

# Wages: An Overlooked Dimension of Business and Human Rights in Global Supply Chains

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## Abstract

Wages – the monetary payments that workers receive from employers in exchange for their labour – are widely overlooked in academic and policy debates about human rights and business in global supply chains. They shouldn't be. Just as living wages can insulate workers from human rights abuse and labour exploitation, wages that hover around or below the poverty line, compounded by illegal practices like wage theft and delayed payment, leave workers vulnerable to severe labour exploitation and human rights abuse. This article draws on data from a study of global tea and cocoa supply chains to explore the impact of wages on one of the most severe human rights abuses experienced in global supply chains, forced labour. Demonstrating that low-wage workers experience high vulnerability to forced labour in global supply chains, it argues that the role of wages in shaping or protecting workers from exploitation needs to be taken far more seriously by scholars and policymakers. When wages are ignored, so too is a crucial tool to protect human rights and heighten business accountability in global supply chains.

**Keywords:** Forced labour, Global supply chains, Labour standards, Living wage, Wages

## I. INTRODUCTION

Searching for the terms 'wages', 'wage' and 'compensation' within past issues of the *Business and Human Rights Journal* yields no results.<sup>1</sup> This illustrates a wider problem. Namely, that the burgeoning academic and policy debates about the role, reach and

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<sup>1</sup> Search conducted 16 October 2020 on *Business and Human Rights Journal* website, <https://www.cambridge.org/core/journals/business-and-human-rights-journal>

impact of transnational corporations (TNCs) and their responsibility for human rights in global supply chains has tended to overlook wages.

Wages play an important role in preventing workers' vulnerability to exploitation, as well as in deepening and accelerating it. Just as living wages can insulate workers from human rights abuse and labour exploitation, wages that hover around or below the poverty line, compounded by wage violations like wage theft and delayed payment, leave workers vulnerable to severe forms of labour exploitation and human rights abuse. They therefore deserve greater attention from scholars and policymakers.

My mission in this article is to show how important wages are when it comes to shaping patterns of vulnerability to one of the most severe forms of labour and human rights abuse within global supply chains today, forced labour. Forced labour is defined by the International Labour Organization's (ILO) 1930 Forced Labour Convention as: 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.<sup>2</sup> Forced labour is an endemic challenge in global supply chains and has been well documented in dozens of industries including garments, electronics, agriculture, jewellery, as well as domestic and service work.<sup>3</sup>

This article draws on data from my recent study (2016–2019) of global tea and cocoa supply chains to explore the impact of wages and wage violations (including sub-minimum wages, unlawful deductions from wages, rendering wage payment conditional on involuntary work) on the dynamics of forced labour.<sup>4</sup> One component of this primary dataset includes a survey and interviews with around 1,200 tea and cocoa workers in India and Ghana respectively focused on wages and working conditions including indicators of forced labour (see section III, 'Research Approach'). Drawing on these data, as well as interviews with business actors, I argue that workers facing low wages and wage violations experience high vulnerability to forced labour in global supply chains.

While contemporary policy and academic narratives characterize the employers who use forced labour as anomalous criminals,<sup>5</sup> I highlight that illegally low wages and wage violations within global supply chains are not randomly occurring, but rather are traceable to commercial practices and pressures. Most crucially, where buyers do not pay suppliers enough for products to cover costs of production and margins at the base of supply chains, business actors are not able to cover the cost of relevant wage standards (e.g., minimum or

<sup>2</sup> Forced Labour Convention, International Labour Organisation No. 29 (adopted on 28 June 1930, entered into force 1 May 1932), art 2.

<sup>3</sup> For an overview of forced labour in contemporary global supply chains, see Genevieve LeBaron et al., *Confronting Root Causes: Forced Labour in Global Supply Chains* (Sheffield and London: Sheffield Political Economy Research Institute and openDemocracy, 2018), [http://eprints.whiterose.ac.uk/126167/1/Confronting\\_Root\\_Causes\\_Forced\\_Labour\\_In\\_Global\\_Supply\\_Chains.pdf](http://eprints.whiterose.ac.uk/126167/1/Confronting_Root_Causes_Forced_Labour_In_Global_Supply_Chains.pdf) (accessed 30 October 2020).

<sup>4</sup> This article draws on and extends analysis from within a preliminary working paper version of the project findings: Genevieve LeBaron, *The Global Business of Forced Labour: Report of Findings* (Sheffield: SPERI & University of Sheffield, 2018).

<sup>5</sup> See for instance: UK Government, 'UK Government Modern Slavery Statement' (18 March 2020), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875800/UK\\_Government\\_Modern\\_Slavery\\_Statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875800/UK_Government_Modern_Slavery_Statement.pdf) (accessed 2 December 2020); John Bowe, *Nobodies: Modern American Slave Labor and the Dark Side of the New Global Economy* (New York: Random House, 2007); Kevin Bales and Ron Soodalter, *The Slave Next Door: Human Trafficking and Slavery in America Today* (Berkeley: University of California Press, 2009).

living wages).<sup>6</sup> In both the cocoa and tea supply chains, my data suggests producers' use of forced labour as a cost minimization strategy is an attempt to manage the price cost squeeze they have faced in recent decades as production costs have risen while the prices paid by buyers have stagnated or declined. Wages and the human rights abuses they intertwine with, therefore, are not isolatable to the individual businesses that employ workers, but rather relate to broader business dynamics and relationships along the entire supply chain.

The close relationship between wages and vulnerability to forced labour in global supply chains has important implications for efforts to understand and promote business and human rights. While forced labour is often considered a hidden and unpredictable crime, I argue here that forced labour is a logical outcome of contemporary business models and supply chain dynamics, traceable to stable patterns including those surrounding workers' earnings and wage violations perpetrated by employers. As such, paying better attention to wages and the commercial dynamics that shape them can help scholars and policymakers to improve their predictions of where forced labour is most likely to occur within global supply chains and strengthen efforts to prevent it.

Tackling low-waged work and wage violations in supply chains is a crucial means of addressing more severe forms of human rights abuses. This has implications for TNCs who claim to want to promote human rights within their supply chains, as well as civil society organizations, governments, and scholars seeking to heighten business accountability for workers in global supply chains. At present, indicators around wages and the production costs that facilitate suppliers to cover minimum wage laws and other wage standards rarely feature within tools and initiatives to advance human rights in supply chains. I hope in this article to make a case for why they need to be.

The article proceeds as follows: Section II situates my conceptual approach within the literature on forced labour. Section III describes the research approach taken of my study of forced labour in tea and cocoa supply chains. Section IV describes my research findings. Section V discusses my findings in the context of business and human rights and reveals the importance of wages to several themes animating business and human rights scholarship and policy efforts. Section VI concludes and identifies opportunities for future research.

