreements reviewed in the Penn State Worker Voice Literature Review include: Alexander, 2022; Ancheita, 2022; Ashwin et al., 2020; Bair & Palpacuer, 2015; Brookes & Kinzel, 2019; Cotton Campaign, 2022; Ford & Gillan, 2021; Garver et al., 2007; Helfen & Fichter, 2013; Keck & Sikkink, 1998; Merk & Zajak, 2019; Müller et al., 2008; Niforou, 2012, 2014; Sarkar & Kuruvilla, 2020; Scott, 2022.

¹²⁸ For a review of studies on workers' organizational forms, see the Penn State Worker Voice Literature Review. Studies reviewed include: Cornell, 2021; Quan, 2000; Ford, 2003; Frank & Wong, 2004; Healy, Heery, Taylor, & Brown, 2004; Fine, 2005, 2007, 2011; Holgate, 2005; Bardacke, 2012; Tilly et al., 2013; Carré, Tilly, & Bonner, 2014; Rivera Salgado, 2015; Bacon, 2016; Goldsmith, 2017; Windham, 2017; Fine et al., 2018; Vandaele, 2018; Doellgast, Bellego, & Pannini, 2021; Kougiannou & Mendonça, 2021; Jacob, 2022; Kochan et al., 2022; Scott, 2022.

¹²⁹ See the Penn State Worker Voice Literature Review for an overview of social hierarchies and worker voice. For a list of studies reviewed, see footnote 115.

¹³⁰ Studies of worker voice, political education, and leadership training covered in the Penn State Worker Voice Literature Review include Freire, 1970; Ganz, 2000; Sciacchitano, 2000; Addison et al., 2001; Delp et al., 2002; Sharpe, 2004; Lang et al., 2012; Simon & Schiemer, 2015; Kochan et al., 2018; Rathgens et al., 2020; Lee & Tapia, 2021; Anner, 2022; IDWF, 2022; Lee et al., 2022.

building. Researchers can further strengthen worker voice by partnering with workers' organizations in worker-driven co-research, a methodology that repositions workers as researchers of their own subject, aiming to shrink the gaps between lived reality, theoretical explanations of the world, and policies and practices aimed at improving it (Anner 2024). A longstanding tradition, recent initiatives by workers and researchers have continued to strengthen worker voice.¹³¹

Two other areas for practitioners to strengthen worker voice concern transnational worker migration and democracy struggles. Transnational labor rights corridors are an innovation by international migrant workers and the focus of one of this report's case studies. The emerging TLRCs highlight the need to **align immigration law with legal protections of workers' rights and the potential of cross-national alliances of workers and allied labor advocates to support more effective exercise of voice by international migrant workers**. For democracy, this report's case study on the democracy struggle in [Myanmar](#) poignantly reminds us that worker voice counters authoritarianism. It echoes findings of prior studies that authoritarianism aims to eliminate democracy and worker voice, an attack that simultaneously highlights the **interdependence of worker voice and political democracy**. The research also raises challenges, such as how workers' organizations sustain internal democratic practices in the face of overt, violent oppression and geographic displacement.

¹³¹ On worker voice and worker-ally co-research methods, see the Penn State Worker Voice Literature Review and case study on [transnational labor rights corridors](#); studies reviewed include Freire, 1967; Delp et al., 2002; Zukoski & Luluquisen, 2002; Guijt, 2014; Theodore, 2015, 2020, 2023; Anner, 2024.

Conclusions

This report sought to develop a definition of worker voice that supports analysis of what are and what are not effective forms of worker voice. To do so, we built on our robust literature review and examined not only what forms of worker voice are most effective but, more specifically, what worker voice mechanisms are most effective in non-standard and precarious employment relationships. This includes outsourced employment in global supply chains, the informal sector, migrant labor, under-regulated segments of agriculture, domestic work, and work under authoritarian rule. It also sought to explore how worker voice mechanisms might contribute to a reduction in child labor.

To complete this task, the report presented a definition of worker voice with six core and interacting components: elect, represent, include, protect, enable, and empower. Effective worker voice institutions and mechanisms are built upon democratic worker organizations that are fully independent of the state and employers. Collective organizations are the most effective, as are organizations whose members and leaders reflect the diversity of their sectors and societies. Workers participating in such organizations and processes must be protected from dismissal, deportation, and other forms of harm, including to their physical safety. Workers should be fully enabled to exercise their voice by having the time, space, information, and training to participate. Finally, workers must be empowered to leverage their demands.

To study and analyze this definition of worker voice, we established a three-step process. First, we explored the labor relations context. Second, we examined how a worker voice mechanism functions. Third, we documented outcomes of these processes for terms and conditions of work, respect for worker rights, eradication of gender-based violence and harassment, and other factors. Research found that the best worker voice mechanisms are ones that reduce the obstacles to organizing faced by workers and allow workers to re-take agency in efforts to improve their conditions of work. In this regard, EBAs (such as the Fruit of the Loom and labor agreements in Honduras) and RRLM petitions in Mexico, allowed workers to break through obstacles at their work centers to form independent unions and to bargain for decent work. In other cases, agriculture and domestic workers innovated to improve working conditions, in some cases through union collective bargaining, despite their exclusion from key labor laws.

