



Access to Remedy and Decent Work

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Key points

- There is close relationship between rights and remedies: if a human rights harm occurs, the holder or holders of the right should be able to seek remedies from the duty bearers.
- The objective of this brief is to outline the linkages between labour rights and access to remedy - understood from a Business and Human Rights perspective.
- It explores access to remedy when human rights harms occur; the relationship between state-based judicial and non-judicial mechanisms and workplace grievance handling; and the linkages of access to remedy with labour dispute prevention and resolution systems.
- It also unpacks the main complementarities between different mechanisms and barriers preventing workers from accessing remedies, and the effectiveness criteria of grievance mechanisms and institutions providing them.
- The brief concludes by outlining how the ILO advances access to labour justice for all by strengthening the systems, institutions and processes that enable workers and employers to resolve disputes effectively and obtain appropriate remedies when labour rights have been infringed.

Introduction

Enterprises are the driving force of our economies and contribute to social progress. At the same time, their activities can have adverse impacts on people, the environment and society. To achieve and maintain sustainability across economic, social and environmental dimensions, enterprises need an enabling environment. Therefore, both enterprises and governments have different yet complementary roles and responsibilities when it comes to promoting and realizing responsible business conduct (RBC).

The leading international frameworks on RBC are the United Nations Guiding Principles on Business and Human Rights ([UNGPs](#)), the ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy ([MNE Declaration](#)) and the OECD Guidelines for Multinational Enterprises and Responsible Business Conduct ([OECD Guidelines](#)). Although with different scopes and emphases, these instruments are aligned and complementary, and together they contribute to set expectations on what constitutes responsible business conduct.

The UNGPs provide a globally recognized and authoritative framework for the respective duties and responsibilities of Governments and enterprises to prevent and address such impacts. They consist of a set of principles grounded in three pillars:

- (1) **The State duty to protect human rights;**
- (2) **The corporate responsibility to respect human rights; and**
- (3) **Access to remedy.**

Each pillar defines concrete, actionable steps for governments to protect human rights, for companies to respect human rights, and the need for access to effective remedy when human rights harms occur.

The notion of access to remedy under the UNGPs is closely related to labour dispute prevention and resolution (LDPR), which lies at the core of the ILO's mandate. Over the years, the international labour standards (ILS) adopted by the ILO have progressively developed several foundational elements for effective LDPR systems. These include ensuring access to both judicial and non-judicial avenues,

including grievance handling, providing for effective enforcement mechanisms and for adequate and effective remedies as outcomes of justice procedures. The ILO also identified a set of generally accepted principles of effectiveness for LDPR institutions, derived from ILS, comparative law and practice, which guide the ILO's action to advance access to labour justice for all.

Furthermore, the ILO supervisory bodies also actively contribute to advancing access to labour justice, by assessing whether national law and practice provide effective mechanisms for the enforcement of labour rights arising from ratified ILO standards. Through regular supervision and special procedures, including representations and complaints, the ILO supervisory system can identify gaps in protection and implementation, recommend legislative, institutional or practical measures to address them, and support member States in bringing their law and practice into conformity with their obligations. Even where the relevant Conventions or Protocols have not been ratified, they can serve, together with ILO Recommendations, as important points of reference for governments and enterprises in designing and strengthening frameworks and processes to address labour rights violations and facilitate access to effective remedies.

Other ILO instruments are relevant in this area. In particular, the MNE Declaration, which provides recommendations to governments, enterprises and organizations of employers' and workers' to encourage the positive contribution which multinational enterprises can make to economic and social progress and the realization of decent work for all, and to minimize and resolve the difficulties to which their various operations may give rise. The MNE Declaration also specifically addresses the issues of access to remedy, grievance examination and the settlement of industrial disputes.