## II. FORCED LABOUR IN SUPPLY CHAINS: CRIMINALS OR COMMERCIAL PRACTICES?

In policy documents, academic writing and journalism, forced labour is often portrayed as an aberration within the free market. Described with terms like modern slavery and human trafficking, forced labour is depicted as something that arises from criminal perpetrators who infiltrate supply chains, rather than linked to core commercial practices within those chains. For instance, the UK Government's 2020 Modern Slavery statement reads, 'with

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<sup>6</sup> LeBaron, note 4; Genevieve LeBaron, *Combatting Modern Slavery: Why Labour Governance is Failing and What We Can Do About It* (Cambridge: Polity, 2020).

complex and often opaque modern-day supply chains and sub-contracts stretching, tentacle-like, not just across the country but around the world, it is all too easy for the unscrupulous and the exploitative to take a share... Those behind such crimes, these traders in human misery, must and will be ruthlessly hunted down and brought to justice.<sup>7</sup> Forced labour emerges as an exceptional result of ‘unscrupulous’ criminal practices, rather than as a logical, predictable outcome of the ways in which contemporary supply chains are set up (e.g., highly uneven value distribution) and governed (e.g., shareholder primacy of corporations, lacking MNC liability for labour standards in supply chains). This imaginary idea – that forced labour is sneaked into supply chains by criminals rather than arising within the businesses and dynamics that comprise a supply chain’s core – is a key reason why the links between everyday business practices like wages and forced labour have long been under-investigated.<sup>8</sup>

Grasping the importance of wages in shaping patterns of forced labour requires us to move beyond several binaries that lie at the heart of prevailing approaches to studying forced labour in the global economy. Just as policymakers and scholars tend to see the businesses that use forced labour as either criminals or legitimate businesses with nothing in between, much of the writing about forced labour also posits a rigid binary between forced labour and the free, waged labour that is imagined to comprise employment within global supply chains.<sup>9</sup> Several assumptions underpin this conceptualization, but three are especially important for our purposes here. First, binary conceptualizations of forced and free labour assume that these are fundamentally and ontologically different types of relations, without ontological or analytical overlap. Second, they assume that it is feasible and straightforward to isolate modern slavery from the labour market and wider relations of work and employment within it; in other words, that it is possible to draw a clear-cut line around forced labour and separate it out from the other labour relations in a given sector. Third, modern slavery is seen not to involve compensation; indeed, scholars tend to assume that if workers are receiving payment or wages of any kind, they are not victims of modern slavery. As Kevin Bales puts it, ‘Having just enough money to get by, receiving wages that barely keep you alive, may be called wage slavery, but it is not slavery.’<sup>10</sup>

The binaries typically posited between forced and free labour have been challenged by scholars who have pointed out that there is a much greater overlap between the forms of unfreedom and abuse associated with forced labour and the ‘free’ labour relations with which forced labour is typically juxtaposed.<sup>11</sup> Not only do workers within free labour

<sup>7</sup> UK Government, note 5, 1.

<sup>8</sup> See also Genevieve LeBaron and Andrew Crane, ‘Methodological Challenges in the Business of Forced Labour’ in Genevieve LeBaron (ed.), *Researching Forced Labour in the Global Economy: Methodological Challenges and Advances* (Oxford: Oxford University of Press, 2018) 25; Andrew Crane, ‘Modern Slavery as a Management Practice: Exploring the Conditions and Capabilities for Human Exploitation’ (2013) 38:1 *Academy of Management Review* 49.

<sup>9</sup> See for instance Kevin Bales, *Disposable People: New Slavery in the Global Economy* (Berkeley: University of California Press, 2004); Siddharth Kara, *Modern Slavery: A Global Perspective* (New York: Columbia University Press, 2017); Bove, note 5; Bales and Soodalter, note 5.

<sup>10</sup> Bales, note 9, 5.

<sup>11</sup> LeBaron, note 6; Jens Lerche, ‘A Global Alliance Against Forced Labour? Unfree Labour, Neo-Liberal Globalization and the International Labour Organization’ (2007) 7:4 *Journal of Agrarian Change* 425; Stephanie Barrientos, Uma Kothari and Nicola Phillips, ‘Dynamics of Unfree Labour in the Contemporary Global Economy’

relations often confront more minor forms of abuse and exploitation, but forced labour in the global economy often fails to conform to the dramatic, sensationalist accounts offered by scholars and policymakers.<sup>12</sup> More often than not, the forms of labour exploitation and abuse that workers confront in global supply chains are messy rather than clear-cut instances of forced labour, difficult to demarcate, and change over time. As Stephanie Barrientos, Uma Kothari and Nicola Phillips put it, ‘in a nutshell, it is increasingly evident that contemporary labour relations cannot in any useful sense be positioned on one side or other of a clear dividing line between “free” and “unfree” labour’.<sup>13</sup> This insight has shaped and underpinned my research approach to investigating forced labour, including the data presented in this article.

I have also been guided by empirical research that demonstrates that contrary to dominant portrayals, victims of forced labour often *do* receive some form of compensation or wage; only rarely are they completely unpaid, as is commonly claimed in the modern slavery literature. For instance, in a study I conducted jointly with Jean Allain, Andrew Crane and Laya Behbahani on forced labour in the cannabis, construction and food industries in the United Kingdom (UK),<sup>14</sup> we documented variations in the business models of forced labour, including how they differed with respect to the wages paid to victims. While in some business models focused on cost minimization, workers in forced labour were not paid at all, in other business models focused on cost minimization and revenue generation through forced labour, we found that victims of forced labour are receiving some form of wage. Furthermore, we found that wages are an important means of creating and maintaining the conditions of forced labour, so require further study.

For instance, we found that businesses used forced labour to generate revenue, both through charging workers for ancillary services (e.g., accommodation, food) and through benefit theft (e.g., leveraging control over workers and claiming entitlements from the government on their behalf). In addition, as businesses sought to reduce costs of employment through coercion, they tended to systematically underpay workers. Across almost all of the business models of forced labour that we identified within the research, wages were a key part of the picture. Deductions from wages, underpayment and theft of wages, and by-passing wage controls (such as via bogus self-employment schemes) were all fundamental components through which forced labour was manifesting in these supply chains. Our research, along with other recent studies that similarly confirm that wages can indeed be present in forced labour situations, underscores the complexity and inconsistency

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(2013) 49:8 *The Journal of Development Studies* 1037; Nicola Phillips, ‘Unfree Labour and Adverse Incorporation in the Global Economy: Comparative Perspectives on Brazil and India’ (2013) 42:2 *Economy and Society* 171.

<sup>12</sup> See for instance Genevieve LeBaron, ‘Unfree Labour Beyond Binaries: Insecurity, Social Hierarchy and Labour Market Restructuring’ (2015) 17:1 *International Feminist Journal of Politics* 1; Laura Brace and Julia O’Connell Davidson (eds.), *Revisiting Slavery and Anti-Slavery: Towards a Critical Analysis* (London: Palgrave, 2018).

<sup>13</sup> Stephanie Barrientos, Uma Kothari and Nicola Phillips, ‘Dynamics of Unfree Labour in the Contemporary Global Economy’ (2013) 49:8 *The Journal of Development Studies* 1038.

