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Re:
Structure
New Models for an
Equitable Economy **Lab**

Social Auditing and Ethical Certification

A collaboration between:



Stanford | Center for Human Rights
and International Justice

Yale MACMILLAN CENTER
*Gilder Lehrman Center for the Study
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About

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

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

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Executive Summary

Persistent problems have been documented in the effectiveness of social auditing and ethical certification schemes when it comes to preventing, detecting and addressing forced labour. Yet, companies continue to turn to these private tools to fulfil their duties under due diligence and transparency legislation, and as strategies to respond to pressure to detect such human rights violations and shield themselves from liability when it does occur.

A growing body of academic research highlights the failures and flaws in social auditing and ethical certification, and that these systems fundamentally do not work to improve labour conditions over time. Rather, social auditing and ethical certification systems have been found to sideline workers, unions, and local communities, providing unclear benefits for suppliers and producers while increasing their costs in order to comply. Crucially, social audit and ethical certification systems are rife with conflict of interest and circumvent the portions of supply chains where forced labour is most likely to take place. They outsource labour governance to for-profit actors who refuse to guarantee the quality and accuracy of their services, muddying the waters of accountability and responsibility for labour abuse and working conditions. Ultimately, these systems create an illusion of progress that fuels complacency and displaces effective solutions to address forced labour in supply chains.

In recent years the social compliance industry has awoken to these limitations and there is growing discussion of the need to improve forced labour detection and remediation systems. To date, reform efforts have centred around improving ethical certification standards and audit methodologies on paper, but there is little evidence that incremental improvements are leading to meaningful change on the ground. These systems remain overwhelmingly flawed and limited. Recognising this, some companies are turning away from audits and certification entirely. Whether and to what extent the new systems they are replacing traditional social compliance tools with represent a step forward or not remains to be seen.

While there is growing acknowledgement of the social compliance regime's flaws, there has been less attention to how these gaps could be meaningfully addressed. With that in mind, this Brief explores: How can social auditing and certification be adequately regulated or reformed to play a role in eradicating forced labour? What is the potential to reinvest the cost of these mechanisms into more effective solutions?

Tackling these questions, the Brief maps out how monitoring tools would need to change to play a role in promoting labour standards. We stress the need to establish liability for auditors and certifiers that play a role in misleading consumers and policymakers—willfully or not—about labour practices and worksite conditions, including for the accuracy of their reports and the role they play in obscuring criminal practices. Reforms proposed include increasing NGO and union involvement and disrupting financial conflict of interest by creating a pool of auditors that companies do not pay directly. We argue that more meaningful and promising third-party verification and monitoring systems are worker-led, and that funds spent on auditing and certification could be channelled into more effective worker-driven and state-led solutions.

Problem

Corporations and the private enforcement industry of consulting, assurance, and certification firms have long claimed that their private governance tools—such as ethical certification, social auditing, and supplier codes of conduct—are adequate to ensure fair and safe working conditions in supply chains. However, after three decades of their widespread implementation, ample evidence demonstrates that these tools are overwhelmingly failing to deliver supply chains that are free of forced labour and overlapping forms of exploitation.¹

Study after study has found that audits and ethical certification schemes are ineffective mechanisms to detect, address, and correct labour exploitation and forced labour in supply chains.² Given that forced labour is an illegal practice, its pervasiveness is hidden by supply chain actors, making it difficult to detect with traditional audit and certification schemes. As the Re:Structure Lab has argued in previous Evidence Briefs on Commercial Contracts and Sourcing as well as Labour Share and Value Distribution, until commercial dynamics that hardwire forced labour risks into supply chains are tackled, such severe forms of exploitation will continue to be present in supply chains. Neither auditing nor certification schemes address the commercial dynamics that lead to forced labour and exploitation, resulting in predictable non-compliance and failure to make progress.³

There is little evidence that social auditing and ethical certification improve labour conditions over time, and in fact a growing literature suggests they have no impact at all on the workers they claim to benefit,⁴ and may come with perverse effects and hidden costs.⁵ As Kuruvilla et al. describe, “there is steadily mounting scholarly evidence that the model has not generated sustainable improvements in living standards of workers in the global supply chains”.⁶ Their study comparing audit reports to 1549 payslips from across 30 suppliers found a “continued gap between the practices adopted and the expected outcomes”⁷ and that labour violations remained common.

Neither auditing nor certification schemes address the commercial dynamics that lead to forced labour and exploitation, resulting in predictable non-compliance and failure to make progress.

Another study following 832 factories in Southeast Asia over seven years found that audits did not lead to improved labour conditions for workers,⁸ while yet another using panel data of internal factory audit reports found that audits “did not improve factory working conditions significantly”.⁹ Similarly, a host of recent studies have found forced labour on longstanding ethically certified worksites. For instance, one study of ethically certified tea plantations found the same severity and prevalence of forced labour as took place on non-certified plantations, although they had been certified and audited,¹⁰ while another study found that ethically certified and audited farms did not exhibit better worker health and safety than non-certified farms.¹¹

The failures of the social audit and ethical certification regime to substantially improve conditions for workers are a product of the way these systems are designed. Both social auditing and ethical certification systems use a top-down, Western-centric approach,¹² where local knowledge is disregarded.¹³

Managing the reputational and financial risks of multinational corporations is often prioritised over the needs of workers in supply chains. Some of the most critical design features that have led to the failures of these systems include:

- **Social auditing and ethical certification tend to sideline workers, unions, and local communities.**¹⁴ Despite ostensibly being the intended beneficiaries of social auditing and ethical certification initiatives, workers are rarely involved in the design process,¹⁵ and unions are often actively excluded.¹⁶ The actions of auditors can actively endanger workers by conducting worker interviews poorly and in unethical ways,¹⁷ or by failing to inform them of their rights.¹⁸ These practices entrench the status quo of power imbalances in supply chains and suppress worker agency. By failing to centre the voices of the supply chain actors that are made most vulnerable, social auditing and ethical certification mechanisms will continue to serve the needs of lead firms over workers, fostering a 'check-box' approach and reinforcing status quo power dynamics rather than promoting real change. Studies of recent efforts to incorporate 'worker voice' technology into traditional audit tools point to a myriad of challenges and few meaningful improvements.¹⁹