The core of this report was its analysis of seven case studies. This included: 1. Enforceable Brand Agreements (EBAs) in Bangladesh, Honduras, India, Lesotho, and Pakistan; 2. United States-Mexico-Canada Agreement (USMCA)'s Facility-Specific Rapid Response Labor Mechanism (RRLM) in Mexico; 3. Workers' Voice and the Struggles of Domestic Workers; 4. Worker Voice in Agricultural Employment in the United States; 5. Transnational Labor Rights Corridors: Central America, Mexico, and the United States; 6. Worker Voice in Authoritarian Regimes: Myanmar; and 7. Worker Voice Approaches to Child Labor. These case studies illustrate the relevance and impact of the six components of worker voice.

The study's findings point to takeaway considerations for researchers, policymakers, and practitioners. For researchers, areas in need of further study include worker voice research in Africa and Central and South America; worker voice and intersectional social hierarchies; worker voice and child and forced labor reduction; and worker voice and crisis mitigation. For policymakers at the national level, the evidence highlights the importance of legal protections of worker voice for all workers; worker voice as a means to enhance labor law enforcement and economic and crisis management; and coordinated worker voice structures at all levels of firms, sectors, national and international policymaking. Key considerations for international policy include the potential support for worker voice offered by international, multiparty collective bargaining across supply chains and linking labor, trade, and investment rights in international agreements. Finally, for workers' organizations, the study highlights the importance for effective worker voice of inclusiveness of all workers and worker-led collaborations with advocates on education and research.

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Appendix: Methodology for Identifying Research Gaps

Research on worker voice has clarified what makes worker voice effective. The Penn State Worker Voice Literature Review associated with this report covered 450 texts from the 19th century to date. Studies of worker voice use a three-step method to analyze what is effective worker voice. The first step is the context, the “why”—what are the problems that worker voice is aiming to resolve. The second is the mechanism(s), the decisions and actions taken by actors’—especially governments, employers, and workers—that influence worker voice. Third is the outcomes, the results of the mechanism(s). This report’s case studies also apply this method to explore effective and ineffective worker voice mechanisms. This appendix presents the analysis of thematic coverage of extant studies on worker voice, which informed the definition of worker voice and implications for further research, policy, and practice presented in the body of this report.

Throughout the industrial era, scholars have analyzed the overall context for worker voice, why it is important, and what fundamental problems it addresses. One consistent observation is that peace depends on justice, which depends on workers’ collectively participating in the establishment and implementation of rules of work and society through negotiations with employers and governments, as articulated in the ILO Constitutional Preamble and referenced since.¹³² Another is that workers exercising voice supports political democracy, a role that requires workers’ organizations to be independent from states and employers.¹³³ Also consistently observed is that the conflict between profitability and a fair distribution of wealth creates the need for collective bargaining between workers and employers, while their overlapping interests, for example in productivity, make collective bargaining possible.¹³⁴ Additionally, workers collective bargaining with employers and governments (where the state is an employer) depends on their ability to exercise internationally recognized human and labor rights associated with worker voice, especially freedom of association, collective bargaining, and the right to strike.¹³⁵ Another consistent observation is that the internationalization of capital and commercial flows through global supply chains presents challenges to worker voice, including transnational enforcement of labor standards, tension between labor law enforcement and attraction of investment, and the reality that capital is more mobile than labor.¹³⁶

¹³² See the Penn State Worker Voice Literature Review for a review of the overall context for worker voice. Studies reviewed include Dunlop, 1958; Atleson et al., 2008; ILO, 2022.

¹³³ See the Penn State Worker Voice Literature Review for a review of the overall context for worker voice. Studies reviewed include Webb & Webb, 1897; Estey, 1928; Rees, 1962; Atleson, 2008; Ferreras, Battilana, Méda, & Mouillot, 2022; Cornell & Barenberg, 2022; Budd, Lamare, & Timming, 2018; Budd & Lamare, 2021.

