



Rightsholder-Driven Remedy for Business-Related Human Rights Abuse: Case of the Fair Food Program

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Received: 17 May 2022 / Accepted: 22 October 2023
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Abstract

This paper investigates necessary conditions for developing a participatory, rightsholder-driven approach to remedy for business-related human rights abuses by analyzing findings from a case study with the Fair Food Program. With the inclusion of human rights into discussions of business ethics and CSR, scholars and practitioners have made calls for participatory approaches to remedy to address cases of human rights abuses. However, a gap remains in our understanding of how to operationalize participatory approaches in a manner that empowers rightsholders, particularly within contexts of severe power imbalances. The paper puts forth a rightsholder-driven theoretical framework for remedy, grounded on critical dialogic accountability principles and integrated with empirical analysis from the Fair Food Program case study. This framework defines remedy as a system comprising reinforcing aspects rather than standalone mechanisms. The critical dialogic accounting and accountability framework provides a theoretical framing of engagement that enables the inclusion of multiple, divergent voices and aims toward meaningful engagement with marginalized groups. The analysis of findings from the case study identifies enforcement and education as necessary conditions for effective and empowering rightsholder-driven approaches to remedy. The paper deconstructs these conditions to develop an understanding of the program's unique approach to enforcement and education. The paper concludes by discussing the implications of rightsholder-driven remedy for Business and Human Rights and business accountability.

Keywords Business and human rights · Critical dialogic accountability · Worker-driven social responsibility

Introduction

The provision of effective remedy for business-related human rights abuses stands as one of the most significant challenges and most critical areas for growth within business ethics, human rights protection, and corporate accountability (Baumann-Pauly et al., 2017; Schormair & Gerlach, 2020). Current approaches to non-state remedy for business-related human rights abuses often fail to restore the abused rights of rightsholders and are notorious for excluding rightsholders from remedial processes (Maher, et al., 2022; Knuckey & Jenkin, 2015; Thompson, 2017). As such, practitioners and scholars have called for participatory approaches to remedy and rightsholder-centrality to overcome the systematic

tendency to exclude rightsholders from participating in the restoration of their abused right(s) (UN OHCHR, 2017). The Working Group on the issue of human rights and transnational corporations and other business enterprises declares that rather than superficial, add-on participatory efforts, “rights holders should be central to the entire remedy process” (UN OHCHR, 2017, p.8).

While acknowledging the need for participatory approaches to non-state remedy is an essential first step towards developing a more inclusive approach to Business and Human Rights (BHR) (Ruggie et al., 2021; Thompson 2017), there is a gap in our understanding regarding the operationalization of effective, empowering participatory approaches to non-state remedy, particularly in contexts of power asymmetries. This paper seeks to address this gap by analysing how participatory approaches to remedy function in environments imbued with power asymmetries. I investigate the research question: What are necessary conditions for taking a rightsholder approach to remedy? Such an approach centers participation and empowerment

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for rightsholders seeking remediation for business-related human rights abuse. Specifically, an analysis of the findings from a case study with the Fair Food Program (FFP) informs this research. International scholars and practitioners recognize this initiative for its novel worker-driven approach, as the paper will explain in the following sections (Chavez, 2023; Marquis, 2023; Mieres & McGrath, 2021; Asbed & Hitov, 2017; Kaufman and McDonnell 2016; UN OHCHR, 2013). The paper analyses the empirical data alongside theory to develop a theoretical framework for rightsholder-driven remedy.

In this study, empowering approaches to remedy are those that support the capacity of rightsholders to achieve their desired outcomes in terms of restoring their abused human rights (Brieger et al., 2019; Cornwall, 2016). The analysis of the findings from the case study identifies the conditions of enforcement and education as necessary for realizing rightsholder-driven remedy. Prior scholarship has engaged with both enforcement and education in the context of remedy (Kaufman and McDonnell 2016; Knuckey & Jenkin, 2015). However, this paper takes a deeper dive into these dimensions. I deconstruct enforcement and education to investigate their particularities that result in an effective rightsholder approach to remedy, and subsequently develop a corresponding theoretical framework.

The theoretical development of the article draws primarily on Brown's (2009) framework for critical dialogic accounting and accountability (CDAA). The framework offers valuable insights into the design and implementation of remedy in a rightsholder-driven approach. Analyzing empirical data through the framework reveals the real-world application of critical dialogics. Drawing on this analysis, the paper develops a rightsholder-driven framework for remedy. While the field of CDAA is articulated majorly through theoretical articles and theoretical frameworks, the field of BHR heavily relies on empirical studies and data. This study aims to bring the fields together by analysing empirical data from a case study motivated by the OHCHR's Accountability and Remedy Project (ARP). It examines the data through the theoretical lens of CDAA. The ARP Project team and I shared the research motivation of investigating what conditions are necessary for participatory approaches to remedy that empower rightsholders. Therefore, I conducted the case with the immediate objective of drafting a detailed report of the findings for the ARP project and a longer-term goal of analysing the findings alongside theory. In this way, this study aims to contribute to both fields: By analyzing a manifestation of CDAA in action and identifying and analysing necessary conditions for its actualization in the research context, the research builds on the CDAA project. The study contributes to BHR by proposing a theoretical framework for a rightsholder-driven approach to remedy by analyzing empirical data through the theoretical principles of CDAA.

Regarding the contribution to BHR, the research addresses an oversight in the literature regarding the operationalization of participatory approaches to remedy by identifying enforcement and education as necessary conditions for participatory remedy that is effective and empowering for rightsholders. By analyzing these conditions in-depth, the study aims to contribute to BHR conversations on remedy. The study's identification and analysis of education and enforcement as necessary conditions for rightsholder-driven remedy has the potential to be emancipatory through the restoration of abused rights for marginalized rightsholders. Further, these findings hold significant implications for corporate accountability in terms of being accountable for business-related human rights abuses.

The paper is organized as follows. It continues with a section on Business and Human Rights focusing on remedy and discusses the link between remedy and accountability. The Critical Dialogics section introduces the idea of critical dialogic accountability as a way of conceptualizing how remedy can act as an accountability mechanism and how to structure remedy within a critical dialogic approach. The Research Approach section follows and introduces the Fair Food Program and its Worker-driven Social Responsibility model. This section of the paper also discusses the research methods and analytic approach. The paper moves on to present the findings and analysis of the remedial system of the Fair Food Program through a critical dialogic analytic framework. The Discussion section reflects on the implications of the findings for the field of Business and Human Rights and the CDAA project. Concluding remarks consider the contributions and limitations of the research and put forth suggestions for future related research.

Business and Human Rights: Searching for Remedy, Searching for Accountability

In our globalized society, corporations are international, unelected, and increasingly unregulated influential players (Boiral & Gendron, 2011). Societal expectations of corporations have shifted accordingly with business responsibility to respect human rights, acquiring "near-universal recognition by all stakeholders" (Ruggie, 2009, p. 13). This shift in expectations highlights the critical need to adopt business and human rights approaches into corporate governance (Mena et al., 2010; Ramasastry, 2015). Legal scholars and human rights advocates founded BHR. BHR demands accountability by calling for human rights due diligence and holding private actors to international standards, aiming "to prevent the adverse impacts of business activity on individuals and communities" whether or not it aligns with a 'business case' (Ramasastry, 2015, p. 238). This envisioned role of the corporation goes beyond traditional 'do no harm'

negative obligations of corporations to envisage a corporation that is actively responsible and accountable for their human rights impacts.

The expanse of the corporate sphere of influence, the rise of BHR, and the increasing attention to corporate (in) accountability prompted the UN to appoint John Ruggie as UN Special Representative on Human Rights and Business. The UN assigned him the task of developing a framework to outline the responsibilities of the private sector in the human rights protection agenda. The result was the widely endorsed three-pillar ‘Protect, Respect, and Remedy’ framework. Ruggie then operationalized the framework by developing the UN Guiding Principles on Business and Human Rights (McPhail & Ferguson, 2016; United Nations, 2011).