- **The financial burden of audit and certification compliance is borne by suppliers and producers.**²⁰ In order to meet standards set out by lead firms and/or certifying agencies, producers and suppliers shoulder a disproportionate share of the cost of compliance. For instance, certification requires producers to make expensive investments in infrastructure and supervision,²¹ and increases the cost of production by mandating minimum wages and barring the use of child labour, typically amidst downward pressure on prices rather than commercial support to meet standards.²² At the same time, the cost of monitoring itself is typically passed on to producers and suppliers being audited,²³ and conflicting requirements between different buyers can lead to additional compliance costs and 'audit fatigue.'²⁴

- **The benefits of auditing and certification for producers and suppliers are unclear.** Evidence suggests that social compliance mechanisms have no effect on the metrics that matter most for working conditions, such as payment of minimum wages and proportion of non-permanent workers.²⁵ A systematic review of the effects of certification on farmers' incomes even found that workers on uncertified production sites earn more than those on certified sites.²⁶ Scholars have argued that much of the premium paid for ethically certified products is captured by businesses in the Global North—for instance, roasters and retailers in the case of Fairtrade certified coffee²⁷—with little to no benefit being passed along to producers and in turn workers, and that consumers are unaware of this value distribution.²⁸ As the World Bank has rigorously documented, global supply chains and the rising market power of corporations have contributed to the declining labour share across Global South countries;²⁹ auditing and certification extract even further value, redistributing upwards much-needed funds from suppliers and workers.
- **The audit industry is rife with conflict of interest.**³⁰ Both lead firms and suppliers have incentives to hide labour abuses within their supply chains. For lead firms, there are reputational and financial risks associated with discovering forced labour, while for suppliers, a 'zero-tolerance' approach from buyers can threaten future contracts. There is also evidence that for-profit third-party auditors themselves face a conflict of interest, with incentives to provide suppliers with an 'unfavourable' report so as to require a re-audit in the future.³¹ One of the largest studies of auditing to date—including 44,383 social audits in 47 countries—found “evidence suggesting that violations recorded in audits might indeed be influenced by financial conflicts of interest and by auditor competence.”³² Other studies have identified collusion between auditors and suppliers, especially where suppliers are the ones paying for the audit, and that leniency is shaped by market conditions and auditor biases.³³

There are a number of reasons why supply chain monitoring will not identify instances of forced labour or worker exploitation, even when these practices are rife. Audit and certification programs miss major labour standards violations and offer flawed portrayals of worksites.³⁴

This is due both to the limited powers of auditors (e.g. they cannot open locked drawers or investigate false records), and because audit checklists tend to leave off crucial dimensions of labour standards.³⁵ For instance, audit checklists typically do not include health and safety problems threatening worker well-being and are unable to detect known indicators of forced labour such as debts incurred by workers prior to arriving at the worksite since these lie beyond their scope.³⁶

Figure 1:
Information most relevant to forced labour often lies beyond the scope of audits

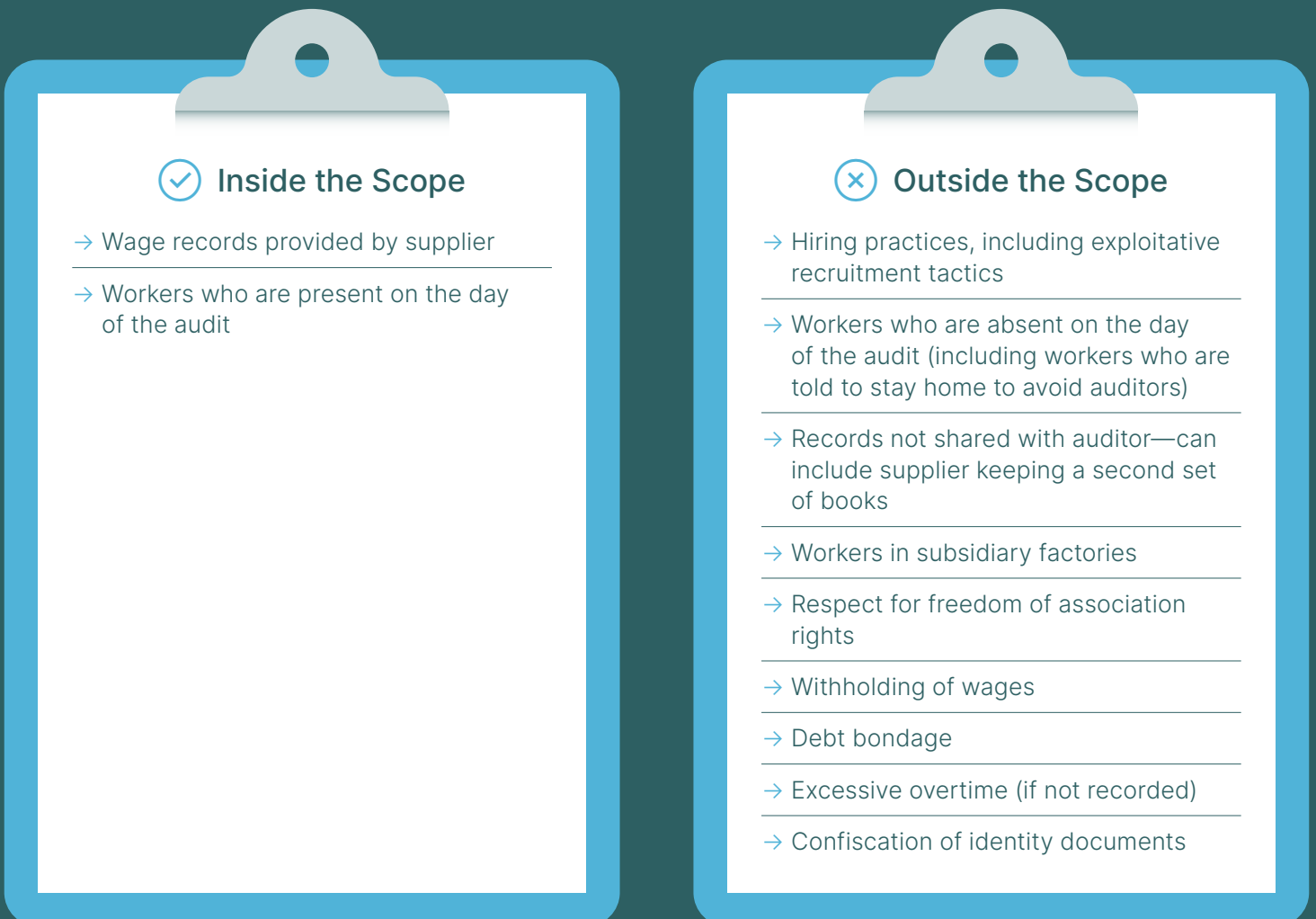


Figure 2:
Reported disasters following auditing and certification in the garment supply chain

As reported by: Martin Hickman, "21 Workers Die in Fire at H&M Factory," *The Independent* (2010, March 2); Declan Walsh and Steven Greenhouse, "Inspectors Certified Pakistani Factory as Safe Before Disaster," *New York Times* (2012, September 20); Steven Greenhouse, "Documents Indicate Walmart Blocked Safety Push in Bangladesh," *New York Times* (2012, December 6); European Center for Constitutional and Human Rights, "OECD Complaint against TÜV Rheinland," (2016): ecchr.eu.