Finally, the conclusions adopted by the ILO Tripartite Technical Meeting on Access to Labour Justice for All (2025) recalled in this respect the importance of taking steps to

support "governments, employers' and workers' organizations, and multinational and national enterprises to take appropriate steps to ensure access to effective remedy for workers whose rights have been infringed in business operations, and support effective grievance procedures in line with the MNE Declaration". The conclusions, which also reference the [ILO strategy on decent work in supply chains](#), also called for evidence-based research on the linkages between state-based and non-state-based mechanisms, as well as between transnational mechanisms and national labour justice systems.

Against this backdrop, this brief focuses on the notion of access to remedy and on how it relates to labour rights and LDPR systems. It addresses the following questions:

- 1. What does Access to Remedy mean in the context of business and human rights?**
- 2. What are the main characteristics and implications of labour-related grievances in the context of business operations?**
- 3. Who should ensure access to remedy?**
- 4. What are the main mechanisms to provide access to remedy?**
- 5. What are the main complementarities between the different mechanisms to access effective remedy?**
- 6. What are the main barriers that workers typically face to access remedy?**
- 7. What are the key elements of access to remedy?**
- 8. What are the effectiveness criteria of grievance mechanisms?**
- 9. How does the ILO support access to remedy?**

1. What does Access to Remedy mean in the context of Business and Human Rights?

Access to remedy refers to the ability of individuals, workers, and communities whose human rights have been adversely impacted by business operations to seek and obtain fair, effective, and timely redress.

Access to remedy is addressed in the Universal Declaration of Human Rights (Article 8) and in other international and regional human rights instruments.¹ It is also one of the three foundational pillars of the United Nations Guiding Principles on Business and Human Rights. (UNGPs)—Pillar III: Access to Remedy—which complements the other two: the State duty to protect human rights and the corporate responsibility to respect human rights.

As summarized in Guiding Principle 25, access to remedy is a foundational principle within the State's duty to protect human rights, whereby "As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy".

Guiding Principles 26 and 27 further expand on this State duty, explaining that "States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms", including by "considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy", and "should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive state-based system for the remedy of business-related human rights abuse".

Furthermore, Guiding Principle 28 calls for States to "consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms."

Access to remedy is also part of the responsibility of businesses to respect human rights, requiring them to take action "[t]o make it possible for grievances to be addressed early and remediated directly" and to "establish or participate in effective operational-level grievance

mechanisms for individuals and communities who may be adversely impacted" (Guiding Principle 29).

Access to remedy is intrinsically related to access to labour justice, which is central to the ILO's mandate – as recently recalled by the [conclusions](#) adopted by the ILO Tripartite Technical Meeting on Access to Labour Justice for All (2025). Various ILO conventions, protocols and recommendations provide guidance on the foundational elements for effective LDPR systems.² These include the establishment of effective grievance handling mechanisms and the provision of adequate and effective remedies, as outcomes of labour justice processes.³ Access to remedy is also central to the MNE Declaration. These instruments, together with the guidance provided by the ILO supervisory bodies and the ILO Principles of effectiveness offer an essential policy guiding framework for operationalizing access to remedy in the world of work.

Regional dimension

Regional human rights instruments and systems such as the European Convention on Human Rights (ECHR), the European Social Charter, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights establish enforceable rights to a fair trial, effective remedies, equality before the law, and, in some cases, specific labour protections. Regional courts and committees often draw on ILS and the guidance of the ILO supervisory system to interpret labour-related rights, while also offering binding or quasi-binding decisions that can strengthen domestic judicial mechanisms. Together, these systems help reduce barriers to justice—such as cost, delay, or lack of independence—by aligning procedural guarantees with substantive labour rights, thereby enhancing workers' ability to seek and obtain remedies for violations.

These linkages are also reflected at a more structural level in how regional bodies use ILO standards to assess the adequacy of domestic remedies. In their interpretation of rights to a fair trial and effective remedy, regional courts and committees frequently rely on ILO standards and supervisory guidance to inform their assessment of what constitutes accessible, timely, and effective labour justice in practice—for example, the availability of specialized labour courts or tribunals, protection against anti-union retaliation, appropriate rules on the burden of proof in discrimination cases, as well as adequate and effective

² Access to Labour Justice for All: Prevention and resolution of labour disputes – Report for the Tripartite Technical Meeting on Access to Labour Justice for All, Geneva: International Labour Office, 2025, Section 3.3.3.