<sup>14</sup> Jean Allain, Andrew Crane and Laya Behbahani, *Forced Labour’s Business Models and Supply Chains* (York: Joseph Rowntree Foundation, 2013).

surrounding compensation and forced labour and the need to overcome theoretical assumptions that equate payment with freedom.<sup>15</sup>

Such recognition has shaped previous research on forced labour in India's tea plantations. Research by scholars like Deepak Mishra, Sharit K. Bhowmik and Rana Behal has documented the forms of indentured servitude, forced migration, forced labour and labour exploitation that have long characterized the tea industry in India.<sup>16</sup> These studies have charted the blurry line between forced labour and more minor forms of exploitation, and how they have evolved over time as colonial power relations and the legal use of bonded labour gave way to contemporary restrictions on employers' use of bondage and coercion. As K. Ravi Raman describes, 'The distinction drawn between slavery and the actual conditions of work that existed on plantations was so subtle as to escape the comprehension of the harassed workers – so intensive and painful was the ill-treatment meted out to them.'<sup>17</sup> This body of research underscores that the core businesses comprising the Indian tea industry often use illegal labour practices; in other words, coercion is not the result of sly criminals penetrating supply chains, but rather, a strategy implemented by employers to make their businesses more profitable amidst lacking regulation and regulatory enforcement.

Previous research on forced labour in Ghana's cocoa industry has similarly drawn attention to the complexities and overlaps that surround forced labour and labour practices in the cocoa industry more broadly. While scholars within the literature on modern slavery, anti-slavery organizations and policymakers continue to decry the modern 'chocolate slaves' of West Africa and the criminals who exploit them,<sup>18</sup> other currents of scholarship have explored the complex history of slavery and unfree labour in the cocoa industry since the 19th century and the considerable overlaps that exist between these and more minor forms of exploitation.<sup>19</sup> Just like studies of tea, scholarship on forced, child, trafficked and exploited labour in cocoa demonstrates the futility and limits of binary thinking, both when it comes to labour and in relation to the businesses that operate in mostly legal ways but sometimes enact coercive and illegal labour practices.

<sup>15</sup> See also Nicola Phillips, 'Unfree Labour and Adverse Incorporation in the Global Economy: Comparative Perspectives on Brazil and India' (2013) 42:2 *Economy and Society* 171; Louise Waite, Gary Craig, Hannah Lewis and Klara Skrivanekova (eds), *Vulnerability, Exploitation and Migrants: Insecure Work in a Globalised Economy* (Basingstoke: Palgrave, 2015); Alessandra Mezzadri, *The Sweatshop Regime: Labouring Bodies, Exploitation and Garments Made in India* (Cambridge: Cambridge University Press, 2017).

<sup>16</sup> Rana P Behal, *One Hundred Years of Servitude: Political Economy of Tea Plantations in Colonial Assam* (New York: Columbia University Press, 2014); Deepak K. Mishra, Vandana Upadhyay and Atul Sarma, *Unfolding Crisis in Assam's Tea Plantations: Employment and Occupational Mobility* (New Delhi: Routledge, 2012); Sharit K. Bhowmik, 'Ethnicity and Isolation: Marginalization of Tea Plantation Workers' (2011) 4:2 *Race/Ethnicity: Multidisciplinary Global Contexts* 235.

<sup>17</sup> K Ravi Raman, 'Bondage in Freedom: Colonial Plantations in Southern India c. 1797-1947', Centre for Development Studies Thiruvananthapuram, Working Paper No. 327 (2002). <https://core.ac.uk/download/pdf/19918628.pdf> (accessed 2 December 2020).

<sup>18</sup> See, for instance, End Slavery Now, 'The "Chocolate Slaves" of the Ivory Coast', <https://www.endslaverynow.org/blog/articles/the-chocolate-slaves-of-the-ivory-coast> (accessed 2 December 2020).

<sup>19</sup> Kwabena O Akurang-Parry, "'The Loads Are Heavier than Usual": Forced Labor by Women and Children in the Central Province, Gold Coast (Colonial Ghana), CA 1900–1940' (2002) 30 *African Economic History* 31; Amanda Berlan, 'Social Sustainability in Agriculture: An Anthropological Perspective on Child Labour' (2016) 49:8 *The Journal of Development Studies* 1088; Carol Off, *Bitter Chocolate: Anatomy of an Industry* (Toronto: Random House, 2006).

Much of the literature on labour relations in Indian tea and Ghanaian cocoa production has been written by historians, anthropologists and sociologists who have been interested in documenting the granular relations that have occurred on plantations and farms, especially the life histories, experiences and stories of the workers that have produced tea and cocoa. This rich body of scholarship has shed light onto the labour relations that have characterized commodity production, and to some extent, give insight into contemporary labour practices as well. However, it leaves several important questions that arise from a political science perspective on business and human rights in supply chains unanswered. For instance, what are the patterns that surround the use of illegal labour practices by business? Is forced labour more likely to occur on some types of work sites or within some types of supply chains rather than others? How exactly do wages fit into the picture of contemporary forced labour? And how do supply chain dynamics linking back to MNCs shape conditions on work sites at the bottom of the chain? These questions have shaped my inquiry, both in this article and in the wider research projects that have informed it. By understanding the business models of forced labour and how wages and wage practices fit into these models, we can advance the literature on forced labour and strengthen approaches to combatting it.

### III. RESEARCH APPROACH

The data discussed below comes from an original dataset that I led an international team to collect through my Global Business of Forced Labour project (2016–2019, funded by the UK Economic and Social Research Council). This research systematically mapped the global business of forced labour in tea and cocoa supply chains focusing on tea production in two regions of India and cocoa production in two regions of Ghana.<sup>20</sup> We used a variety of qualitative and quantitative methods to collect and analyse our data. The project's methodology has already been published elsewhere and is too extensive to fully elaborate on in this brief article, so I offer here a brief description of our data and the data collection techniques we used to generate it.<sup>21</sup>

#### A. Data Collection

Primary data collection for the Global Business of Forced Labour project involved several strands of research, including: pilot studies; a survey and interviews with 597 tea workers across 22 tea plantations in India; a survey and interviews with 557 cocoa workers across 74 cocoa communities in Ghana; interviews with 25 domestic business actors, including tea plantation and cocoa farm owners and managers, buyers, packagers, exporters and industry associations; interviews with 19 international business actors including executives of TNCs and certification and auditing firms; interviews with 28 government and international organization officials; and interviews with 40 experts from academia, civil society and trade unions (see [Table 1](#)). In addition, the project made use of secondary data to map and

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<sup>20</sup> For information on this project, see <http://globalbusinessofforcedlabour.ac.uk/>.

<sup>21</sup> LeBaron, note 4.

**Table 1.** Worker interviewees

No.	Interviewee	Region
1	Tea workers 1–30	Assam
2	Tea workers 31–61	Kerala
3	Cocoa workers 1–30	Ashanti
4	Cocoa workers 31–60	Western

analyse the global tea and cocoa supply chains and business characteristics. The research team was made up of myself, a postdoctoral research fellow, and twelve experienced in-country research assistants, most of whom were PhD candidates at Indian or Ghanaian universities at the time of the research.

The first phase of our research was desk based, and used secondary company, industry and supply chain data obtained through Factset, the World Bank's Enterprise Surveys, and other sources to map cocoa and tea supply chains and analyse the socioeconomic contexts in which businesses and workers are situated along the chain. We then conducted two field-based pilot studies to generate insights into the overall patterns of forced labour and overlapping forms of abuse and exploitation in both industries, which informed the approach and substantive focus taken in our larger scale interviews and surveys, and confirmed the suitability of our strategy for sampling and site selection.