This research focuses on a particular aspect of the third remedial pillar, often referred to as the ‘forgotten pillar’ due to the seeming focus on the first two pillars of the framework (McGrath, 2015; Schormair & Gerlach, 2020). While international law establishes states as the primary duty bearers for providing remedy, this research focuses on the provision of non-state remedy for business-related human rights abuses. Certain rightsholders prefer, and certain instances are best or should be resolved within state remedial mechanisms. However, other rightsholders prefer to or must seek remediation through alternative avenues, such as non-state remedial systems. Rightsholders may seek remedy for human rights abuses outside state mechanisms for various reasons, such as barriers of accessibility due to time, money, or legality or extraterritorial complexity associated with many business-related human rights abuses (Backer, 2011). Additionally, many instances of business-related human rights abuses occur in states that “lack the capacity or will to hold companies to account, and judicial recourse in a corporation’s home state or third state is sometimes impossible... and infrequently successful” (Knuckey & Jenkin, 2015, p. 802; Denedo et al., 2017). Consequently, effective non-state remedial systems bridge this accountability gap, fulfilling an essential component of the ‘bouquet of remedies’ called for by the UNGP.

The Office of the High Commissioner for Human Rights (OHCHR) commenced the third phase of the “Accountability and Remedy Project” (ARP) in order “to identify and analyse challenges, opportunities, best practices and lessons learned with regard to non-state-based grievance mechanisms that are relevant to the respect by business enterprises for human rights” (UN OHCHR, 2018). Scholars have recognized that participatory approaches, which consider rightsholders’ concerns throughout remedial processes, offer a potentially promising and normatively desirable approach for providing effective remedy and protecting the rights of rightsholders along the supply chain (Bijlmakers, 2013; Knuckey & Jenkin, 2015; LeBaron, 2020; Thompson, 2017). At the same time, other scholars have problematized

participatory approaches to engagement, critiquing their top-down, shallow approaches that are frequently designed and implemented around business interests (Brown & Dillard, 2015; Passetti et al., 2019). This research expands on their critique, recognizing that proponents of participatory approaches have not thoroughly investigated the necessary conditions to develop participatory approaches to remedy that empower rightsholders rather than superficial tools for businesses to claim legitimacy (Bebington et al., 2007; Thompson, 2017).

This study identifies enforcement and education as necessary conditions to effectively engage rightsholders seeking redress in the research context. The case study generated the data for the research by investigating the remedial system of the FFP within its Worker-driven Social Responsibility (WSR) model. The WSR model, born from the struggles of a community of migrant farmworkers, embodies a bottom-up, rightsholder-driven alternative approach to rights protection and remediation (Chavez, 2023; Asbed & Hitov 2013). The OHCHR utilized the findings from the case study with the FFP to inform the project and final report (UN OHCHR, 2021). The study aims to identify necessary conditions for a worker-driven approach to remedy, how those conditions are designed and implemented, and how they interact with one another towards providing effective remedy that is empowering for rightsholders. The paper addresses these aims by developing a theoretical framework of rightsholder-driven remedy, illustrating the conditions and how they interact.

Remedy and Accountability

The right to access effective remedy in response to human rights abuse is an essential, often neglected aspect of corporate accountability (Baumann-Pauly et al., 2017; Maher 2021; Schormair & Gerlach, 2020). This research conceptualizes the access and provision of effective remedy as an accountability mechanism, as a means for corporations to be held accountable for human rights abuses that they have caused or been linked to. This article does not propose that providing effective remedy on its own equates to corporate accountability. However, if a business causes or is linked to human rights abuses, providing effective remedy is assuredly an essential component of accountability (Lukas et al., 2016).

In the context of BHR, the UNGP define remedy as composed of procedural aspects, such as grievance mechanisms and audits, alongside substantive aspects, as in the outcomes of the raised grievance. Similarly, Accountability systems consist of procedural and substantive aspects. As Rached says, “Inconsequential accountability is no accountability at all” (Rached 2016, p. 332). In other words, accountability without consequences is like a procedural aspect without a

substantive aspect. Each of these aspects is necessary for effective remedy accountability systems.

Both mainstream accountability systems and non-state remedial systems struggle to achieve meaningful engagement (Bebbington et al., 2007; Dillard & Vinnari, 2019; Thompson, 2017; Zagelmeyer et al., 2018). In select cases of human rights abuse where remedy is provided, it often fails to address the interests of the rightsholder seeking remedy (Knuckey & Jenkin, 2015). Designing remedial mechanisms without considering the intended recipients and failing to meaningfully engage with rightsholders throughout remedial processes, the rightsholder-centrality called for by the UN Office of the High Commissioner for Human Rights remains elusive (Maher 2021; Schormair & Gerlach, 2020; Venkatesan 2019; McPhail & Ferguson, 2016; Murphy and Vives 2013).

Existing scholarship regarding approaches to non-state remedy has analysed their failure in notable cases such as Rana Plaza and Barrick gold mine (Knuckey & Jenkin, 2015; Terwindt & Armstrong, 2019). In both these cases, power imbalances, leading to a lack of meaningful engagement with affected rightsholders, contributed significantly to their failure. The top-down approach in both cases prevented rightsholders from meaningfully contributing and participating throughout remedial processes (Schormair & Gerlach, 2020; Lauwo 2018; Knuckey & Jenkin, 2015; Kaufman and McDonnell 2016). Workers developed the FFP, the source of the paper's empirical data, in a context of severe power imbalance, aiming to redistribute power towards workers so meaningful engagement is possible.

Critical Dialogics

The paper draws on insights and a framework from critical accounting scholarship to address the issues regarding how to theorize, design, and implement approaches to remedy that are effective and empowering for rightsholders. In particular, the research engages with the dialogic accounting project of scholars such as Brown, Dillard, Bebbington, etc. It utilizes the principles of critical dialogics to analyse empirical data regarding a remedial system within a WSR model. The principles of CDAA, outlined in Table 2, are derived from Freire's dialogic theory, which he developed as a means of emancipatory change in the context of oppression (Freire, 1985). Critical dialogic accountability principles support the operationalization of remedial systems predicated on the rightsholder's needs rather than those of financial capital purveyors (Brown, 2009; Dillard & Vinnari, 2019). This paper employs Brown's (2009) dialogic principles as an analytic framework to investigate how they can be utilized in developing rightsholder-driven, or dialogic, approaches to remedy. Table 2 illustrates how the eight

principles of critical dialogic accountability may apply to a rightsholder-driven approach to remedy.

[Table 2].

Critical accounting scholars developed and theorized CDAA as a response to recognizing the dangers and limitations of traditional accounting approaches to effectively measure social and environmental impacts (Bebbington, Brown & Frame, 2007). As opposed to the monologic nature of mainstream accounting approaches that privilege "business case" focuses, dialogic accounting enables the existence and inclusion of multiple voices and perspectives within accounting systems (Brown, 2009). Dialogic approaches aim to structure and encourage polyvocal participatory approaches while simultaneously being sensitive to societal power imbalances. CDAA presumes that there will (always) be asymmetrical power relationships. Rather than ignoring those asymmetries or putting forth solutions that purport to equalize power relations, CDAA argues for approaches to accounting and accountability that operate in a manner that gives voice to those with different power statuses within contexts of power asymmetry. The field of CDAA remains theoretical, with some notable exceptions that study CDAA in practice (Dillard et al., 2023; Tamina et al. 2023; Tregidga & Milne, 2022; Kingston et al., 2019). This paper aims to contribute to these studies by studying an operationalization of the principles of CDAA in the context of remedy. In essence, the remedial system of the FFP acts as a manifestation of CDAA, and Table 2 illustrates this relationship between CDAA and remedy.

Utilizing an analytic approach grounded in critical dialogic accountability is relevant to Business and Human Rights, particularly remedy as the contexts of both fields are imbued with systemic power imbalances. BHR scholars recognize that these power asymmetries between businesses and rightsholders hinder meaningful engagement in remedial processes (Schormair and Gerlach 2020; Baumann-Pauly et al., 2017). The objective of CDAA is not to equalize power but rather to recognize those power imbalances and create structures and spaces in which the voices of those with less power have a voice that is heard. CDAA is explicit in its recognition of power asymmetries and argues that this recognition is "central to developing realistic and uniquely meaningful systems and networks" that embrace plurality (Dillard & Vinnari, 2019, p. 22). The paper suggests that applying the CDAA principles to the context of remedy allows us to examine a meaningful system in an environment in which power imbalances are stark and explicitly recognized.

Additionally, analyzing the theoretical framework of CDAA alongside the applied WSR principles enables the research to exist within theory and practice in a process of reciprocal learning. Analyzing remedy in the FFP's WSR model, focusing on the necessary conditions, contributes

to our theoretical understanding of how participatory approaches to remedy can be designed and implemented in a way that is effective and empowering for rightsholders. Proponents of the CDAA movement have called for “new accountings that foster democracy and facilitate more participatory forms of social organization” (Brown, 2009, p.313). In response, this paper conceptualizes remedy as a ‘new accountability’ mechanism and puts forth a theoretical framework for rightsholder-driven remedy to support more participatory approaches to BHR.