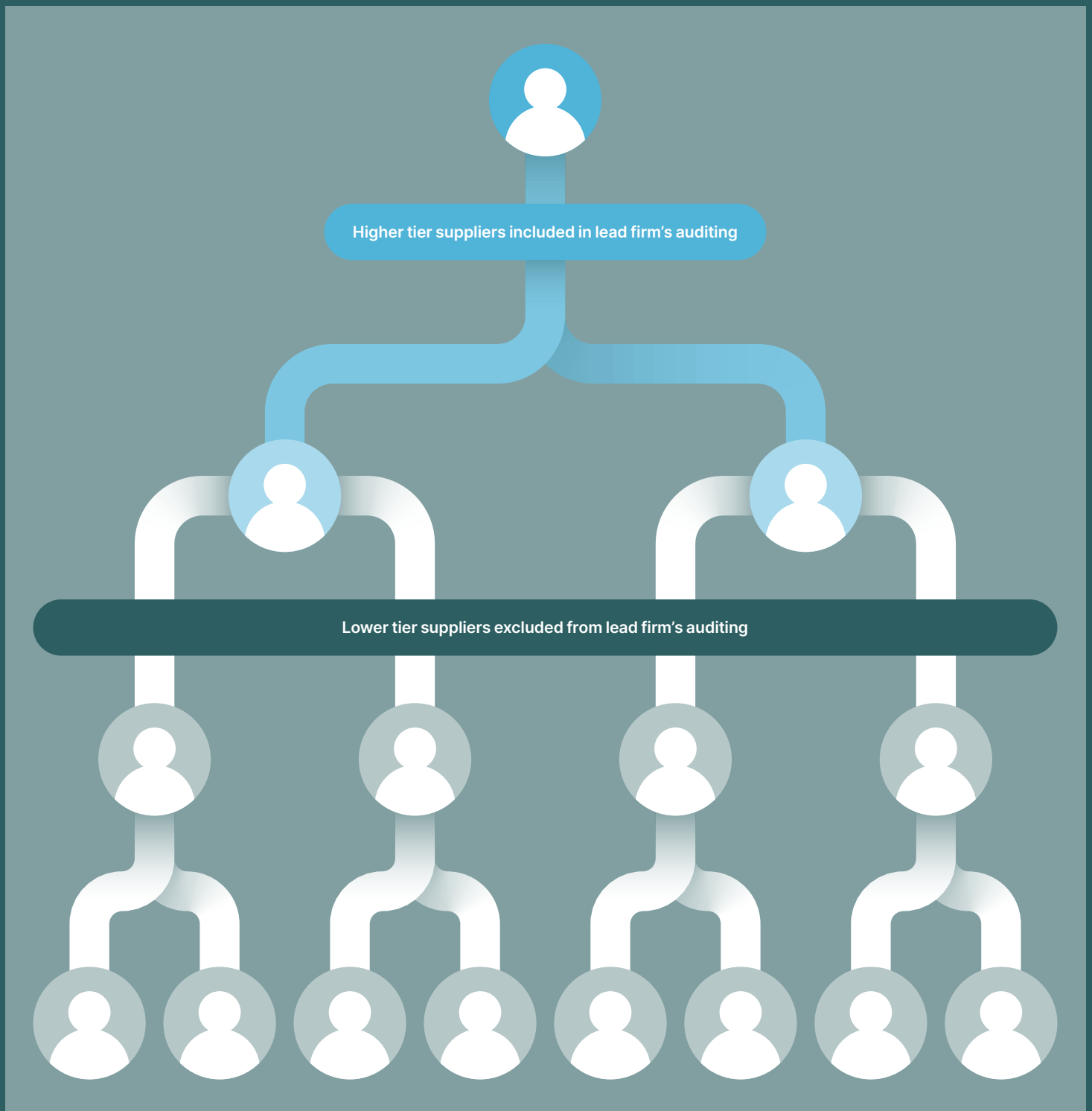


Suppliers who are deliberately trying to hide worker exploitation in their factories have been known to coach workers or provide an alternative set of records to auditors, and pre-announced audits make this practice possible.³⁷ Notably, auditor assessments of the same worksites vary widely, suggesting much is overlooked. For instance, one recent study found that audits conducted by different auditing firms gave rankings ranging from 'major deficiencies' to 'good', even when the audits took place only a couple of days apart.³⁸ Factors such as the level of auditor training and the gender makeup of auditing teams have been shown to have an impact on the number of violations reported, as well as whether or not the auditor has visited the supplier before.³⁹

Ethical certification schemes suffer from similar limitations. While schemes vary with respect to standards enforcement, including the timing, frequency, and methodology of auditing, and whether standards are self-reported by businesses or verified by an external auditor, there is generally weak verification. Most verify only a small percentage (e.g. 5%⁴⁰) of worksites, and only once a year. As such, there are major gaps between standards and practices on the ground, as well as rampant cheating, where practices are temporarily changed to meet standards during quick visits by auditors, and then changed back.⁴¹ Other factors affecting the ability of auditing and certification schemes to detect and remediate forced labour and worker exploitation include:

→ **Audits and certification do not reach the portions of supply chains where forced labour is most likely to take place.** Ample evidence has shown that forced labour is most likely to be found in the sub-tiers of supply chains;⁴² yet, most audits only focus on Tier 1 suppliers, thereby circumventing the workers in supply chains most vulnerable to severe exploitation. Lower tier suppliers have been found to lack training in working conditions, safety, and human rights and often have large percentages of temporary workers and employee turnover.⁴³ Certification systems, too, often create loopholes around the most vulnerable workers, such as day labourers and contract workers, excluding from standards the workers who most urgently require them.⁴⁴