Following the pilot studies, the third phase of our research focused on tea plantations in two regions of India, Assam and Kerala, selected because of their significance to global trade in tea, and due to their differences in wage levels, regulatory environment and economic development. We constructed samples for surveys ( $n = 536$ ) and in-depth interviews ( $n = 61$ ) with tea workers in a structured and random way. To ensure variation (e.g., across businesses' ownership models, product destination, distance from city), we used data gathered in our pilot study to create a list of plantations and then broke this down into categories. Using a random number generator, we selected plantations from each category, and eventually produced a list of 22 plantations on which to focus our research with tea workers. We developed a mixed quantitative and qualitative survey in Kobo Toolbox, a free open-source tool for mobile data collection developed by the Harvard Humanitarian Initiative, focused on: working and living conditions; wages, credit and debt; productivity quotas; costs of living; and indicators of forced labour. Local researchers trained by our research team undertook the worker survey in workers' languages and uploaded the geo-referenced data through Kobo. Interviews lasted between 45 and 95 minutes, and were simultaneously interpreted, audio recorded, and transcribed by a local transcription firm with necessary language skills to verify the translations. The interviews with workers generated both qualitative and quantitative information, using a semi-structured interview guide to gather information about wages; deductions made from pay; credit and loan dynamics with money lenders and managers; costs of living; as well as working and living conditions in the tea industry. Following the worker interviews, and after a period of participant observation and immersion, interviews were conducted with business actors ( $n = 13$ ) including plantation managers and tea industry association representatives to collect financial data about tea plantation business models, including their revenue and cost structures. Finally, government

officials were interviewed to understand the challenges and opportunities for enforcing labour standards on these plantations. By collecting and triangulating data across these sources, this component of our research gives us traction to understand the patterns of why, when and how forced labour is being used by tea producers.

In phase 4 of our research, we deployed similar methods to investigate the patterns of forced labour in the cocoa industry based in two regions of Ghana, the Ashanti and the Western regions. These regions were selected because of their importance to the global cocoa industry, as well as the differences in the demographics of their workforces and issues around trafficking and forced labour identified in previous research. We had initially planned to replicate the structured, random approach to sample construction that we had used in India; however, we were unable to do so because there was no available and comprehensive registry of cocoa communities and growers. Our team worked with agricultural extension officers from Ghana Cocoa Board, Cocobod, as well as with data from the Ghana Statistical Service to create our own list of cocoa districts for each region. We used purposive sampling to select a diverse array of districts (e.g., varying proximity to major cities, diverse workforce demographics including proportion of migrant workers, and poverty) within each region. Smallholder farmers are the main producers of cocoa in Ghana; they are grouped into cocoa communities, and the leaders of these communities must grant permission and facilitate a process of community entry before research can begin. We observed these customs. Agricultural extension officers for the districts provided us with information on the cocoa communities within their districts, as well as on the farmers who sell to large, ethically certified cocoa-growing cooperatives in the region, broken down by community. We selected communities with the help of local academics and the agricultural extension officers, seeking to create a balance between the different types of farms. From there, we were able to replicate the process for data collection outlined above to undertake a worker survey ( $n = 497$  workers across 74 cocoa communities), worker interviews ( $n = 60$  workers) and business interviews ( $n = 12$ ), with a few minor differences. One was that the interviews were held on cocoa farms as, unlike on tea plantations, managers were not present on the farms, so there was no danger of retaliation. In addition, due to the differences between the tea and cocoa industry structures, our interviews with local business actors included licensed buying companies, farm owners, certifiers and processors to gather information on the cocoa business as a whole. Collecting and triangulating across these sources gives us considerable traction to understand the patterns of why, when and how forced labour is being used by cocoa producers.

Once our research at the base of the tea and cocoa supply chains was complete, we moved our way up the chain to interview international business representatives, government, international organisation officials, and other experts ( $n = 119$ ) with first-hand knowledge of company and industry practices and the effectiveness of existing public and private initiatives to combat forced labour in global tea and cocoa supply chains. Interviews were semi-structured, conducted in English, and lasted around an hour. They were transcribed by a UK-based firm. Taken together, this body of interviews sheds light onto the practical and jurisdictional challenges of governing labour standards in global supply chains, enforcement gaps and obstacles that allow forced labour at the base of supply chains to occur with widespread impunity. [Tables 1](#) and [2](#) summarize the groups of interviews that are most relevant to this article.

**Table 2.** Domestic business actor interviewees

No.	Interviewee	Industry
1	Workers co-op outreach officer 1	Cocoa
2–6	Industry association representatives 2–6	Tea
7	Director of certifier 10	Tea
8–9	Managers 1 and 4 (factory)	Tea
10–11	Managers 2 and 3 (estates)	Tea
12	Manager 5 (industry association)	Tea
13	Estate owner 1	Tea
14–17	Industry association representatives 7, 8 and 11	Cocoa
18	Industry association representative 10	Cocoa and tea
19–20	Cocoa buyer 1–2	Cocoa
21–22	Cocoa seller 1–2	Cocoa
23–24	Cocoa buyer managers 3–4	Cocoa

## B. Data Analysis

We analysed the worker survey and interview data using Kobo, Excel and NVivo 11. First, the worker interview transcripts were coded in NVivo, with one team member coding the entire dataset to ensure quality and consistency, using content, thematic and discourse analysis. Worker interview transcripts were coded in a two-part process involving deductive and inductive codes. Second, after viewing survey results in Kobo, we cleaned the data and undertook analysis in Excel. Third, we coded transcripts of interviews with elite actors by hand, using a thematic coding framework derived inductively from codes and themes emerging in the data. Finally, we triangulated across our data to systematize our narrative, thematic, content and discourse analysis to gauge our findings.

## IV. FINDINGS

Our research finds that – in contrast to dominant portrayals of forced labour as a randomly occurring crime and perpetrated by individual criminals<sup>22</sup> – forced labour arises within businesses and supply chains according to stable, predictable patterns.<sup>23</sup> One of the patterns uncovered by our research on tea and cocoa supply chains is that workers earning low, sub-poverty line wages and experiencing wage violations from employers have high vulnerability to forced labour. In other words, working in an industry where low wages and more minor forms of exploitation are endemic is a key factor that renders workers vulnerable to more severe forms of exploitation, including forced labour.

<sup>22</sup> Bowe, *note 5*; Bales and Soodalter, *note 5*.

<sup>23</sup> See also LeBaron and Crane, *note 8*, 25; Crane, *note 8*; Andrew Crane et al., ‘Governance Gaps in Eradicating Forced Labour: From Global to Domestic Supply Chains’ (2019) 13:1 *Regulation and Governance* 86.

### A. How Low Wages and Wage Violations Can Lead to Forced Labour

The patterns of forced labour in tea and cocoa supply chains need to be situated within broader patterns of labour exploitation and remuneration within these industries. Our research found that wages, as well as working and living conditions tend to fall far below the minimum standards set by governments, companies and ethical certification organizations, and that workers move between more minor forms of labour exploitation and human rights abuse to very severe ones in relatively short periods of time.