Research Approach

Research Design

In order to empirically explore necessary conditions for effective participatory approaches to remedy that are empowering for rightsholders, I conducted a single in-depth qualitative case study with the FFP. With the findings from the case, I first drafted a report to contribute to the Office of the High Commissioner for Human Rights’ Accountability and Remedy Project report (UN OHCHR 2021). Subsequently, I analyzed the findings alongside theory for this paper. I conducted scoping research of the program to inform the case selection and theoretical development. I selected the FFP due to theoretical alignment and as an ‘extreme case’. The Program’s high level of worker involvement allowed me to analyze worker participation in remedial processes. Findings from scoping studies indicated that the Program’s worker-driven approach has been successful in facilitating the participation of workers in their human rights protection (Reineke and Donghey 2021; LeBaron, 2020; Outhwaite & Martin-Ortega, 2019; Asbed & Hitov, 2017; Siegmann, 2015; Asbed & Sellers, 2013). The FFP is an ‘extreme case’ because the program is an outlier within the agri-food sector due to the organization’s notably high level of worker involvement. The involvement of workers in the Program enabled the analysis of the workers’ participation in remedial processes. Through this analysis, the study aimed to develop an understanding of necessary conditions for this participatory approach to take place in a manner that is effective and empowering for rightsholders. According to Scapens (2004), an ‘extreme and exploratory case study’ may reveal whether and how the theory should be adapted to apply to a broader context. As such, I selected the FFP case to analyse their worker-driven approach to remedy, which may be applicable in more general contexts.

Case Study: Fair Food Program

The agri-food sector has struggled to overcome and remediate severe and endemic business-related human rights

abuses, with a seemingly ever-expanding gap between the workers at the bottom of the supply chain and the corporations at the top (Bull et al., 2021). In U.S. agriculture, severe worker exploitation can be traced back to slavery when farmworkers were bought, sold, and treated as property. This abject legacy of chattel slavery has haunted farmworkers in the U.S since the birth of plantation-scale agriculture, followed by debt peonage, prison labour (many would argue a way of legally continuing slavery), sharecropper exploitation of African-Americans and other poor Americans, and most recently subjecting migrant labourers to human rights abuses such as forced labour (Asbed & Hitov, 2017). Although the population demographics of the farmworkers have changed, the vulnerable state of farmworkers has remained, as has the industry’s view of workers as tools to make them profit.

The FFP, headquartered in Florida, operates as an ethical sourcing program. The FFP covers 90% of the tomato production in Florida, and Florida accounts for 90% of the winter tomatoes produced in the U.S. Its remedial system comprises several mechanisms: worker-to-worker education sessions, a 24-h multilingual complaint hotline, worker-driven audits, Health & Safety Committees, and a Fair Food Premium (Fair Food Standards Council, 2017). Workers also have the option to report issues through a complaint hotline run by the CIW or through complaint hotlines operated by their respective growers.¹ The third-party monitoring organization for the FFP tasked with fulfilling this verification role is the Fair Food Standards Council (FFSC).

The Coalition of Immokalee Workers (CIW), a human rights organization founded by farmworkers who have been fighting for farmworkers’ rights since the 1990s, launched the FFP initiative to protect farmworkers’ rights. Scholars, government officials, practitioners, and advocates have recognized the Program as truly worker-driven and successful in protecting and remediating the rights of workers in an industry notorious for exploitation and human rights abuse (Chavez, 2023; US Department of Labor, 2022; Mieres & McGrath, 2021; Asbed & Hitov, 2017; Kaufman and McDonnell 2016; UN OHCHR, 2013). As a CIW senior staff member articulated, “We see each worker as a monitor of the program...It’s the workers’ voice that’s leading to solutions and protections for workers” (Seidman, 2023). Existing scholarship analyses different aspects of the Program, such as its power to address gender-based violence, supply chain dynamics, accountability, and its approach to storytelling (Asbed & Hitov, 2017; Asbed & Sellers, 2013; Dillard et al., 2023; Figart, 2017; Marquis, 2017; Monacello, 2020; Rosile et al., 2021). This research is unique in its focus on the remedial system of the program. Analyzing

¹ The Code stipulates that growers may also have their own complaint hotline as long as it is vetted by the FFSC.

the remedial system of the program contributes to the critical understanding of the FFP and its WSR Paradigm.

Worker-Driven Social Responsibility

The FFP is the first and longest-operating WSR program. WSR is an approach to BHR that aims to empower workers to protect, monitor, and enforce their rights. Aptly named, WSR is a worker-driven, or rightsholder-driven, approach to social responsibility (Asbed & Hitov, 2017; Gladstone, 2020). WSR rests upon the premise that to achieve impactful and sustainable improvements, “human rights protections in corporate supply chains must be worker-driven, enforcement-focused, and based on legally binding commitments” (WSR Network n.d.). Farmworkers of the CIW developed the WSR model in response to their realization regarding a lack of accountability from the top of the supply chain. Buyers at the top of the supply chain profited from their labor and, in a sense, profited from their abuses along the chain. Within the WSR approach to the FFP, to participate, buyers must sign a legally binding agreement with the CIW “to suspend purchases from growers who have failed to comply with the Code of Conduct” (Fair Food Standards Council, 2017, p. 44) of the FFP. Participating FFP growers are required to comply with the Code, including the implementation of the remedial system in order to sell tomatoes to participating brands. Significantly, and somewhat predictably, the majority of participating buyers initially refused to join the program. Most participating brands signed the agreement after some form of organizing actions (protests, boycotts, etc.) on the part of the CIW and their allies² (Marquis, 2017). During fieldwork, CIW staff expressed their hope that as the FFP program continues to prove itself as an effective approach to protecting and remediating workers’ rights in supply chains, they will not have to campaign to get buyers to sign onto the program or to extend the protections of the program to different crops and products. Through the power of market enforcement mechanisms established by the signed agreements, the FFP seeks to prevent and remediate human rights abuses in the US agricultural industry.

Data Collection and Analysis

Given the complexity of remedial systems, I generated data through a critical qualitative case study design. The critical reflexivity of the research process consists of an ongoing dialogue between theories and analysis of empirical data (Høvring et al., 2018). I reflected on the CDAA principles and WSR principles alongside empirical data from

fieldwork. The case study involved twenty-two semi-structured, in-depth interviews, seven observations, document analysis, and a focus group. I aimed to develop a comprehensive understanding of the remedial system of the program, so I conducted interviews with former farmworkers, CIW staff, FFSC staff, grower management, supervisors, and a brand representative. The specific methods are listed in Table 1. I collected data over three months (July–September 2019) with observations taking place at different farms in different states. Conducting observations in different settings alongside a focus group and semi-structured interviews allowed the research to capture how the program functions in different contexts to develop a comprehensive understanding of the remedial system of the FFP. To understand remedy, it is necessary to understand the context in which it functions and how others interact with it. Accordingly, before beginning data collection, I studied the sector’s history alongside the FFP’s history.

I designed the semi-structured interviews according to information gathered during observations and conversations with rightsholders and based on preliminary scoping of remedial mechanisms and their design. I interviewed actors with various positions connected to the FFP, including the FFSC Executive Director, former farmworkers, supervisors, auditors, farm management, and brand management. While the sample of the interview participants is not equally distributed along power dimensions, with only one interview from a participating buyer, emphasis on actors with lesser power “promotes reflexivity, because they are more likely to surface the unstated values and assumptions of dominant groups” (Brown et al., 2017, p. 71). Additionally, the voices of those most negatively impacted by harmful corporate actions are valuable and often lacking in corporate social accountability research (Bebbington et al., 2007; Everett, 2004). I conducted the fieldwork at the FFSC office, FFP farms, and CIW headquarters. I led a focus group, encouraging reflexive dialogue with FFSC staff to capture their reflections on the organization’s history, evolution, and training approach. The names of the companies that participated in the case study and the participants’ identities were anonymised.

I manually and iteratively coded observation notes, interview and focus group transcripts, and documents, aiming to avoid linguistic reductionism as well as account for the distinct nature of language. Following the guidance of Alvesson and Skoldberg (2017), the research process emphasized interpretation and reflection driven by the empirical codes of the data, enabling the research to go beyond the words recorded and transcribed to consider the cultural, political, and historical context. As a result, the research is data-driven and emancipation-driven rather than data-centred (Gallhofer and Haslam 2002, 1996). Data-driven and emancipation-driven research prioritize empirical work alongside critical

² Walmart signed onto the program without any organizing on the part of the CIW or their allies. It is important to note that Walmart signed on less than a year after the Rana Plaza collapse.