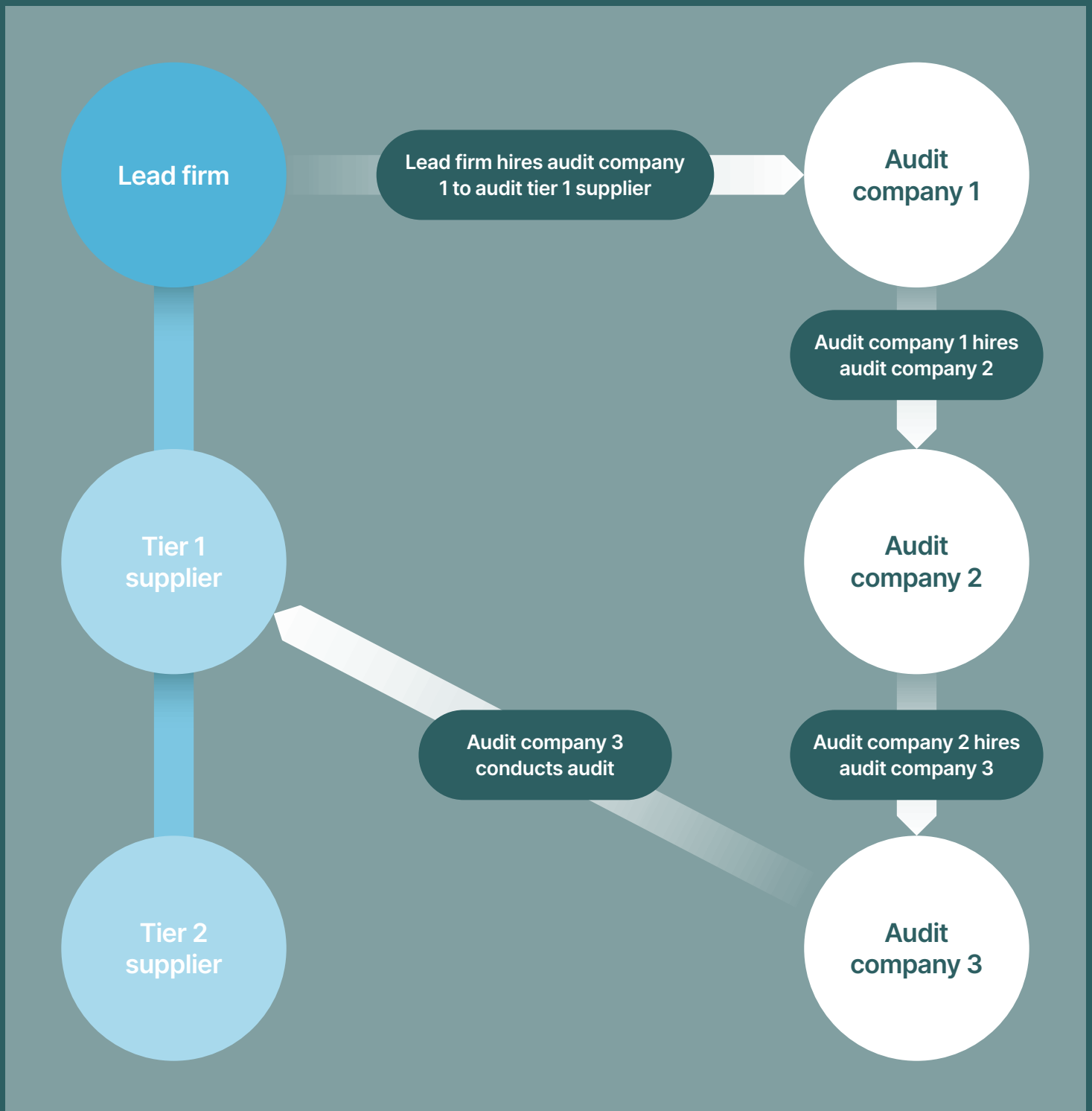
Figure 3:
The limited reach of auditing in supply chains



Ample evidence has shown that forced labour is most likely to be found in the sub-tiers of supply chains; yet, most audits only focus on Tier 1 suppliers, thereby circumventing the workers in supply chains most vulnerable to severe exploitation.

- **Auditors do not guarantee the quality or accuracy of their assessments, and there are serious doubts about the integrity and stringency of audits.**⁴⁵ A string of recent lawsuits against auditors who have missed major problems has tried to establish their liability for misleading, false, and deficient audit reports that rubber stamp exploitative working conditions. However, social auditors are not presently liable for the accuracy or reliability of their reports nor the consequences of their failures.⁴⁶ In legal terms, the auditor is only tied to the corporation commissioning the audit, which means that workers suffering the consequences of poor quality and flawed audits have little recourse as they are not a party to the contract.
- **Audit companies regularly outsource their audits.** Like the companies they monitor, it is common practice for audit and certification companies to subcontract their work to other firms.⁴⁷ This creates an added layer of complexity, as the certifying companies have no way of ensuring the quality of the reports provided by third party auditors. Amidst the ongoing Covid-19 pandemic, the turn to 'remote' audits is exacerbating the problem. As corporations have postponed audits or sought to conduct them remotely by local auditing companies, audits have become even less rigorous and easier to cheat.⁴⁸

Figure 4:
Example of sub-contracted audit supply chain



→ **'Zero-tolerance' to forced labour violations fosters mock compliance.**

For suppliers, the risk of losing contracts from buyers with zero-tolerance policies creates an incentive to conceal labour violations, and according to some scholars, this practice is widespread.⁴⁹ Mock compliance creates an illusion of progress, and enables companies to pass the buck when things go wrong. As business scholars Juliane Reinecke and Jimmy Donaghey have described, “while social auditing had previously allowed brands to claim taking a ‘zero-tolerance’ approach to non-compliance, brands admitted that it enabled ‘plausible deniability’ and disowning responsibility”.⁵⁰ When audits and certification schemes *do* identify indicators of forced labour within supply chains, there are few remediation mechanisms or resources available to translate these findings into improvements in conditions for workers. According to one auditor, “an audit is a diagnostic tool; it doesn’t fix things. It doesn’t matter how many times we audit a factory, it doesn’t mean they’re going to improve”.⁵¹ Worker organisations who could provide remediation tend to be side-lined, as noted above.

Mock compliance creates an illusion of progress, and enables companies to pass the buck when things go wrong.