Workers in both the tea and cocoa industries are protected by legal minimum wage standards, and some workers are also covered by even higher wage standards set by various voluntary corporate social responsibility (CSR) and ethical certification schemes relevant to the tea and cocoa supply chains. Nevertheless, our research found that wages across both tea and cocoa workers are very low, and fall well below the poverty line which in Ghana and India is approximately UK £2.35 per day. In India, the average daily wage for a tea worker was as low as 25 per cent of the poverty line amount and in Ghana, cocoa worker wages were around 30 per cent of the poverty line amount.

Relevant legal minimum wages for tea workers in India at the time of our research were the tea worker minimum wage rates of ₹137 (~£1.39) in Assam and ₹257 (~£2.61) in Kerala and the national minimum wage rate for unskilled agricultural workers of ₹250 (~£2.50). However, in practice, employers use a quota system that determines wages according to the amount of tea plucked each day. In Assam, tea workers report that quota targets range between 15 and 30 kg of tea per day, while in Kerala these range from 21 to 27 kg of tea per day.

When workers fail to meet these targets, deductions are made from their daily wages, and in some cases, wages are withheld altogether.<sup>24</sup> As one worker explained, ‘During the season we have to pluck 25 kg of tea leaves per day and if this is not fulfilled we are not given wages.’<sup>25</sup> Another noted that workers only receive half of their wages if they fail to meet the target.<sup>26</sup> For other workers, deductions from wages are made if they fail to meet quotas. One explained, ‘In the case of plucking, if the 27 kg is not fulfilled then ₹5 per kg is deducted.’<sup>27</sup> Managers confirmed that the practice of reducing workers’ wages when quotas are not met is common. One told us, ‘Lazy workers don’t get paid the same as hard workers. The company takes their wages away if they are lazy.’<sup>28</sup>

Workers also reported that wage violations – including miscalculation of earnings, fraudulent deductions and fees – are common. Several workers explained that managers miscalculate their wages by misrepresenting the weight of the tea they have picked. One explained:

*Suppose the workers are plucking 50 kg, but the amount of 6 or 5 kg is deducted from the total. We are watching the weighing machine and say to the manager, no, it is this other*

<sup>24</sup> Tea workers 1 and 30.

<sup>25</sup> Tea worker 1.

<sup>26</sup> Tea worker 4.

<sup>27</sup> Tea worker 45.

<sup>28</sup> Manager 3.

*amount. But then we are scolded or threatened saying that we are speaking too much, and our work will be stopped if we do that.*<sup>29</sup>

In the high season, the average weight of tea picked per worker per day amounted to 81 kg, with a maximum of 150 kg per day. However, employers frequently make deductions from wages so that workers do not receive their full wage. One worker explained, ‘there are a lot of deductions in the salary. Nearly 50 per cent of the salary is cut and with the remaining salary, we are not able to survive.’<sup>30</sup> The most commonly reported deductions made by employers were for services that employers are legally required to provide to workers for free (e.g., medical facilities) or for services that workers were charged for but were not provided (e.g., electricity). Over 40 per cent of workers reported unfair deductions from their wages. Some explained that their employers used wage deductions as punishments for speaking out against unfair treatment. As one told us, ‘The supervisor sometimes used to abuse the workers. If he was asked why he abused, then the supervisor would reduce our salaries.’<sup>31</sup>

Within the cocoa industry, we found similar patterns around low wages and the endemic underpayment of wages. At the time of our research, the National Daily Minimum Wage in Ghana was GHC8.80 (~£1.13), but in practice, we found that the average income for a cocoa worker is GHC1880 per year, or just GHC5.15 (~£0.66) per day. By comparison, a living wage for a cocoa worker would be GHC47 (~£6.06) per day. In other words, cocoa workers are earning roughly one-tenth of the amount they would need to cover basic necessities.

Workers reported similar patterns of wage violations as in the tea industry, including: not being paid for all of the work performed; predatory and fraudulent deductions for equipment, fertilizer, pesticides, food or transportation (including for items which were never actually provided); the imposition of fines or deductions leading to ‘nnaho’ or involuntary labour; the imposition of fees for securing a job as a farm worker; and the non-payment of wages altogether. Around 23 per cent of workers in our study reported having performed work they were not paid for. As one worker described, ‘I did work for someone and the person promised to pay me upon completion, but it’s been over two months now and I am still yet to be paid. The amount is about GHC900 but he paid me GHC240 from that so he owes me GHC660.’<sup>32</sup> Workers also noted that farm owners pay less than promised for work performed, and keep the wages for themselves.<sup>33</sup> In addition, they reported that the practice of charging workers fees to obtain a job in the cocoa industry is widespread, and that they are regularly forced to perform unpaid labour (say, on the cocoa farm owner’s private land) as a condition of their employment in the cocoa industry.

In the face of these dynamics, the wage payments workers receive are so low that many workers explained they effectively earn no money from cocoa farming over the course of a season as their earnings (in the form of cocoa beans and wages) are spent paying off

<sup>29</sup> Tea worker 5.

<sup>30</sup> Tea worker 55

<sup>31</sup> Tea worker 42.

<sup>32</sup> Cocoa worker 42

<sup>33</sup> Cocoa workers 7 and 50.

debts, fines, and/or deductions imposed by employers and lenders, often as practices of debt bondage. As one worker explained, 'Even the little that you sell the cocoa for, by the time you finish... then basically you're left with almost nothing.'<sup>34</sup>

In both cocoa and tea, low wages compounded by wage violations leave workers with insufficient take-home pay to cover basic expenses like food, school fees and medical care. Of the tea workers in our study, 54 per cent reported having gone into debt, with the amount of money borrowed ranging from ₹200 to ₹100,000 and an average interest of ₹7,296. A high proportion of workers are charged usurious interest rates on these loans (as measured against the Usurious Loans Act of 1918 and Interest Act of 1978), which leaves them highly vulnerable to situations of debt bondage. An even higher amount – 59 per cent of tea workers – reported having no savings. Similarly, in cocoa, 60 per cent of the workers in our study report having gone into debt, and the average loan taken out by workers was GHC690. Interest rates among cocoa workers varied, but were frequently 100 per cent of the amount loaned. As one worker explained:

*Although I need the money to save my child's life I am forced to borrow the money and pay 100 per cent interest rate. I usually do that once cocoa season is in session at the end of the year. Once I get money from the cocoa proceeds then I can pay.*<sup>35</sup>

Compounding the patterns of wage underpayment, wage deductions and indebtedness, workers reported that they often experience violent treatment, threats, coercion and gender-based violence by employers. One cocoa worker explained, 'there is violence, physical assault by farm owners, they will beat up their farm workers and they come back later and apologise for their behaviour.'<sup>36</sup> Another cocoa worker described that their employer became violent when wages were due to be paid: 'They sometimes don't pay you on time and when they know it is time to pay you that is when they pick up a fight with you.'<sup>37</sup> Tea workers described similar patterns, noting that employers enact violent treatment, threats and coercion. One worker described how these practices can be used as a tool of labour discipline, as employers increasingly use the threat of underpayment to enact higher productivity from workers: 'Now when we work and get tired if we rest a little the management people come and scold us telling that they will cut our wage. Earlier it was not like this.'<sup>38</sup>

Our study included over a dozen measures of labour and human rights abuse for workers in each industry, and found most of them to be incredibly widespread. Not all of these conditions reach the narrow threshold of the ILO's definition of forced labour. But we found that forced labour becomes difficult to disentangle from the routine forms of more minor exploitation and underpayment that workers experience as a norm. Indeed, because most workers in the cocoa and tea industries move in and out of forced labour and more minor forms of abuse in relatively short periods of time, forced labour can be tricky to isolate. As such, it is a porous rather than rigid category.