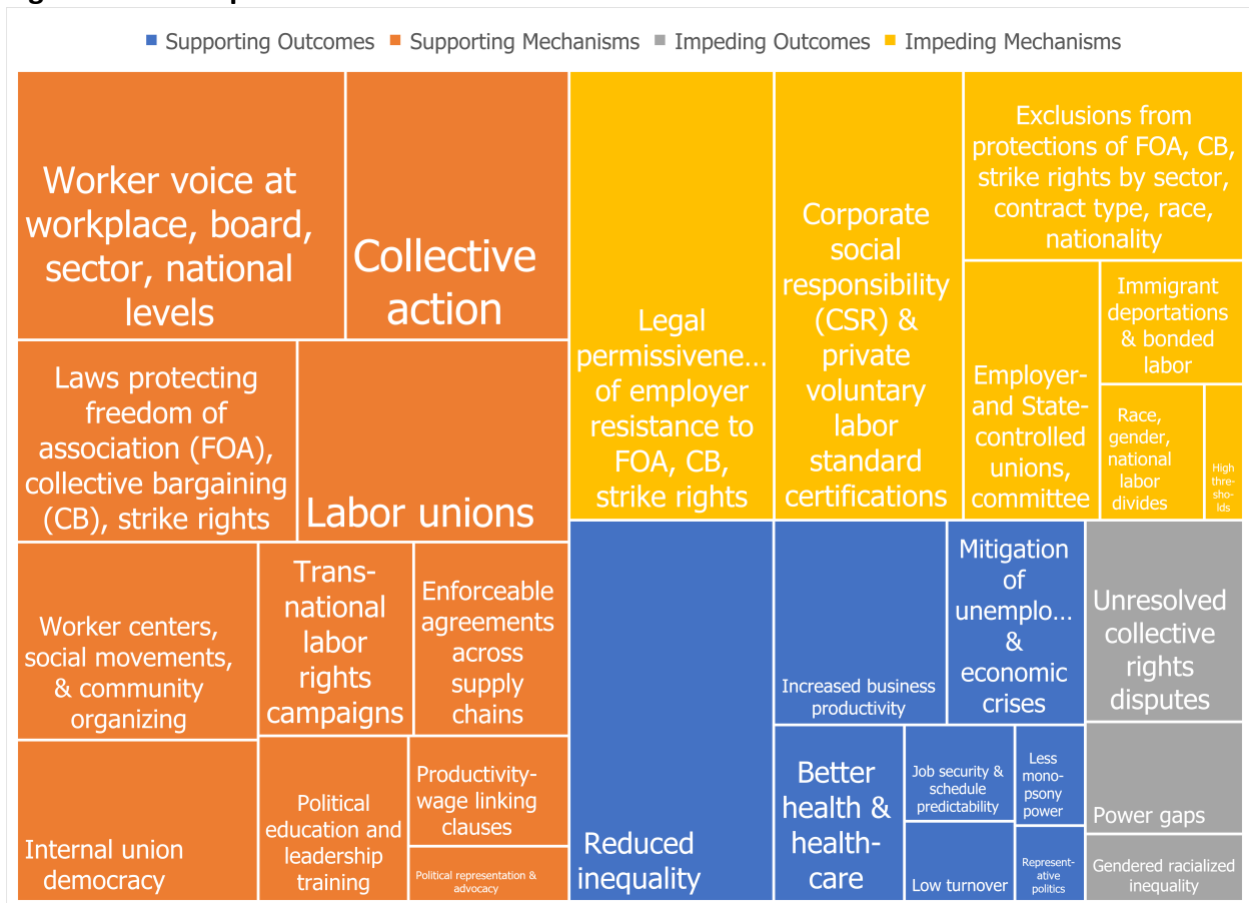
¹³⁴ See the Penn State Worker Voice Literature Review for an overview of collective bargaining. Studies reviewed include Webb and Webb, 1896, 1897; Commons, 1959; Dunlop, 1958; Katz, Kochan, & Colvin, 2017; OECD, 2019; Budd, 2021; ILO, 2022.

¹³⁵ See the Penn State Worker Voice Literature Review for an overview of workers’ rights. Studies reviewed include Montgomery, 1979; Compa, 2000; Atleson et al., 2008; Vogt et al., 2020; ILO, 2022.

¹³⁶ See the Penn State Worker Voice Literature Review for an overview of worker voice and internationalization. Studies reviewed include Arrighi, 1994; Harvey, 2003; Panitch & Gindin, 2012; Appelbaum & Lichtenstein, 2016.

Turning to research on worker voice mechanisms and outcomes, the treemap (Figure 6) below presents the distribution of studies reviewed for this report. The orange color shows the volume of studies reviewed that demonstrate effective worker voice mechanisms; the blue shows outcomes from these supporting mechanisms. The yellow category shows the distribution of studies demonstrating mechanisms that impede worker voice, and the gray shows outcomes from these impeding mechanisms. The box size indicates the amount of research attention given to the mechanism or outcome. The text refers to categories of mechanisms and outcomes, which are detailed in the Penn State Worker Voice Literature Review. For example, the box “power gap” includes studies focused on absences of worker voice mechanisms, including trade union representation, collective bargaining coverage, and strike activity.

Figure 6: Treemap—Distribution of Research on Worker Voice



Source: authors' coding of 450 studies on worker voice

The distribution of research on mechanisms and outcomes indicates broad trends that reflect the aforementioned context for worker voice. On supportive mechanisms (orange), the categories receiving the most research attention are collective bargaining structures (at the sector, national, and firm workplace and governance levels), laws protecting workers' rights, and collective action. The categories of impeding mechanisms (yellow) receiving the most

attention are legal permissions of employer resistance to workers' exercising their rights, on corporate social responsibility (CSR) and related private, voluntary labor standard certifications, and legal exclusions from protections of workers' rights. On outcomes from supportive mechanisms (blue), reduction of inequality receives the most attention, and from impeding mechanisms (grey), unresolved disputes and power gaps receive the most attention.