Table 1 Methods

Interviews	Observations	Focus group	Document analysis
FFSC executive director FFSC1 (3 h)	3 public apology FFP grower (25 min each)	6 FFSC investigators, FFSC Report Writer, FFSC executive director (1.5 h)	3 redacted cases
7 FFSC Investigators FFSC2 – 2 h FFSC3 – 2 h FFSC4 – 1 h FFSC5 – 45 min FFSC6 – 45 min FFSC7 – 30 min FFSC8—30 min	FFSC Audit Prep (40 min)		Fieldnote template
FFSC report writer FFSC9 (30 min)	FFSC field audit (9 h)		Redacted audit report
FFSC financial director FFSC10 (1 h)	FFSC audit debrief (40 min)		Redacted corrective action plan
CIW senior staff/ former farm- worker CIW1 (3 h)	CIW worker-to-worker education session (1 h)		Reading list for new hires
4 CIW Educators/former farmwork- ers CIW2 CIW3 CIW4 CIW5 (1 h each)			
CIW education coordinator CIW6 (1 h)			
HR director FFP grower G1 (1.5 h)			
HR assistant director FFP grower G2 (1 h)			
Director of Communication and corporate affairs FFP Buyer* B1 (45 min)			
2 supervisors FFP grower G3 G4 (1 h)			
HR manager FFP grower G5 (1 h)			

interpretation, including the wider context of the research (Alvesson and Skölsberg 2017). BHR is the wider context considered in this case, specifically the OHCHR's Accountability and Remedy Project and its aim to investigate remedial systems in action. I conducted ongoing analysis throughout fieldwork and the following year, which included several rounds of coding, interpretation, critical interpretation,

and critical reflections between empirical and theoretical development.

The CDAA and WSR principles formed the initial coding framework, structuring the coding and analysis processes. Tables 2 and 3 outline the analytical applications of CDAA and WSR principles to the case. Thematic analysis supported the reflexivity of the research through ongoing

Table 2 Applying critical dialogic accountability principles to remedy & Fair Food Program case (Brown, 2009; elaborated by the author)

Critical dialogic accountability principle	Examples of application to remedy & fair food program case
Recognize multiple ideological orientations	Actors in remedial processes will have a diverse range of worldviews and what it means to be effectively remediated. Remedial outcomes will be different in accordance with the differing views of rightsholders FFP: different worldviews of farmworkers and growers – farmworkers wanting to spend their mornings with their families and growers wanting to start the work-day before sunrise to make the most profit
Avoid monetary reductionism	While monetary compensation may constitute or be a part of effective remedy for certain rightsholders, providing remedy for abuses should not be reduced to monetary compensation without consideration of the perspective of the rightsholder who suffered the abuse FFP: for many farmworkers actions such as crewleader suspensions or apologies were the desired remedy in response to abuse, not money
Be open about the subjective and contestable nature of calculations	Recognize the subjective nature of what constitutes effective remedy FFP: FFSC discussed the importance of seeking multiple sources of data when investigating abuses. They also noted that many Code violations occur due to misunderstandings
Enable accessibility for non-experts	Remedial mechanisms should be designed and implemented in a manner in which rightsholders understand and trust FFP: Education sessions present remedial mechanisms in such a way that the workers can understand – coming from former farmworkers and using drawings
Ensure effective participatory processes	A remedial system developed by its intended recipients is participatory from the start. Ongoing worker-to-worker rights and remedy education ensure the participatory nature is sustained FFP: Auditors speak to at least 50% of the workforce during each audit
Be attentive to power relations	Remedy in contexts of severe power imbalances can only be effective if conditions are in place that (at least temporarily) redistribute power towards the rightsholders (ex. Enforcement & education) FFP: The preparation of the audit was very deliberate, ensuring that someone with more power than the crewleader – upper management from the parent company – was present and reaffirmed their commitment to the Code and recognized the crewleader's abusive behavior was not acceptable
Recognize the transformative potential of dialogic accounting	Remedial processes can be transformative, leading to learning on the part of the organization and the rightsholder, result in the restoration of abused rights, and accountability FFP: Former farmworkers of the CIW spoke to how their workplace has transformed from one where sexual violence was seen as part of the job and you had to stay silent, to a workplace where women's rights are protected, and they have a voice
Resist new forms of monologism	Resist one-sided approaches to remedy. Rather, remedial processes should meaningfully engage with rightsholders, be ongoing and reflective rather than tick-box exercises FFP: The different remedial systems work together as a 'cycle of enrichment' rather than relying on a single perspective of single source of data about issues

analytic reflection between the data and CDAA literature. Through thematic cluster analysis, I grouped the data into broad initial codes according to two key themes that emerged most prominently: enforcement and education (Clark and Braun 2013). Table 3 presents the WSR principles as an analytic frame for the findings from the study. The analysis centres on these and themes are framed within the critical dialogic accountability framework. The following Findings section deconstructs these codes through critical

interpretation of empirical data to analyse their nuances in this unique context.

Findings: Realizing and Theorizing a Rightsholder-Driven Approach to Remedy

Through thematic data analysis, I identified enforcement and education as prominent themes, as enabling conditions for effective, empowering remedy and for a critical dialogic

Table 3 Analysis of FFP remedial system through WSR principles towards Rightsholder-driven Remedy (WSR Network n.d.; elaborated by author)

WSR principles	Findings – FFP remedial system – rightsholder-driven remedy
Labor rights initiatives must be worker-driven	Education—worker-to-worker education session observation about rights and remedy under the FFP
Obligations for global corporations must be binding and enforceable	Enforcement—legally binding agreement between participating buyers and CIW redistribute power to workers seeking remedy
Buyers must afford suppliers the financial incentive and capacity to comply	Enforcement—If participating buyers do not ensure that their suppliers are able to comply with the standards (providing shade structures, no-subcontracting), they are not allowed to do business with that supplier. Thus, both buyer and supplier have an interest in ensuring the supplier complies with the standards of the Code
Consequences for non-compliant suppliers must be mandatory	Enforcement—Public apology observation – if supervisor was not suspended and obligated to apologize, the farm would not be able to do business with participating brands
Gains for workers must be measurable and timely	Enforcement—Public apology observation – suspension & public apology occurred the day after the issue had been uncovered and thoroughly investigated
Verification of workplace compliance must be rigorous and independent	Enforcement & Education—seasonal audits are mandatory requirement, interview over 50% of the workforce and worker-to-work education occurs week before audit. Financial auditor conducts audit in tandem with field audit to triangulate findings

accountability system in action. However, scholars in the fields of BHR and accountability have considered and discussed both enforcement and education (Bebbington et al., 2007; Buhmann, 2016; Dillard & Vinnari, 2019; Schrempf-Stirling & Van Buren, 2020). What is unique about enforcement and education in the FFP? After critically interpreting the data, I propose three nuances of each dimension that constitute the enforcement and education approach of the FFP. The subsections below explore these findings in detail below. These findings inform the proposed theoretical framework for rightsholder-driven remedy in Fig. 1.

Enforcement: ‘Enforcement. Enforcement. Enforcement’

During an introductory call with the FFP, the Executive Director of the FFSC and a co-founder of the CIW emphasized the absolute necessity of the program’s enforcement mechanisms in terms of the effective operation of the program, including its remedial system.