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<sup>34</sup> Cocoa worker 2.

<sup>35</sup> Cocoa worker 36.

<sup>36</sup> Cocoa worker 61.

<sup>37</sup> Cocoa worker 47.

<sup>38</sup> Tea worker 28.

We found that it often took just one contingency – a worker having a heart attack, needing more food to feed a growing family, or a child becoming ill—to push a worker from regularized hardship of wage underpayment and deductions and debt into severe forms of forced labour. Crucially, the event or circumstance that can cause a worker to cross the threshold from generalized poor conditions into conditions of forced labour can be relatively arbitrary. Because the dynamics surrounding low wages and wage deductions mean that most workers have little to no savings, when emergencies arise, workers borrow money from whomever will lend it to them. This is often a manager or employer, who charges high interest rates. Workers within our study regularly reported being charged interest rates of 100 per cent.

In a context where wages are low and in-work poverty is the norm, more often than not, debt pushes workers into severe debt bondage that falls within the ILO definition of forced labour. In a cyclical manner, wage underpayment – and the fees, deductions and fines that facilitate it – pushed workers into persistent borrowing at high interest rates. These debts then push workers into worse working conditions as employers and creditors use debt to leverage even greater control over them and impose lower pay and worse conditions (e.g., more involuntary unpaid labour to repay debts) onto workers.

Forced labour arises in these industries not as an isolated practice and anomalous crime, but rather as something that is anchored in and intertwined with the general working conditions within a given portion of the supply chain. Working in an industry where wages are very low and where more minor forms of abuse and exploitation are rampant creates systematic vulnerability to forced labour. Individuals and families face pronounced risks on top of this generalized vulnerability when contingencies and emergencies arise that they cannot cover through their very low earnings. In both the tea and cocoa industries, low wages combined with limited access to justice, constraints on the ability to exert labour rights, and little to no alternative means of making a living leave workers highly vulnerable to forced labour.

## **B. The Link Between Low Wages and Commercial Practices**

Low wages, labour exploitation and forced labour among cocoa and tea producer workforces do not arise spontaneously in supply chains. Rather, these clear and stable patterns are traceable to business models and commercial dynamics.

Input costs have risen for tea producers over recent decades, especially when it comes to worker wages and climate change mitigation.<sup>39</sup> Tea plantation owners emphasized the difficult business environment tea producers are operating within. Rising costs combined with declining global and buyer prices for tea has left businesses struggling to stay afloat. One described:

*If you are a plantation owner, labour is 80–85 per cent of your cost of doing business. At the moment, prices of inputs are going up (machinery, petrol, diesel, and labour). And gardens are getting paid less for the tea they grow. Margins are tight for growers. All of*

<sup>39</sup> LeBaron, note 4.

*the money is in packaging, processing, and marketing. Rising labour prices are having a huge impact – some gardens are no longer economically viable.*<sup>40</sup>

In addition to the rising wage standards that producers need to cover, amidst climate change, weather is another key factor increasing costs of production. Producers reported that climate change has reduced the amount of rain during key parts of the growing season, and they have had to cover the cost of larger and larger amounts of water. At the same time, more severe and frequent flooding during other parts of the year has created an urgent need for new infrastructure and irrigation.

As well, top-down forces like corporate consolidation in the tea industry, the growing power of buyers, and global price pressures from emerging, lower-cost tea markets (such as in Kenya) and financialization and trade patterns within commodity markets, combine to exert downward pressure on tea prices.<sup>41</sup> According to data from the Tea Board of India, tea plantations are selling tea at rates that most years barely cover their steeply rising costs of production, and some years, do not even fully stretch to cover production costs at all.<sup>42</sup> Selling tea at or below costs of production has a significant impact on wages, working, and living conditions on tea estates; because labour costs comprise such a major expense for tea producers, cost minimization strategies almost always seek to reduce the cost of labour, which is what leads to coherent patterns of underpayment, fraud and overlapping forms of abuse.

In the cocoa industry, we found similar patterns. Cocoa farm owners tied low wages and labour abuse to increasingly slim margins in cocoa. They explained that in recent years, some seasons have not been profitable at all due to bushfires, weather conditions, pests, and the rising costs and disappearing government subsidies for fertilizer and pesticides, and they are barely breaking even. One farmer reported earning GHC5,000 a year for his cocoa, noting that from this, he pays at least GHC1,000 for day labour, and much of the rest is spent on costs of production. Ultimately, in a good year, he only earns around GHC1,500 a year (approximately UK£244) from his cocoa farm, which he uses to support himself and his family and repay debts from bad years. He explained this is inadequate to live a comfortable life, ‘because the expenses that I made for the year, and concerning my family, the income of 1,500 is not enough for me but I have to manage with that money.’<sup>43</sup> Cocoa prices are affected by a multiplicity of forces, including the downward pressure exerted by large companies, the prices set by national cocoa boards, trading and speculation, and fluctuations in the British pound and US dollar. However, trade data confirms the price cost squeeze identified by Ghanaian producers; while Ghanaian producer costs have steadily risen over the last decade, the price of cocoa has declined.<sup>44</sup> These commercial pressures have important impacts on farmers’ labour practices, driving a turn towards more casualized labour over the longer-term workforces

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<sup>40</sup> Estate owner 1.

<sup>41</sup> LeBaron, note 39.

<sup>42</sup> See Tea Board of India, ‘Month Wise Prices of All Tea at Indian Auctions’, [http://www.teaboard.gov.in/pdf/Monthly\\_Price\\_2020\\_2020\\_21\\_website\\_pdf5877.pdf](http://www.teaboard.gov.in/pdf/Monthly_Price_2020_2020_21_website_pdf5877.pdf) (accessed 2 December 2020).

<sup>43</sup> Cocoa seller 2.

<sup>44</sup> Trading Economics, ‘Cocoa’, <https://tradingeconomics.com/commodity/cocoa> (accessed 2 December 2020).

that have been common in the industry as well as pressures towards cost minimization through various forms of forced labour.<sup>45</sup>

Simply put, cocoa and tea producers' demand for exploited labour is contextualized by the low prices they receive for their products within supply chains. Forced labour – and the low wages, wage violations, and other forms of exploitation that are entangled with and give rise to it – emerge as a strategy to cut costs and earn revenue in the face of severe commercial pressures that originate from much larger and more powerful businesses towards the top of the supply chain.