- **Auditors often do not report forced labour to the authorities, as they are bound by confidentiality clauses in commercial contracts.**⁵² Business representatives have confirmed that they do not allow social audit firms to share data on suspected criminality. For instance, in response to a UK Parliamentary question, one corporate leader answered: “Our auditors do not share specific data resulting from audits conducted on our behalf outside [our company]. This confidential relationship is essential to maintaining full and honest discussions between [our company], our suppliers and our auditors.”⁵³ Auditors need heavy evidence (as much as for a criminal case) to identify non-compliance; this creates blind spots wilfully imposed by companies that are a recipe for under-reporting.
- **Audits have limited influence on the buying decisions of lead firms.** While some lead firms claim to have a ‘zero-tolerance’ approach to forced labour, numerous studies have shown that these firms will continue to source from suppliers even when multiple labour violations are found. In many cases, the ability of suppliers to fulfil orders quickly and cheaply is prioritised over social compliance, undermining the impact of social audits.⁵⁴ Studies have found, for instance, that suppliers who comply with standards receive fewer orders than suppliers with lower compliance,⁵⁵ and that compliance departments have little power to shape the decisions of sourcing departments within a corporation.⁵⁶

In many cases, the ability of suppliers to fulfil orders quickly and cheaply is prioritised over social compliance, undermining the impact of social audits.

The turn towards auditing and certification has also created larger, more systemic weaknesses in supply chain governance. Scholars point out that auditing and certification can constrain public regulation and enforcement, as private supply chain governance becomes a substitute for public laws and enforcement rather than a complement to it.⁵⁷ As LeBaron, Lister and Dauvergne argue, “far from an effective policy instrument to advance environmental and social norms, auditing creates an illusion of governance effectiveness—and is serving to stabilise rather than resolve the tensions and contradictions of outsourcing within the global retail economy.”⁵⁸ It can also push problems deeper into supply chains where they are harder to find and solve.⁵⁹

Perhaps even more perversely, the reliance on social auditing and ethical certification has allowed lead firms to “launder their image,”⁶⁰ creating the illusion that substantial progress towards eliminating forced labour in supply chains is being made, and thus misleading consumers in the process. Critics of certification and auditing have questioned whether corporations are using these to distract from and limit liability for poor labour conditions in their supply chains;⁶¹ the extent to which corporations are willing to address these problems, or not, will be telling.

The reliance on social auditing and ethical certification has allowed lead firms to “launder their image,” creating the illusion that substantial progress towards eliminating forced labour in supply chains is being made, and thus misleading consumers in the process.

Solutions

Eradicating forced labour from supply chains requires tackling core commercial dynamics including excessive value accruing to lead firms, outsourcing, purchasing practices, and the sourcing and sale of goods below the true costs of production (as elaborated in the Commercial Contracts and Sourcing and Labour Share and Value Distribution Briefs). Fundamentally, current auditing and certification systems reinforce the commercial dynamics that predictably lead to forced labour, rather than alter or disrupt them. Indeed, the turn towards governing labour standards through auditing and certification systems reflects the growing power of the private sector to set and enforce their own rules in a way that all-too-easily dodges state and worker-driven governance, as well as a multi-billion dollar auditing and certification industry, which largely enables them.

The prior section details the major structural barriers to solving the problems with auditing and certification systems. It is imperative for governments to keep these limitations in mind as lead firms increasingly seek to deliver upon their transparency and due diligence obligations through auditing and certification systems.⁶² Without addressing these barriers, social audit and ethical certification systems will continue to have no meaningful impact on the incidence of forced labour in global supply chains.⁶³

Changes to Auditing and Certification

Social audit and ethical certification schemes in and of themselves cannot solve issues of forced labour and labour exploitation in supply chains. They are a means of identifying and reporting labour abuses, and only when combined with action from governments, lead firms, and suppliers can they be used to prevent forced labour. Still, there are several reforms that could be made to auditing and ethical certification systems that scholars believe would improve their effectiveness in relation to detecting and reporting forced labour and overlapping forms of exploitation, as we detail below.

Firstly, there is a need to regulate the audit and certification industries. This is necessary to obtain a more accurate picture of labour conditions in supply chains, as well as to minimise conflict of interest between parties and confront the myriad deficiencies to the current approach, as detailed in the preceding section. Here we offer potential regulatory changes to the audit and certification industry:

→ **Establish a professional oversight body for auditors.**⁶⁴ Allain et al. recommended in 2013 that “regulatory oversight over audit firms be established” along with “the establishment of a professional body to accord them standards, and develop a widely accepted, publicly available professional code.”⁶⁵ This could be an accreditation by an internationally recognised standard-setter or a public regulatory body⁶⁶ which would: create a recognised qualification for auditors (like for accountants or doctors); have the power to sanction auditors for flawed reports,⁶⁷ where they fail to properly identify and report breaches of labour standards on worksites; create a code of practice encompassing problems noted above, including audit firm outsourcing, and requiring audit firms and certification bodies to share data externally on incidences of suspected exploitation;⁶⁸ create and monitor a watch-list of high-risk businesses; resolve conflicts of interest, such as by limiting the ability of audit firms to offer multiple audit services to companies (e.g. providing both social audits of supplier factories and financial audits to the same clients⁶⁹); and require regular continued professional development (e.g. training on how social audits impact workers).⁷⁰

- **Social auditing firms must be subject to mandatory Human Rights Due Diligence (mHRDD) legislation.** The emerging mHRDD legislation (e.g. the French vigilance law or the German supply chain law) which impose mandatory due diligence obligations on companies that meet certain threshold conditions (e.g. a certain number of employees) should include social audit firms. Their work has a significant impact on the detection of human rights abuses in global supply chains and it is important that these firms themselves be subject to such obligations. We therefore recommend that existing mHRDD laws encompass social audit firms and that any future legislation (including the proposed EU Mandatory Human Rights Due Diligence Directive) include these firms in their scope.
- **Make auditors legally liable for flawed audits in an effort to incentivise quality improvements.**⁷¹ Enacting legal liability for auditors requires two sets of legal reforms. First, contractual liability reforms that would allow for third parties (i.e. workers or their representatives) who suffer from flawed audits to derive a contractual right of enforcement and receive compensation, rather than limiting liability narrowly to the audit and buying firms who are parties to the contract.⁷² Currently, many firms exclude third parties from contract enforcement; this practice should cease and, instead, firms should explicitly include a right for third parties with an interest in the audit contract (i.e. the employees of suppliers) to gain a right to enforce the contract.⁷³ These third parties could then bring a claim under the contract against the auditor for breach of their contractual obligation.