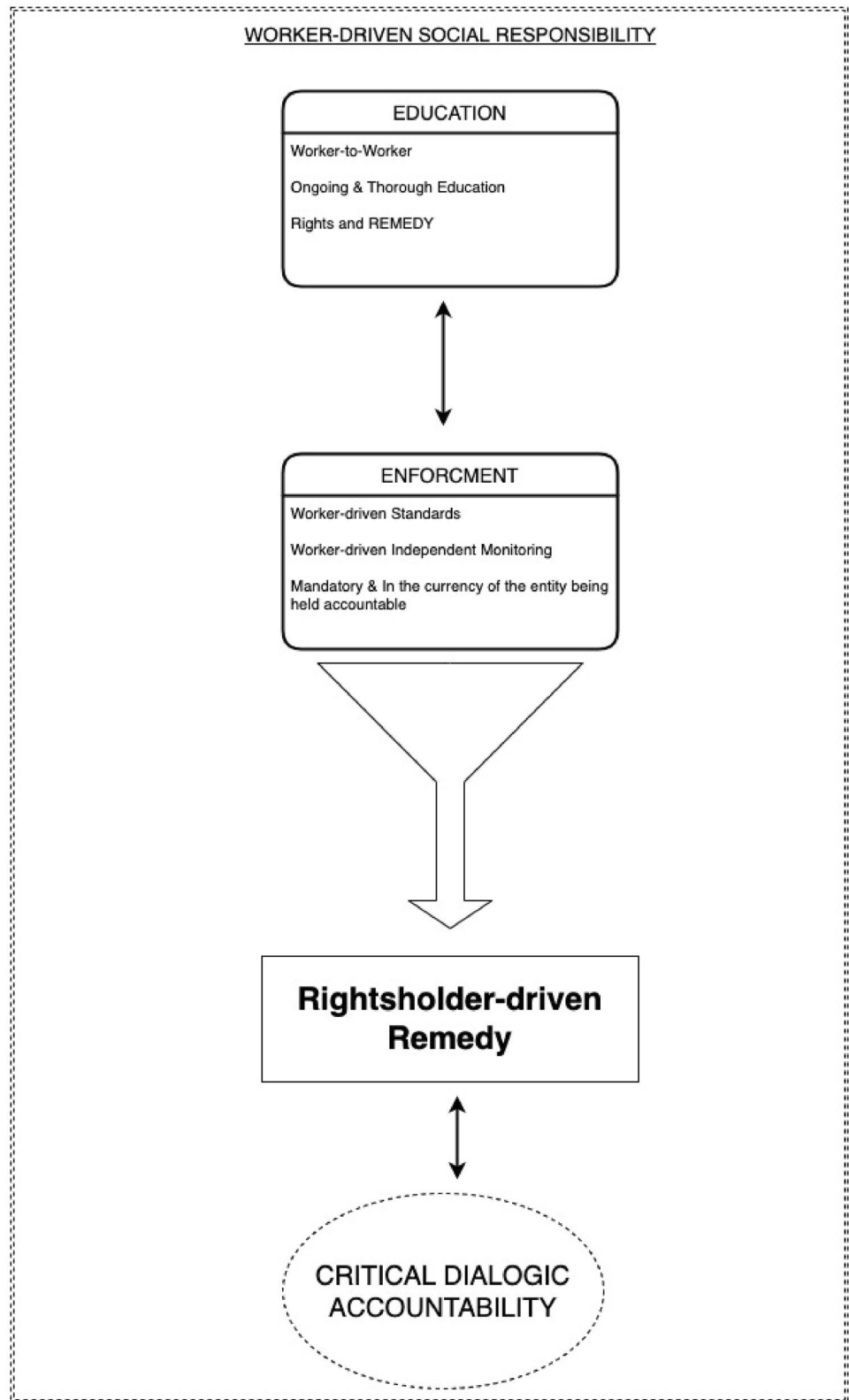
“It all comes back to the enforcement mechanisms... you know, when they talk about properties, they say it comes down to ‘location, location, location’. Well, when it comes to workers’ rights, it’s all about ‘enforcement. Enforcement. Enforcement’ –.[FFSC1].

Throughout fieldwork, different actors connected to the FFP reiterated the importance and power of the market enforcement mechanisms of the program. For example, a FFSC staff member noted, “It’s the only way people within a historically inhuman context will be seen, heard,

and treated as humans” – [FFSC3]. During fieldwork, as actors connected to the program discussed different remedial mechanisms, it always came back to the enforcement mechanisms of the program. To illustrate, all 22 interviewees discussed enforcement to some degree. Enforcement within FFP consists of market enforcement established by legally binding agreements participating brands sign, committing to only purchase FFP crops from growers who comply with the FFP Code. The FFSC determines compliance with the FFP Code through various remedial mechanisms (audits, hotlines, health & safety committees). The Executive Director of the FFSC often spoke to the power of enforcement, with multiple interviewees quoting her, “Standards without enforcement are nothing” – [FFSC1]. She elaborated in an interview, “Enforcement changes the balance of power, especially of marginalized migrant groups who are very often traumatized or scared out of adversarial proceeding...it levels the playing field” – [FFSC1] she explained, so the protection and remediation of workers’ human rights are taken seriously in the context of business.

The concept of enforcement is not new or revolutionary, in general, nor in human rights and critical dialogic accountability discussions (Baumann-Pauly et al., 2017; Dillard & Vinnari, 2019). What makes enforcement in the FFP different? Referring to critical interpretation of the prominent theme of enforcement alongside the principles of the program’s WSR model, I identified three essential aspects as key components within the proposed framework of rightsholder-driven remedy:

Fig. 1 Framework for Rights-holder-driven remedy



1. The standards that are enforced are driven by the rightsholders whom they are intended to protect.
2. Thorough, ongoing, independent monitoring informs the enforcement.

3. The enforced consequences are mandatory and in the currency of the entity being held accountable (i.e., market consequences).

The three features work together to ensure enforcement that is driven by the rightsholders to which it protects and enforcement that is empowering because it addresses embedded power asymmetries. Empowerment “refers to the expansion of choice and action” owing to a redistribution of power, usually towards marginalized individuals or groups (Courville and Piper 2004, p. 50). In the context of remedy, empowered workers play a meaningful role in the remediation of their own rights. According to CIW and FFSC staff, when workers call to report a complaint, they ask the worker what they would consider fair recourse. While the outcomes of remedial processes may not always reflect the exact wishes of the worker who reported the complaint, they are always considered. According to former farmworkers of the CIW, through the remedial processes of the FFP, they feel their voices matter [CIW2; CIW4].

Critically reflecting on the program’s approach to enforcement, the enforcement aligns with critical dialogics in terms of recognizing power asymmetries and developing meaningful systems that enable the voices of marginalized groups to be heard (Dillard & Vinnari, 2019). The workers have reflected on the existing power structures and deemed enforcement by way of enforced market consequences as necessary for a meaningful system where their rights are protected and their voices can be heard. For example, I observed public apology sessions at a FFP farm, in which a crewleader apologized to his crews. He had intimidated workers who were trying to speak with auditors, and the FFSC required the apology as a corrective action. After auditors reported workers on his crews appeared visibly distressed when approached, they immediately investigated the issue. Upon finding the crewleader in violation of the Code, the FFSC communicated to the grower that they must suspend the crewleader, and he must issue a public apology to all his workers. Following one of the public apology sessions, a FFSC auditor recounted a follow-up call with a worker who had reported an issue about that crewleader. She said the worker sounded pleased and relieved. She said, “I did not know that we had that kind of power”. This quote illustrates the empowering capacity of effective remedy that is rightsholder-driven. Considering the theme of enforcement, according to FFSC staff, the public apology was only possible because they are operating in a context of power due to the enforcement mechanisms of the program. “He wouldn’t have been there if he didn’t have to be...I mean, not that fast anyway” [FFSC4]. If the crewleader refused to apologize, the grower could no longer do business with participating brands. Effective enforcement is proposed as a necessary but not sufficient condition for participatory

approaches to remedy. Notably, the effectiveness is conditional on the nature of enforcement. Three nuances constituting effective enforcement identified through data analysis are presented below.

Worker-driven Enforced Standards

The first principle of the WSR paradigm is “Labor rights initiatives must be worker-driven” (WSR Network n.d.). Farmworkers of the CIW came together dialogically to draft the Fair Food Code of Conduct by collectively determining the most important standards and conditions for protecting their rights and humanity at work. The FFSC, CIW, and FFP Working Group, which includes participating grower representatives, continue to meet annually to review the Code (Fair Food Standards Council, 2021). This standards-setting approach differs from mainstream labour governance, where external bodies set standards and may not review them annually (LeBaron, 2020). While most of the standards in the Code align with other labour standards, an external body, even an industry expert, would likely not have set several of them. For example, the “copete” standard – a visual bucket-filling standard ensuring workers are not forced to overfill buckets. Before this standard, a CIW worker explained, “‘copete’ was enforced with violence very often” – [CIW1]. The “copete” included approximately 10% extra, for which the workers received no payment. This practice was not limited to a particular farm but a common practice of wage theft across the region, demonstrating the value of having enforced worker-driven standards.

This finding raises issues regarding the prevailing approach of social responsibility initiatives, where external ‘experts monitor and propose standards without meaningful contributions from the rightsholders they protect. Even multi-stakeholder initiatives that aim to be more inclusive frequently fail to include the voices of rightsholders to which the standards apply (Baumann-Pauly et al., 2017; Fougère & Solitander, 2020; Moog et al., 2015). Findings from the case illustrate that when rightsholders are empowered to participate meaningfully, their knowledge derived from their lived experiences can make meaningful contributions in determining enforceable standards that affect their lives.