These commercial pressures are not unique to the cocoa and tea industries, but have been well documented across several industries and supply chains, where it is common for buyers to source goods at prices below the costs of production. For instance, a recent ILO survey undertaken in collaboration with the joint Ethical Trading Initiatives that covered 1,454 suppliers across 87 countries found that 39 per cent of suppliers accept orders below the costs of production, and only 25 per cent of buyers were willing to increase prices to accommodate minimum wage increases.<sup>46</sup> Further research is needed to establish how, when and why these practices impact wages and patterns of forced labour across different types of supply chains and parts of the world. It is clear that media accounts that describe forced labour as arising from immoral criminals seeking to amass vast profits through human rights abuse are simplistic and misleading. More often than not, forced labour in supply chains is traceable to business models shaped by commercial practices of TNCs further up the supply chain.

## V. DISCUSSION: WAGES: A FORGOTTEN DIMENSION OF BUSINESS AND HUMAN RIGHTS?

Wages have not always been ignored within conversations about business and human rights. Indeed, in scholarship on TNC responsibility for sweatshops in the 1990s and early 2000s, concerns about business responsibility for wages and the forms of labour exploitation associated with low-waged work were central. For instance, Edna Bonacich and Richard P. Appelbaum's influential book, *Behind the Label: Inequality in the Los Angeles Apparel Industry* published in the year 2000 identifies higher profits for TNCs and lower wages for supply chain workers as one of the key innovations behind the reorganization of manufacturing into global supply chains. As they describe, 'It is out of such a system of contracting out that the sweatshop is born. What provides wonderful flexibility for the manufacturer provides unstable work, impoverishment, and often abusive conditions for the workers.'<sup>47</sup> However, as the field of business and human rights scholarship has evolved as an independent field of inquiry, wages and their multi-

<sup>45</sup> Genevieve LeBaron and Ellie Gore, 'Gender and Forced Labour: Understanding the Links in Global Cocoa Supply Chains' (2020) 56:6 *The Journal of Development Studies*.

<sup>46</sup> International Labour Organization, 'Purchasing Practices and Working Conditions in Global Supply Chains: Global Survey Results', INWORK Issue Brief No 10, [https://www.ilo.org/wcmsp5/groups/public/—ed\\_protect/—protrav/—travail/documents/publication/wcms\\_556336.pdf](https://www.ilo.org/wcmsp5/groups/public/—ed_protect/—protrav/—travail/documents/publication/wcms_556336.pdf) (accessed 2 December 2020).

<sup>47</sup> Edna Bonacich and Richard P Appelbaum, *Behind the Label: Inequality in the Los Angeles Apparel Industry* (Berkeley: University of California Press), 13.

faceted links to working conditions and human rights abuses seem to have largely fallen off the map.

Although there is a voluminous literature on business responsibility for human rights and the mechanisms through which these can be realized and enforced in global supply chains – including legislation, CSR, international organization guidelines and lawsuits— it is rare to come across analysis of the role of wages in protecting supply chain workers from human rights abuse, or enabling their vulnerability to it. This is not to suggest that wages are entirely absent from analysis; there is passing and implicit mention of wages where scholars note the importance of ‘economic and physical subsistence’,<sup>48</sup> the economic security of rights holders, or upholding social security through welfare states, including through living wages.<sup>49</sup> However, a clear explanation for how and why wages relate to patterns of human rights abuse and business responsibility in global supply chains is sorely lacking.

Several strands of the business and human rights literature could be strengthened through a more explicit focus on wages and the commercial practices and business models that shape wage dynamics. One strand is scholarship on TNCs and human rights. Most of the attention within this strand of research of late has focused on: the conditions under which TNCs have human rights obligations or not; how far those responsibilities extend within supply chains; the role of various actors including non-governmental organisations (NGOs), banks, regulators, businesses, and rights holders in enacting and enforcing these obligations; and the utility and procedural effectiveness of various tools to help them do so, ranging from human rights benchmarks to modern slavery legislation.<sup>50</sup> This body of work has helpfully drawn attention to the trend of national governments seeking to enact the United Nations Guiding Principles and address public pressure to eradicate forced labour and child labour from global supply chains through a wave of ‘home state’ regulation, including human rights due diligence and modern slavery legislation.<sup>51</sup> This has been complemented by multilateral and international organization efforts, such as the Organisation for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains and the ILO, International Organisation for Migration (IOM), OECD and United Nations

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<sup>48</sup> Denis G Arnold, ‘Corporations and Human Rights Obligations. *Business and Human Rights Journal*’ (2016) 1:2 *Business and Human Rights Journal* 255.

<sup>49</sup> Beate Sjäffjell, ‘How Company Law Has Failed Human Rights – and What to Do About It’ (2020) 1:2 *Business and Human Rights Journal* 255.

<sup>50</sup> Nora Götzmann, ‘Human Rights Impact Assessment of Business Activities: Key Criteria for Establishing a Meaningful Practice’ (2017) 2:1 *Business and Human Rights Journals* 87; Faris Natour, ‘Respecting Human Rights in the On-Demand Economy: Closing the New Governance Gap’ (2016) 1:2 *Business and Human Rights Journal* 315; George G Brenkert, ‘Business Ethics and Human Rights: An Overview’ (2016) 1:2 *Business and Human Rights Journal* 277; Maria Anne Van Dijk, Marijn De Haas and Ruben Zandvliet, ‘Banks and Human Trafficking: Rethinking Human Rights Due Diligence’ (2018) 3:1 *Business and Human Rights Journal* 105; Lise Smit et al, ‘Business Views on Mandatory Human Rights Due Diligence Regulation: A Comparative Analysis of Two Recent Studies’ (2020) 5:2 *Business and Human Rights Journal* 261; Rajiv Maher, ‘Decontextualised Corporate Human Rights Benchmarks: Whose Perspective Counts? See Disclaimer’ (2020) 5:1 *Business and Human Rights Journal* 156.

<sup>51</sup> Nicola Phillips, Genevieve LeBaron and Sara Wallin, ‘Mapping and Measuring the Effectiveness of Labour-Related Disclosure Requirements for Global Supply Chains’, International Labour Office Research Department, Working Paper No. 32 (June 2018), [https://www.ilo.org/wcmsp5/groups/public/—dgreports/—inst/documents/publication/wcms\\_632120.pdf](https://www.ilo.org/wcmsp5/groups/public/—dgreports/—inst/documents/publication/wcms_632120.pdf) (accessed 30 October 2020); Genevieve LeBaron and Andreas Rühmkorf, ‘Steering CSR Through Home State Regulation: A Comparison of the Impact of the UK Bribery Act and Modern Slavery Act on Global Supply Chain Governance’ (2017) 8:3 *Global Policy* 15.

Children's Fund (UNICEF) efforts to 'inform public and business policies and practices in order to prevent child labour, forced labour and human trafficking in global supply chains.'<sup>52</sup>

A parallel and at times overlapping strand of the business and human rights literature focuses on the rights of workers, with scholars highlighting challenges in ensuring rights for workers vulnerable to abuse, including refugees and migrant workers,<sup>53</sup> and across various supply chains including garments, electronics, hospitality and the gig economy.<sup>54</sup> These studies are beginning to explore the links between employment practices and human rights, and pinpoint the need for further research including through methods that prioritize workers and their input, as it has generally been absent from discussions about business and human rights to date.<sup>55</sup>

Both areas of research would be significantly strengthened through a focus on wages. Human rights for workers within global supply chains depend on more equitable forms of value distribution, suppliers earning sufficient income that they can cover the costs of relevant wage standards, and mechanisms to ensure that the right amount of money actually ends up in workers' pockets. Although this is a basic point, it is too often forgotten in discussions about business and human rights. An explicit focus on wages would mean measuring and enforcing several components of business and human rights in supply chains differently. I will mention just four here.