Second, making auditors liable for audit quality would require reforms to tort liability. At present, workers face challenges in different legal systems to hold auditors and certifiers legally accountable for rubber stamping exploitative supply chains, especially in cases when those workers are based in the Global South and auditors are based in the Global North. Such reforms must create a strong civil liability regime in tort law that ensures that social audit firms can be held liable for human rights abuses. It is important that claims can be successfully brought against social auditor firms who fail to adequately fulfil their role. As part of such laws, third parties such as unions and NGOs should be given standing and the burden of proof should be reversed. This means that in the event of a claim being brought against an audit firm, it is the audit firm that must prove that it has complied with its duties.⁷⁴

- **Make audit reports public.** Requiring corporations to make audit reports public is another key component of an improved audit system. Corporations should be required to publish these, for example, as part of their reporting under mandatory human rights due diligence obligations.⁷⁵ Where there are existing transparency laws, these should require corporations to publish audit reports. The present claim that these reports are commercially sensitive and cannot therefore be shared runs contrary to the fundamental idea behind transparency legislation, which is to provide interested stakeholders with information to scrutinise the practices and records of business.⁷⁶
- **Resolve conflicts of interest between auditors and their clients.**⁷⁷ Given the underlying contractual relationship between clients and audit firms, it is important to re-construct the audit system in ways that will help to eliminate conflicts of interest between parties and improve the validity of audits. One way to do this is to change the client relationship to one where audits are not assigned by lead firms or suppliers, but, instead, by regulators or government authorities.⁷⁸ For instance, Duflo et al. show that having the client pay the auditing fee into a fund, rather than to the auditor directly, and then having an auditor randomly allocated from a pool of auditors can have an effect on the number of violations detected by an audit, and improve the overall accuracy of auditing.⁷⁹ Where the client relationship between auditors and transnational corporations is maintained, it could be required by law that auditors can only be appointed for a maximum period of time to reduce the risk of bias and collusion over time,⁸⁰ as with the approach taken by the European Union in relation to financial reporting.⁸¹

In addition to regulatory reforms, auditing and certification processes should be fundamentally redesigned if they are to have any meaningful impact on the detection, reporting, and prevention of forced labour and exploitation in supply chains. Researchers have suggested several paths forward, including the following:

- **Redesign certification schemes to reflect the realities of forced labour.** Certifiers need to take stock of the profound gaps between certification standards relevant to forced labour and the realities of labour conditions and practices in supply chains and identify ways to close these. For example, increased focus should be put on stringent examination of worker wages, levels and dynamics of worker debt, and commercial indicators that predictably give rise to forced labour—for instance, sourcing below the

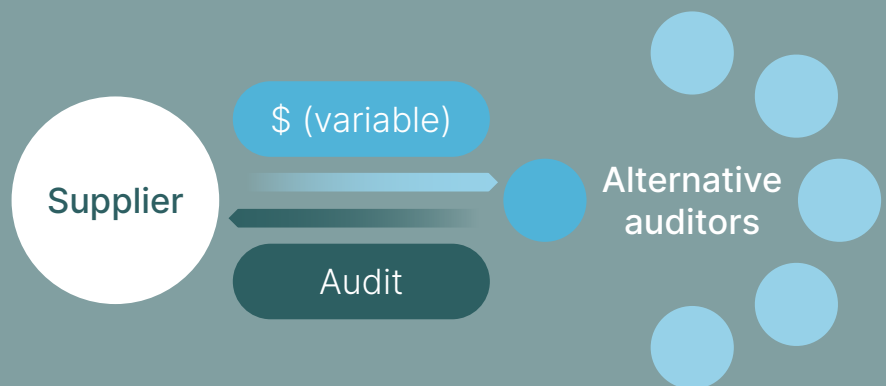
Figure 5: *An evidence-based approach to minimising conflict of interest in the auditing process*

Figure adapted from Esther Duflo, Michael Greenstone, Rohini Pande and Nicholas Ryan, "Truth-Telling by Third-Party Auditors and the Response of Polluting Firms: Experimental Evidence from India," *The Quarterly Journal of Economics* 128, no. 4, (2013): 1499-1545

The audit industry is rife with conflict of interest. Economists Esther Duflo, Michael Greenstone, Rohini Pande and Nicholas Ryan conducted a field experiment to identify and correct conflicts of interest faced by environmental auditors and industrial plants in Gujarat, India, where plants were randomly assigned to the treatment group (plants paid a fixed rate and were assigned an auditor from a pool) and the control group (plants could directly hire an auditor). Those in the treatment group improved their performance by reducing their emissions, and auditors in the treatment group provided more accurate audits, while auditors in the control group routinely underreported emissions. A similar model could be adopted by the social audit industry to minimise the conflict of interest between suppliers, lead firms and auditors.

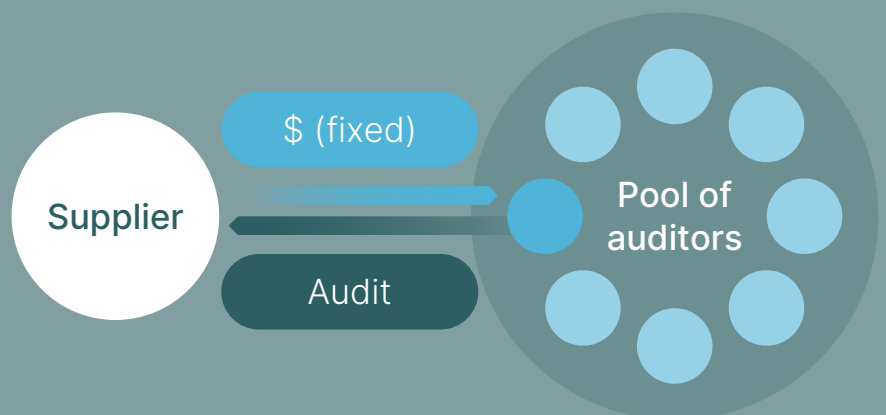
Control Group

- Supplier can hire alternate auditor to get a better price/more favourable report
- No incentive for audit accuracy



Treatment Group

- Auditor randomly assigned from pool of auditors
- Random backchecks conducted to assess audit quality
- Auditor pay linked to audit accuracy



costs of production.⁸² Including buying practices within the scope of the audit could include, for instance, asking if buyers are paying exploitative prices for goods or imposing deadlines that necessitate excessive overtime.⁸³ Where certifiers are unable to close the gaps, they should refrain from misleading marketing that gives the impression that labour standards used in certified products are higher than non-certified products, given research demonstrating conditions are often broadly similar.⁸⁴