Worker-Driven Independent Monitoring

“Verification of workplace compliance must be rigorous and independent” (WSR Network n.d.). This is a principle of the WSR model. The FFSC, the FFP’s independent monitoring

body, conducts worker-driven audits³ and runs the 24-h multilingual FFSC complaint hotline to monitor and enforce compliance with the FFP Code. The FFSC's independence sets the organization apart from other social responsibility programs.⁴ The farms that they audit do not financially contribute to the auditing process. During a phone interview, the financial auditor for the program remarked, "I think it's critical that we remain funded by third parties" – [FFSC10]. He elaborated,

"Looking at it from a purely financial standpoint, the pay-to-play models that CSR and certification schemes use are financially sustainable because corporations will pay huge chunks of money for the public to perceive that they're doing the right thing but as long as we want to maintain the rigorous auditing that we have, it's critical that the majority of our funding comes through 3rd parties" – [FFSC10].

Referring to findings, monitoring that is truly worker-driven cannot and should not be funded by the entity being audited. The conflict of interests acts as a barrier to effectively assessing compliance with standards or rights. Scholars have portrayed independent and participatory approaches to remedy dichotomously (Thompson, 2017). However, findings from the case insinuate that effective approaches should be simultaneously independent and participatory. In this regard, the FFSC vehemently maintains that its financial independence is essential to its effectiveness while simultaneously prioritizing participatory approaches to audits and other remedial processes.

Another vitally important aspect of the FFSC monitoring or remedial system is the 24-h hotline. During the focus group with the FFSC staff, I asked who answers the hotline, and they laughed, "We are the ones who answer. We take shifts" – [FFSC5]. An auditor noted a benefit of managing both the audits and a hotline,

"When we speak to workers during audits, we give them a card with the hotline and remind them if there's anything else that comes up, they can call, and I will answer or one of the people in the field will answer... that really helps the workers trust they can use the hotline because sometimes they are calling with sensitive issues, they wouldn't feel comfortable telling a stranger" – [FFSC4].

³ I consider the FFSC audits worker-driven as auditors speak to over 50% of the workforce, the standards are worker-driven, and the focus of the audits is often derived from analyzing issues that have been reported by workers to the hotline.

⁴ The FFSC is majorly funded by private gifts, grants, and contributions such as from the Fair Food Sustainer Program where supporters of the program pledge to contribute a monthly donation in support of the program. Buyer payments constitute less than 10% of the FFSC annual funding. (Fair Foods Standards Council. (2019) Form 990).

Globally and historically, social audits have been criticized as ineffective self-regulation and blue/greenwashing to bolster corporate reputation (Fougère & Solitander, 2020; Oka et al., 2020; LeBaron, 2020; Alamgir and Banerjee 2019; Banerjee, 2010). Several FFSC investigators spoke about the dangerous 'snapshot' nature of audits. "Even though our audits are really detailed, and we really try and establish a timeline of the workers' experience with our questions, it's just one day, the hotline allows us to monitor conditions even when we're not there" – [FFSC2]. The thoroughness of the FFSC's monitoring also manifests in their meticulous documentation. Information gathered through the hotlines and during audits is uploaded to a database. This database serves as a valuable resource for investigations and informs audit preparation. The FFSC investigators conduct an audit prep session before every audit. During this prep session, they review farm-specific information on the database. This preparatory work informs the investigators of actors and issues to pay extra attention to during the field audit. "It's an enrichment cycle of information," – [FFSC1] remarked the Executive Director of the FFSC with the different remedial mechanisms informing and being informed by one another. In other words, the remedial mechanisms of the program are in constant dialogue with one another as opposed to monologic monitoring or remediation.

"Resisting new forms of monologism" is a principle of Brown's CDAA framework (Brown, 2009, p.324). Accountability or remedial mechanisms that are not ongoing (i.e., stand-alone audits) can be considered a new form of monologism in that their severe time constraints make dialogue and corresponding continuous learning and effective remedy impossible. The significant decrease in severe violations since the program's beginning seasons highlights the continuous learning in the FFP.⁵ Monitoring, which is worker-driven and financially independent, is proposed as a crucial constituent of the enforcement dimension as a necessary condition for rightsholder-driven remedy.

Mandatory & Business Currency

The third distinguishing feature of the FFP's enforcement approach relates to its mandatory nature but goes further in that what is mandated is in the 'currency' of the entity being held accountable. In this case, the currency of the growers and brands is profit, i.e., the mandatory consequences are market consequences. If a grower violates the Code, they risk more than just their certification. They also risk losing business with the participating brands, which comprise a significant portion of the growers' business.

⁵ Severe violations include forced labour and assault. See p.35 of 2021 Fair Food Program Annual Report for chart.

This aspect of the program's enforcement seems to be common-sense in that non-voluntary consequences are more impactful and should be consequences that carry weight with the organization being held accountable. However, current approaches to human rights protection and labour governance stand in contrast to this seemingly common-sense proposition. While scholars, governments, civil society, and the private sector continue the debate on a binding treaty for business and human rights (Baumann-Pauly et al., 2017; Kirkebø & Langford, 2018; Parsa et al., 2018), current approaches to corporate accountability remain voluntary.⁶ Perhaps overlooked during the binding vs. non-binding debate is the nature of the enforcement and corresponding monitoring efforts. According to CIW members, it was not until the program began speaking "on their terms [i.e., market enforcement] ...risking losing business that they actually started listening" [CIW1]. Participating growers sign onto the program voluntarily. However, if growers do not sign on, they are unable to conduct business with the participating brands.

Additionally, if growers are found to be in violation of the Code, they are first given an opportunity to remediate the issue through suspensions and retraining.⁷ If they fail to effectively remediate the violation according to the findings of the independent, often collaborative investigation, the grower can no longer sell their tomatoes to the participating brands. Essentially, the WSR model gives workers the power to hold their direct employers accountable for protecting their rights (Gladstone, 2020).

In Dillard and Vinnari's critical dialogic accountability theoretical framework, they contend, "The consequences must have a sufficient and timely impact on the powerholder for the accountability system to be effective" (Dillard & Vinnari, 2019, p. 33). In the neoliberal corporate context, market consequences that target businesses' financial profits are considered more than sufficient. Ergo, the WSR model explicitly outlines the need for consequences for non-compliance to be mandatory, "economic consequences for suppliers that violate their workers' human rights" (WSR Network n.d.). In the case of the public apology, the consequence for failing to address the crewleader's abusive behaviour through suspension and apology would have been a loss of a significant amount of the grower's business. This economic threat ensured the grower cooperated and promptly addressed the issue, protecting and remediating the rights of his workers.

⁶ *In the US, as per the Dodd-Frank Act, companies are mandated to publicly disclose their use of conflict minerals that originated in the DRC or any adjoining country. Thank you, Reviewer 2, for drawing my attention to this exception.

⁷ No retrainings for zero-tolerance policies (forced labour, sexual assault with physical contact).

Education

Educating rightsholders or educating stakeholders is similarly not a novel concept. So, what makes the education approach of the FFP different? Why does it work? How does it fit into the proposed theoretical framework of rightsholder-driven remedy? To begin, the CIW and the FFP are rooted in popular movements in Latin America and the Caribbean (Sellers et al., 2009). Due to this experiential knowledge, founding members were versed in Popular Education, which "emphasizes the importance of participatory dialogue and critical analysis as communities tackle their problems" (Asbed & Hitov, 2017, p. 504). The CIW motto is "conciencia + compromiso = cambio (consciousness + commitment = change)," illustrating their connection to Freire's dialogic movement. The FFP motto reflects its founders' dialogic tendencies, including a dialogic approach to education. In this section, I identify three aspects of the program's dialogic educational approach. The three education dimensions work alongside the enforcement dimensions to empower rightsholders to dialogically monitor and enforce their own rights through rightsholder-driven remedy.