### A. Benchmarking

There are dozens of metrics and benchmarks to assess environment, social and governance (ESG) factors which typically include human rights across investment and company performance. Oddly, almost none of these benchmarks include metrics around costs of production and the payment of living wages in supply chains, in spite of the fact that workers and their advocacy organizations have now developed several tools to benchmark purchasing practices and their impact upon wages.<sup>56</sup> Ensuring that minimum and living wages are paid is a basic but fundamental and structural precondition to eradicating forced labour in supply chains, so if ESG benchmarks are to be effective in relation to forced labour and overlapping forms of exploitation, they need to encompass these metrics.

<sup>52</sup> International Labour Organisation, Organisation for Economic Cooperation and Development, International Organisation for Migration and United Nations Children's Fund, 'Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains' (Geneva: International Labour Organization, 2019).

<sup>53</sup> Samentha Goethals et al, 'Business Human Rights Responsibility for Refugees and Migrant Workers: Turning Policies into Practice in the Middle East' (2017) 2:2 *Business and Human Rights Journal* 1.

<sup>54</sup> Motoko Aizawa and Salil Tripathi, 'Beyond Rana Plaza: Next Steps for the Global Garment Industry and Bangladeshi Manufacturers' (2016) 1:1 *Business and Human Rights Journal* 145; Natour, note 28; Olga Martin-Ortega, 'Public Procurements as a Tool for the Protection and Promotion of Human Rights: A Study of Collaboration, Due Diligence and Leverage in the Electronics Industry' (2018) 3:1 *Business and Human Rights Journal* 75.

<sup>55</sup> See, e.g., Samentha Goethals, 'Exploring Migrant Employees' 'Rights-Talk' in the British Hospitality Sector' (2019) 4:2 *Business and Human Rights Journal* 287.

<sup>56</sup> For an overview of living wage benchmarks, see Remi Edwards, Tom Hunt and Genevieve LeBaron, *Corporate Commitments to Living Wages in the Garment Industry* (Sheffield: University of Sheffield, 2019); <http://speri.dept.shef.ac.uk/wp-content/uploads/2019/05/Corporate-Commitments-to-Living-Wages-in-the-Garment-Industry-SPERI-report.pdf> (accessed 2 December 2020).

## B. Debt

Business and human rights scholarship has identified the importance of debt in facilitating the labour exploitation and mobility of migrant workers.<sup>57</sup> There is growing attention to the use of predatory recruitment fees and debts imposed by employers as mechanisms that prevent migrant workers from leaving exploitative labour situations. However, debt is relevant to a much wider set of workers and business practices than is typically acknowledged in the literature. Debt is a key marker of vulnerability to forced labour amongst non-migrant workers, too, as my study of tea plantation business models makes clear. Across the spectrum of forced and so-called free labour relations, debt shapes workers' experiences within labour markets, on work sites, and their ability to exit labour exploitation.<sup>58</sup> As such, the level of debt of workforces within their global supply chains is a key factor that MNCs should take into account when assessing vulnerability to forced labour.

## C. Modern Slavery Reporting and Commercial Practices

Most research to date on corporate modern slavery reporting has focused on whether and to what extent companies have complied with reporting requirements; in other words, do they tick the boxes required by relevant legislation. However, there is a need to move beyond technical assessment of compliance to look at whether companies are reporting relevant and meaningful information, and whether the efforts they are taking to address and prevent forced labour in supply chains is leading to the types of changes that are essential to eradicating these practices. The indicators most relevant to forced labour that companies could be reporting on are around wages, prices paid to suppliers, purchasing practices, and whether they are willing to absorb increases in minimum wages. Yet, these sorts of topics are all but totally absent from reporting under the 2015 UK Modern Slavery Act and similar laws, which tend to focus on philanthropic and voluntary CSR programmes like social auditing and ethical certification rather than commercial practices. If companies have any hope of ending the prevailing dynamics wherein they are undermining their own anti-slavery initiatives by sourcing below the costs of production, they need to start incorporating metrics around wages and prices into their modern slavery reporting.

## D. Living Wages as a Protective Factor for Workers' Human Rights in Supply Chains

Just as we know that low wages and wage violations leave workers vulnerable to more severe forms of abuse, living wages offer workers protection from forced labour. Take the examples of tea and cocoa workers discussed earlier in this article. If employers had routinely paid workers living wages, they would have had no need to borrow to cover costs of basic essentials like food, healthcare and education for their children. They would have had savings to draw on to respond to emergencies, eliminating the need for high-

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<sup>57</sup> For instance, see Philip Martin, *Merchants of Labor: Recruiters and International Labor Migration* (Oxford: Oxford University Press, 2017).

<sup>58</sup> See also Genevieve LeBaron, 'Reconceptualizing Debt Bondage: Debt as a Class-Based Form of Labor Discipline' (2014) 40:5 *Critical Sociology* 763.

interest loans. They would have the resources they need to survive while fleeing abusive labour conditions. In many cases, exit from forced labour is precluded by a lack of financial resources; but living wages would give workers the resources and power necessary to exit situations of forced labour. For this reason, scholarship interested in how business and human rights can be promoted in supply chains should centre living wages as a key protective factor and strategy to address key root causes of vulnerability and abuse.

## VI. CONCLUSION

Forced labour is often depicted as an anomalous crime, as something that happens when a worker is unlucky or deceived in an industry where workers are otherwise doing fine and businesses are acting responsibly. However, our research shows, by contrast, that portions of supply chains in which wages are low, wage violations are rampant, and suppliers are under serious pressure to minimize costs, give rise to forced labour. These basic dimensions of business conduct need to be reprioritized within academic and policy discussions of forced labour and strategies to combat it. Not only are decent wages and the commercial conditions that support them pre-requisites to ensuring human rights within supply chains, but they are fundamental to giving workers the ability to exit and exercise their rights when they face abuse.

Business and human rights scholarship focuses considerable attention today on things businesses can do to respect human rights in supply chains, from complex benchmarking systems to new models of financial investment. However, the literature would benefit from far greater attention to the mundane yet vastly important practices that are most within businesses' control and scope to change: wages (and the deductions, dynamics of credit and debt that frequently accompany them); commercial and sourcing practices; business to business relationships within supply chains; uneven value distribution along supply chains (including between firms, countries and executives to workers); and adherence to labour laws and standards. Unless there is certainty that business models and supply chains are not configured to give rise to forced labour, there is little point finessing CSR programmes and tools to track and monitor labour standards and rights in supply chains. Future studies of forced labour, and human and labour rights in supply chains more broadly, would benefit from empirical investigation of this underlying architecture, and especially of wages. Researching forced labour in this way requires scholars to transcend the binary conceptualization that typically underpins scholarship on forced labour in supply chains, both surrounding understanding of worker freedom and unfreedom, and the (il)legality of businesses that use forced labour.