- **Expand criteria so that all workers are covered by supply chain monitoring.** Another crucial reform will be to ensure that all workers—especially workers who are precariously employed, hired as day labourers, and hired through labour market intermediaries—are meaningfully covered by audit-based monitoring mechanisms and certification standards, and that this is standardised across schemes.⁸⁵ At present, some monitoring schemes exclude seasonal and contract workers from their assessments, thereby excluding some of the most vulnerable workers in supply chains,⁸⁶ while others do not take into account recruitment processes.⁸⁷ A ‘targeted audit’ approach⁸⁸—which incorporates an assessment of recruitment processes as well as worker interviews—has potential to improve forced labour detection in audits, though whether it can have any impact on remediation remains to be seen.
- **Allow for greater participation of workers.** As noted above, workers are often sidelined in the auditing and certification process, despite being their supposed beneficiaries. If supply chain monitoring is to have a meaningful impact on the conditions that affect workers, greater involvement from workers will be necessary. At a minimum, workers should be informed of their rights, and all interviews with workers should be conducted offsite.⁸⁹ This will allow workers to share their experiences without fear of repercussions. Additionally, researchers have highlighted the need for workers to have access to audit reports, as well as feedback mechanisms to report disputes⁹⁰ and ideally seek remedy. While some certifying companies claim to share their audit findings with workers,⁹¹ it is unclear how often this happens in practice. For instance, there is some evidence to suggest that workers may not even be aware that they are working on certified sites.⁹²

Figure 6:
Comparing status quo and worker-driven monitoring

Figure and accompanying text adapted from: Opi Outhwaite and Olga Martin-Ortega, "Worker-Driven Monitoring – Redefining Supply Chain Monitoring to Improve Labour Rights in Global Supply Chains," *Competition & Change* 23, no. 4 (2019): 378-396.

Elements	Current model	Worker-driven model
<i>Objectives</i>	Conflict between improving conditions for workers while also protecting the reputation of lead firms and complying with modern slavery legislation (where applicable)	Improving conditions for workers in supply chains
<i>Governance</i>	Monitoring bodies influenced by corporate interests; workers' interests not represented	Meaningful worker participation that is not tokenistic; engagement with trade unions and other bodies that represent workers' interests
<i>Design</i>	Monitoring designed by lead firms and/or audit agencies, no input from workers	Workers included in design process, identifying areas for inspection
<i>Training and education</i>	Inadequate training and resources provided to workers; workers unaware of their rights	Workers provided with information and resources to facilitate their active engagement in monitoring process
<i>Inspection</i>	Outcome driven; workers not involved, or involved in potentially harmful ways, e.g. onsite audits	Process driven; workers actively engaged and represented in inspection
<i>Complaints, remediation and dispute resolution</i>	Workers have few/no avenues to make complaints; employment threatened if a complaint is made; freedom of association rights not respected	Violations can be identified by workers; compensation provided for workers where appropriate; representation by union bodies supported

- **Engage with NGOs and unions.** There is some, albeit limited, empirical evidence that audits can be more effective tools to detect labour violations when NGOs and unions are actively engaged with relevant lead firms.⁹³ NGOs and unions can put pressure on suppliers and lead firms to protect the rights of workers, and can expose them to reputational damage through the media if labour abuses occur.⁹⁴ Engaging with NGOs and unions could transform monitoring systems by actively centering the needs of the vulnerable supply chain actors they represent. This can be approached through seeking equitable partnership with trade unions, worker organisations, and NGOs, and by incorporating auditing and certification into encompassing binding agreements.⁹⁵
- **De-colonise auditing and certification by taking local perspectives into account.**⁹⁶ Failure to do so has led to a mismatch between audit requirements and local customs—for instance, requiring childcare facilities in factories despite norms for children to be cared for offsite by relatives⁹⁷—resulting in suppliers sinking resources into meeting these requirements with no benefit to workers. Taking local perspectives into account could minimise this mismatch between audit design and purpose.

While these reforms could strengthen existing monitoring systems, their implementation to date has been minimal, and thus it remains to be seen whether these systems can in fact be improved, or whether they need to be overhauled entirely.

Alternatives to Auditing and Certification

Recognising the structural limitations of auditing and certification, interest in alternatives to these systems is growing, and several promising initiatives and strategies have been proposed. These include worker-driven social responsibility systems and the redirection of funds spent on auditing and certification towards worker wages and commercial incentives to use legal labour practices. However, there is currently little research and evidence into the effectiveness of these as substitutes for auditing and certification. Further research is required to develop and test alternatives that can overcome the problems detailed above (see Recommendations). The most promising alternatives to auditing and certification include:

- **Redirect funds away from poor quality monitoring and certification systems and towards business practices that prevent and address forced labour.** As noted, supply chain monitoring has grown into a multi-billion-dollar industry, though estimates of the size of the industry vary widely.⁹⁸ With the recent enactment of modern slavery, transparency, and due diligence legislation across many countries, this market is poised to expand further as corporations scramble to demonstrate compliance. Fees for a single audit can range between US\$800 and US\$8,500,⁹⁹ with many suppliers being audited multiple times a year. Investing that money in better business practices to prevent and address forced labour and promote decent work—including living wages, wage benchmarking in contracts, and longer term, stable contracts—may be a better use of funds compared to superficially monitoring the poor practices that endemically lead to exploitative conditions in supply chains (see also: Commercial Contracts and Sourcing and Labour Share and Value Distribution Briefs). If human rights due diligence processes strengthen and proliferate as recommended, the desired impact of auditing could in many ways be baked into lead firms' standard operations, thus reducing the needed frequency and scope of monitoring processes.
- **Cooperate towards risk-based labour inspection and co-enforcement models.** Innovative forms of state-based labour standards enforcement provide stringent and effective alternatives to social auditing as well as to remediation when problems are found. For instance, in co-enforcement models, local governments enlist worker and community organisations to improve enforcement of labour standards.¹⁰⁰ Lead firms can cooperate with and support these efforts rather than displacing them through the creation of private systems.