Worker-to-Worker; Lived Experience

Former farmworkers of the CIW conduct education sessions seasonally on each farm. Utilizing Popular Education approaches, the sessions engage workers in dialogue to inform them about their rights and responsibilities under the program. When I asked how the CIW Education Committee encourages dialogue in large group settings, a committee member responded, "Something very easy we use is the drawings" [CIW2]. CIW workers displayed the large drawings that they bring to education sessions. The drawings illustrate issues related to the Code, such as FFSC audits, an example of retaliation from a supervisor, and an example of sexual harassment. The drawings provide an opportunity for workers to share their experiential knowledge related to the drawings with other workers. These Popular Education interactions enable attending workers to participate actively in their own rights education, resulting in enhanced agency and a deeper understanding of rights and responsibilities. Seeking remedy requires both agency and understanding on the part of the rightsholder – understanding of rights and remedial mechanisms available and the agency to utilize those mechanisms to report the abuse. The program's worker-to-worker approach results in an increased agency of workers to engage with the other remedial mechanisms of the program. A female farmworker reported to an FFSC auditor, "Now people know their rights, and they don't allow themselves to be intimidated by anything. If I need to rest for a few minutes in the shade or go to the bathroom, I know I can do that without losing my job" [FFSC3].

In Freire's dialogics, a precursor to CDAA (Bebbington et al., 2007), students and educators engage in dialogue about diverse experiences to gain knowledge from one another toward collective action. During the education session observation, workers shared experiences related to rights, abuses, and remedial mechanisms. Examples from workers resulted in dialogue and reflection between workers and educators regarding rights and remedies. Reflection and dialogue enable workers to construct meanings that are contextually appropriate and adaptable according to shifting contexts. This is essential in educating workers about their rights and corresponding remedy in an environment with fluctuating conditions.

Remedial mechanisms will only be accessible and effective for workers if they understand how and when they should be utilized in their reality. CIW workers reported that having experienced the reality of the farmworkers enables CIW educators to educate workers about their rights and responsibilities effectively. "We know exactly where it hurts, and we know how to fix it" [CIW1], articulating the power of lived experience. The frequency, enforcement, content, and structuring of the worker-to-worker education sessions and material, clearly outlining each aspect of the Code with corresponding remedial procedures, suggests that rather than developing negative principles as a reaction to traditional rights education, the FFP has dialogically constructed its own philosophy centred on the lived experience of farmworkers (Dewey, 1986).

Ongoing & Thorough Education

The numerous forms of education, its continuity, and enforcement illustrate the comprehensiveness of the program's approach to education. FFP staff note that the timeline for education is crucial, and the Transparency and Cooperation standard of the Code is essential to actualizing the timeline. The Transparency and Cooperation standard requires that growers accommodate the remedial efforts of the program, including education initiatives. Before a new hire begins, they receive a *Know Your Rights & Responsibility* booklet explaining workers' rights and responsibilities under the Code. The hotline and numbers for the FFSC and CIW are printed on the booklet, and workers must watch a corresponding training video. Alongside the booklet and video, former farmworkers of the CIW conduct worker-to-worker education sessions at every farm seasonally. The ongoing nature of the program's approach to education aligns with CDAA's call for "ongoing dialogic engagement during the accounting systems design and implementation" (Dillard & Vinnari, 2019, p.34).

An education coordinator recounted that the frequency of education sessions was a point of contention with growers at the beginning of the program. She noted they used to

say, "Didn't we already do it last season... Why do we have to do it again?" – [CIW6]. She explained that this attitude has changed, with growers "more engaged in the process, so we've definitely seen that shift significantly" – [CIW6]. Growers' initial reluctance towards the education sessions underscores the necessity of the enforcement mechanisms. A former farmworker of the CIW spoke to the novelty of the education sessions, noting, "Something like this has never existed before, and it's something that in the past would never happen where anyone was allowed to come into the field and talk to the workers about their rights" – [CIW3]. This ongoing focus on rights education illustrates one of the many distinguishing features between the FFP and other social responsibility programs. For example, research investigating prominent social responsibility programs found workers often unaware if the farm they are working on is participating in a social responsibility certification scheme. If they were aware, the rights and responsibilities endowed by the program were rarely communicated to workers (LeBaron, 2020; Valkila and Nygren 2010). Similar to the dangers of the 'snapshot' nature of audits, education approaches that are not ongoing and comprehensive risk being an ineffective tick-box exercise. In order for education to be an enabling condition for rightsholder-driven remedy, it must be ongoing and comprehensive.

Rights and Remedy

During the education session, workers learned about the available remedial mechanisms. I noted during the education session observation that after every right the educators discussed with workers, they engaged in dialogue about instances of abuses of that right. Educators emphasized the importance of reporting that abuse through one of the multiple channels. The session covered all aspects of the Code, and the recurrent message was to report all issues. "Report, report, report". FFSC and CIW staff explained that without education about rights and remedy, the other mechanisms of the program would not function effectively. The Executive Director of the FFSC elaborated,

"I don't know what kind of audit can be accomplished unless you have an educated workforce because workers are taught to keep their heads down...but if you have an educated worker base that knows that you can genuinely protect them from retaliation, it's a different ball game altogether" – [FFSC1].

This finding aligns with research conducted in Bangladeshi garment supply chains. Members of the Bangladesh Accord articulated the importance of education in conducting effective audits. They argued that education is essential "if you want to achieve any form of change. If not, you

could audit every year, but it will not lead to any form of change” (Oka et al., 2020, p. 1317). In terms of CDAA, this finding insinuates that education about how to effectively utilize accountability systems should be a core aspect of the accountability system itself.

Observations from the education session and interview data reveal a central component of the FFP’s educational philosophy: rights education only works when it includes corresponding education about remedy. Accordingly, FFP rights education is infused with education about remedy. I argue that this component results from knowledge acquired through lived experiences. Educators, coming from the reality of the farmworkers, having experienced and witnessed abuses, recognize that understanding the corresponding remedial procedures is just as important as understanding rights. Former farmworkers of the CIW reported that being aware of human rights abuses is meaningless for workers unless they know how to stop the abuse and obtain appropriate redress. The CIW and the FFSC noted that when workers understand their rights and remedial avenues and are empowered to utilize remedial mechanisms through the implementation and awareness of the enforcement mechanisms, “workers are deputized to monitor and enforce their own rights” [FFSC3]. The CIW educators are former farmworkers, and the sessions are structured to maximize understanding of farmworkers’ rights and corresponding remedial procedures. Findings indicate that CIW educators’ lived experience as farmworkers results in engagement in dialogic education with farmworkers in a way that is impossible for outside educators.

These findings indicate that integrating information on accessing remedy into rights education can help bridge the right-remedy gap. The right-remedy gap emerges in cases where human rights abuses occur, and remedy is lacking (Thomas, 2004). As this gap is lessened, workers gain actionable knowledge regarding protecting and remedying their rights, leading to the realization of their rights. As such, the paper proposes education that incorporates both rights and remedy as a necessary condition in the theoretical framework for rightsholder-driven remedy.

Discussion

This paper aimed to investigate and illustrate necessary conditions for developing a participatory approach to remedy for business-related human rights abuses, one that effectively restores abused rights and empowers rightsholders. This research focused on the remedial system as a whole rather than focusing on a singular remedial mechanism. According to FFP actors, this systematic approach is the only way remedy can work. A former farmworker and member of the CIW responded to a question about how a remedial mechanism

can be effective for workers “There’s not one thing...there’s many things, and they work together...that’s the only way” [CIW1]. The research contributes theoretically and practically by understanding remedy as a system rather than as stand-alone mechanisms, as theories of remedy typically focus on a particular remedial process or structure (Knuckey & Jenkin, 2015; Lukas et al., 2016). In practice, research and guidance on remedy (including ARP III) have recently focused on developing effective grievance mechanisms or conducting effective audits (UN OHCHR, 2018). This finding contributes to these conversations by arguing for the significance of considering the overall system of remedy rather than focusing on individual mechanisms. The interplay of these elements creates an “enrichment cycle of information,” as described by the FFSC executive director. This ‘enrichment cycle’ acts as an effective remedial system under the particular conditions of education and enforcement presented in the Findings section.

The analysis of the remedial system of the FFP through a CDAA lens reveals enforcement and education to be enabling conditions for rightsholder-driven remedy that is participatory and empowering for rightsholders. As discussed in the Findings & Analysis section, each dimension constitutes three key nuances. A theoretical framework for rightsholder-driven remedy conceptualizes the entirety of the analyses. Figure 1 presents the framework to illustrate the nuances of the dimensions, the relationships between elements, and the reciprocal relationship between remedy and accountability: accountability supporting and being supported by remedy.