- **Lead firms should track human rights due diligence compliance internally, focusing on changing their own policies and practices and the impacts thereof.** Corporations can comply with new transparency and due diligence requirements by documenting and reporting on the steps they have taken themselves to comply, such as by altering commercial practices known to lead to exploitation and forced labour (see also: Commercial Contracts and Sourcing and Labour Share and Value Distribution Briefs), and likewise measuring their effectiveness. They can also directly engage with unions and worker organisations as well as affected workers, where appropriate, towards remediation of existing and past human rights abuse in their supply chains. For instance, firms can ensure grievance mechanisms are truly independent and safe, and lead to meaningful remedy, or pilot and record the impacts of commercial policy change.
- **Through binding agreements with worker organisations, corporations can establish worker-monitored supply chains with more effective complaint and remediation mechanisms and worker-to-worker education and support.** Workers bring experience in the industry and are intimately familiar with their work sites; as such, they are much better suited than private, for-profit auditing firms to conduct workplace inspections and investigations. Where workers are trained and given a mandate to conduct in-depth audits and monitor supply chains, they tend to give much more accurate accounts of working conditions and are better equipped to spot and address forced labour.¹⁰¹ Corporations should join and collaborate towards developing worker-driven social responsibility programs¹⁰² and other forms of binding supply chain agreements that give workers meaningful roles in monitoring and enforcing verifiable standards around their own conditions, have enforceable penalties, and provide sufficient commercial support to render compliance possible.
- **Stronger supplier onboarding with more stringent up-front agreements about labour and human rights practices.** Lead firms can undertake stronger due diligence efforts when onboarding new suppliers and can discuss their policies and expectations around forced and child labour and business practices that can lead to these (e.g. illegal subcontracting in supply chains, reliance on labour market intermediaries) up front with new business partners. Suppliers must likewise be paid at a level that ensures they can meet compliance efforts without being pressured to cut corners in a way that may negatively impact worker pay and conditions.

Recommendations

The extant literature has primarily focused on documenting the many problems with social auditing and ethical certification systems to detect and address forced labour in global supply chains. While some researchers have considered solutions—both reforms and alternatives to these systems—there is thus far very little evidence that these solutions will be able to deliver clear benefits to workers. As such, our recommendations centre the further research that is necessary to chart a path forward, as well as the actions that lead firms, ethical auditing and certification organisations, and governments should take in response to the problems outlined above.

Recommendations for Researchers

Researching solutions to the problems associated with auditing and ethical certification requires interdisciplinary collaboration between those in the fields of business, political science, economics, law, and beyond, as well as the central involvement of workers. It will also require commitment from governments, lead firms, suppliers, and auditing and certifying bodies to enable this research to take place and feed in their perspectives as well. Researchers should:

- **Engage meaningfully with workers to conduct supply chain research.** Researchers should seek to centre the experience and perspective of workers and their representatives, and consider worker-driven solutions to improve the effectiveness of supply chain monitoring.
- **Establish the size of the social auditing and ethical certification industry and quantify its annual cost.** Current estimates of the size of the industry vary widely, thus we have little knowledge of how much money is being spent on monitoring by lead firms and suppliers each year, nor how this money might be available to better meet the needs of workers.

- **Interrogate the role of auditing and certification firms as supply chain actors.** Audit and certification firms benefit from the proliferation of supply chain monitoring, though their role as actors in supply chains is often overlooked. A better understanding of the role of these actors in supply chains could shed light on ways to reform their operations. Researchers can consider how the interests of for-profit and not-for-profit auditing firms may differ.
- **Evaluate alternative payment models.** Using field experiments, researchers can design and evaluate alternative payment models to eliminate conflict of interest in the client-auditor relationship, drawing from the experience of researchers in the environmental audit industry.¹⁰³
- **Redesign audit procedures to better identify violations of labour standards.** Researchers can design and test alternative methods for auditing, such as the ‘targeted audit’ approach, to better identify labour violations outside the scope of traditional audits. This will require a better understanding of the root causes of forced labour in supply chains.
- **Develop a framework for identifying labour violations among suppliers not covered by audits.** Existing audit and certification structures tend to overlook Tier 2 suppliers and beyond. Researchers can work with suppliers to identify effective ways to reach vulnerable workers deeper in supply chains.
- **Study solutions.** At present, there is a very thin evidence base from which to evaluate the efficacy, strengths, and weaknesses of the solutions described above. Researchers should investigate and document the effectiveness of interventions to improve or develop alternatives to auditing and certification.

Recommendations for Lead Firms

Corporations must take action to address forced labour and exploitation rather than continuing to simply monitor and deflect blame and liability for these egregious human rights violations through ethical certification and auditing. They should:

- **Innovate business models to prevent forced labour in supply chains and integrate commercial strategies and social standards**, such as by changing purchasing practices, reducing levels of outsourcing along supply chains, and enacting reforms to address perverse incentive structures. Necessary changes are detailed throughout the Forced Labour Evidence Briefs.
- **Report on the effectiveness of the measures they are undertaking to detect, prevent, and address forced labour**, rather than reporting on auditing and certification activities alone.
- **Properly evaluate auditing and certification bodies** to ensure their standards and verification systems are robust and informed by the latest research regarding the nature and patterns of forced labour in supply chains.
- **Work with NGOs, workers and their unions, and suppliers to develop effective, evidence-based alternatives to supply chain monitoring.**
- **Publicly report on the outcomes of these changes.**

Recommendations for Government

- **Regulate the auditing and certification industries**, such as by requiring accreditation for such entities and ensuring accountability for firms found to issue certification or positive audit reports in cases where severe exploitation is detected shortly thereafter.
- **Establish a professional oversight body for auditors** to improve accountability in the audit and certification industry, and eliminate conflict of interest between auditors, suppliers, and lead firms.
- **Provide financial support to researchers** to support the initiatives outlined above and act upon the evidence that is gained as to the effectiveness of auditing and certification regimes.

- **Require the audit and certification industry to report and support the remediation of illegal labour practices and human rights abuse,** by ensuring they fall under the scope of existing and future human rights due diligence legislation.

Recommendations for Auditing and Certifying Organisations

- **Increase the quality and stringency of auditing and certification to address problems above,** including integrating buyer practices in the scope of the audit to address the practices of lead firms that contribute to worker exploitation and forced labour. This could be coordinated with efforts to develop more meaningful “S” (social) indicators to guide ESG investment as outlined in the Investment Patterns and Leverage Brief.
- **Make audit reports public.** This would enable greater scrutiny from researchers and other interested stakeholders, and improve the accuracy of reporting.

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¹⁰² For an overview, see: Worker-Driven Social Responsibility Network, <https://wsr-network.org>. See also other briefs in this series for descriptions of worker-driven social responsibility and how it overcomes the limitations of traditional corporate social responsibility programs.

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Re: Structure Lab

New Models for an
Equitable Economy