The proposed framework of rightsholder-driven remedy outlines the essentiality of education and the centrality of enforcement in approaches to remedy that empower rightsholders to participate in the restoration of their own rights and enact the accountability of businesses linked to the abuse in the research context. Recognizing that both concepts have been researched in the fields of human rights and accountability, I delved deeper into these emergent themes. What is unique about education and enforcement of the FFP? I engaged in critical reflexive analysis, resulting in three nuances, or subthemes, for each dimension. In contexts of severe power asymmetries, effective enforcement provides the protection rightsholders require to seek and act on the knowledge gained from appropriate approaches to education. Educated rightsholders can effectively utilize effective monitoring and enforcement mechanisms to protect and remediate their rights. Rightsholder-driven remedy empowers and protects rightsholders to seek remedy when their rights are abused. Empowerment occurs through enhanced agency resulting from worker-driven enforcement and worker-driven education.

As illustrated in Fig. 1, the elements of enforcement and education reinforce and actuate one another. Furthermore, the research cautions that providing one element

without the other may be ineffective and dangerous. Efforts to enforce remedies without educating rightsholders about the remedial mechanisms available to them will likely prove ineffective. How can rightsholders seek remedy if they are unaware of the mechanisms' existence and operation? On the other hand, education without enforcement can be harmful. For example, FFP staff recounted an instance of a farmworker working on non-FFP farms asserting the rights they had learned about in worker training while working on FFP-certified farms. In this instance, the worker faced severe retaliation and retribution without opportunity for recourse [FFSC1]. This striking account demonstrates the necessary duality of the enforcement and education dimensions of the theory.

Overall, the case study with the FFP provides a uniquely valuable opportunity to analyse the necessary conditions for a worker-driven or rightsholder-driven approach to remedy and accountability. The WSR model for the FFP is a cycle of accountability relations. By holding corporations at the top of the supply chain accountable for abuses at the bottom of the supply chain, workers are able to hold their direct employers accountable for protecting and remediating human rights abuses (Gladstone, 2020). This paper focused on a particular aspect of business accountability: the provision of remedy for human rights abuses to which they are linked. While recognizing that providing effective remedy does not equate to corporate accountability, failing to provide an effective remedy in cases of business-related human rights abuses negates the possibility of accountability (Shelton, 2015; Thompson, 2017). The theoretical framework of rightsholder-driven remedy proposes that to be an enabling condition, enforcement should be mandatory and in the currency of the entity being held accountable, the monitoring of the standards should be comprehensive and ongoing, and those standards should be rightsholder-driven.

Additionally, for education to be an enabling condition, education should be dialogic and derived from lived experience, ongoing and comprehensive, and comprise both rights and remedy education. Together, these dimensions actuate and reinforce one another, resulting in effective empowering remedy towards accountability. In brief, the identified dimensions of education and enforcement aim to support the development of participatory approaches to remedy that empower rightsholders.

Conclusion

This research investigated the necessary conditions for rightsholder-driven remedy that is effective, participatory, and empowering for rightsholders. Firstly, the paper understands rightsholder-driven remedy as a system

consisting of different aspects, such as grievance mechanisms, education, audits, and worker and management committees, rather than standalone mechanisms. After identifying the dimensions of enforcement and education as necessary conditions, the analysis deconstructed the dimensions through the principles of CDAA. The three nuances of enforcement address power asymmetries to protect workers and somewhat level the playing field. The educational nuances of the program similarly address power imbalances by empowering workers with rights and remedial knowledge and enhancing their agency. The relationship between the two dimensions is reciprocal in that the enforcement approach of the program activates the power from the educational elements, and the educational element of the program makes the enforcement approach more effective. For example, the effectiveness of audits is substantially strengthened by having an educated workforce. Similarly, the enforcement mechanisms of the program play a crucial role in making worker-to-worker education sessions possible on each farm during worktime each season.

This study advances several theoretical and practical contributions by introducing a framework for rightsholder-driven remedy. It deepens our understanding of the dimensions of enforcement and education in the context of critical dialogic accountability and remedy for business-related human rights abuses. Critical dialogic accountability scholars argue for accountability mechanisms to be designed considering the needs of the account holders rather than business needs (Dillard & Vinnari, 2019; Passeti et al., 2019; Brown, 2009; Brown and Dillard 2015). This research suggests the need to move beyond 'considering' to accountability mechanisms that are 'driven' by the accountability needs of account holders.

Within the field of business and human rights, the study contributes to discussions of enforcement, which investigate the legal liability of human rights standards, extraterritoriality, and the proposed binding treaty on business and human rights (Ramasastry, 2015; Ruggie et al., 2021; Schrempf-Stirling & Van Buren, 2020; Schutter, 2016). It enriches these discussions by deconstructing the broad concept of enforcement to identify three aspects of enforcement that have been effective in the context of non-state remedy. Similarly, the research adds depth to existing discussions on the significance of education in human rights protection and accountability systems by identifying three nuances of education that constitute an enabling condition for effective and empowering participatory remedy in the research context. (Bebington et al., 2007; Deva & Birchall, 2020; Ruggie, 2009). Further, this study adds to the burgeoning literature regarding worker-driven approaches to labour governance, which has investigated impacts on supply chain governance and proposed WSR

as a promising alternative to CSR. This research does not claim that WSR is the only viable approach to labour governance. For example, research into co-enforcement approaches to labour standards found positive impacts on monitoring and enforcing workers' rights (Fine & Bartley, 2019; Fine 2017). Instead, this article aims to contribute to the field of BHR by identifying and analyzing necessary conditions for taking a participatory approach to remedy that is empowering for rightsholders (Reinecke & Donaghey, 2021; LeBaron, 2020; Outhwaite & Martin-Ortega, 2019; Asbed & Hitov 2017).

Finally, the study has several practical implications. First, this study provides guidance for businesses and civil society in the design of effective non-state remedial systems that fulfil the rightsholder-centrality called for by the OHCHR. Rather than prescribing vague concepts of enforcement and education, this research analyses the particularities of effective enforcement and education in the research context. In addition, this research adds to the OHCHR's efforts to clarify what effective remedy means in practice and strengthen the implementation of the remedial pillar (UN OHCHR, 2017). Findings from the case were utilized to inform the OHCHR's ARP III report, which aimed to "improve accountability and access to remedy for victims of business-related human rights abuses through non-state-based grievance mechanisms" (UN OHCHR, 2020, p. 1). Through the remedial system of the program, the FFP has transformed the Florida tomato industry that federal prosecutors once referred to as "ground-zero for modern-day slavery" to some of the best working conditions in US agriculture, according to farmworkers and the New York Times. (Bowe, 2003; Fair Food Standards Council, 2021; Greenhouse, 2014).

There are limitations to this research. While the FFSC and CIW were generous and transparent in granting access, due to the timing of harvest and resource limitations, only certain FFP farms were observed. I did not conduct any interviews with current farmworkers in the program due to privacy concerns and research ethics constraints. While data from former farmworkers was informative, future research that includes the direct voices of current farmworkers in the program will enrich the findings. Follow-up interviews and observations were prevented due to Covid-19. While the methodological approach is appropriate to the research objectives, the methods have restrictions such as the limited sample size. Although not a research aim, it is important to note that the findings from this research are not generalizable to the larger agri-food population. However, results from this study can be used as a basis for similar research in different contexts. Future research should analyse the proposed dimensions and subthemes of enforcement and education in different contexts to triangulate and expand their potential validity and discover alternate frameworks with other necessary conditions and nuances. The paper is not suggesting

that enforcement and education are sufficient conditions for effective remedy or critical dialogic accountability systems. However, the context enabled by the WSR paradigm, which involves thorough monitoring, ongoing and demonstrated enforcement, and the empowerment and protection of workers to monitor their rights, acts as a viable framework for the effective operation of rightsholder-driven remedy and critical dialogic accountability.

Acknowledgements I thank the editor and the reviewers for their constructive comments, which have significantly strengthened the paper. I thank my Ph.D. supervisors for their feedback on the early drafts. I am immensely grateful to the CIW and FFSC for making this research possible and for helpful feedback on the first version of this paper.

Funding No funding was received to assist with the preparation of this manuscript.

Data Availability The data that support the findings of this study are available on request from the corresponding author [Shivji, A]. The data are not publicly available due to [restrictions e.g., participants were ensured transcripts would not be shared when they consented to participate].

Declarations

Competing interests All authors certify that they have no affiliations with or involvement in any organization or entity with any financial interest or non-financial interest in the subject matter or materials discussed in this manuscript.

Ethical Approval Approval was obtained from the ethics committee of the University of Manchester. The procedures used in this study adhere to the tenets of the Declaration of Helsinki.

Informed Consent Informed consent was obtained from all individual participants included in the study.

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