³ See: "Main provisions of international labour standards related to access to labour justice", Annex I to the Report for the Tripartite Technical Meeting on Access to Labour Justice for All (Geneva, 17–21 February 2025)

remedies, and proportionate and sufficiently dissuasive sanctions

This cross-referencing helps translate broadly framed human rights guarantees into more concrete procedural and substantive obligations in the labour context. In this way, regional human rights mechanisms can contribute to reforms that bring national labour justice systems into closer alignment with international labour standards.

2. What are the main characteristics and implications of labour-related grievances in the context of business operations?

The notions of *labour disputes* and *workplace grievances* are closely related but have distinct characteristics. However, within business and human rights contexts, these notions are sometimes used interchangeably.

A **workplace grievance** is generally a concern, complaint or dissatisfaction raised by an individual worker, or sometimes a group of workers, about a workplace matter. It might concern treatment by a supervisor, working conditions, workload, leave, pay, discipline or the application of workplace rules. It does not encompass collective claims aimed at the modification of terms and conditions of employment. Grievances are often addressed internally, through operational-level grievance mechanisms.

A **labour dispute** is a broader concept. It generally refers to a disagreement or conflict arising from the employment relationship or labour relations that has developed into a dispute between a worker and employer, workers and employers, or their respective organizations. Labour disputes can be individual or collective and may concern existing legal or contractual rights ("rights disputes") or the creation or modification of terms and conditions of employment ("interests disputes").

Labour disputes may be handled internally but can also proceed externally to judicial and non-judicial processes, such as conciliation, mediation, arbitration, courts and tribunals. Labour disputes can pertain to a single workplace, an entire sector, or span multiple enterprises; and, in some cases, include a cross-border dimension.

Some grievances, if not addressed effectively at the workplace level, may escalate into formal labour disputes. However, some workplace grievances, by their nature, cannot be resolved solely through internal mechanisms, particularly where they involve matters requiring

intervention by public authorities, such as alleged criminal conduct.

Definitions of key terms according to ILO publications

Labour dispute resolution institution: An organization that assists in the resolution of labour-related disputes. This term covers judicial and non-judicial institutions, including consensus-based and adjudicative bodies. It also covers, depending on the national context, a range of different arrangements including ministries and departments of labour (bodies within public-service national or state labour administrations), independent statutory bodies (bodies funded by the state but which operate with a degree of independence and autonomy), courts, and shared arrangements (where labour dispute resolution is partly the responsibility of the labour administration and partly that of an independent institution).

Collective dispute: A disagreement between a group of workers usually, but not necessarily, represented by a trade union, and an employer or group of employers.

Individual dispute: A disagreement between a single worker and his or her employer, usually over existing rights. It can also include situations in which a number of workers disagree with their employer over the same issue, but where each worker acts as an individual.

Interest dispute: A disagreement between workers and their employer concerning future rights and obligations under the employment contract. Such disputes are not based on existing entitlements but rather the desire of one party to create new rights in the future, such as a higher level of wages and additional benefits. Interest disputes are directed to the creation of new rights and emerge as a result of a breakdown in collective bargaining.

Rights dispute: A disagreement between a worker or workers and their employer concerning the violation of an existing entitlement embodied in the law, a collective bargaining agreement, or under a contract of employment. A confrontation sometimes referred to as a legal dispute. Such disputes can be either individual or collective.

Source: ILO and International Training Centre of the ILO (ITC-ILO), *Labour Dispute Systems: Guidelines for improved performance*, 2013.

Overall, the causes and subject matter of individual and collective disputes vary. Individual labour disputes often concern the lawfulness or fairness of job termination; wage claims, working hours, overtime, and leave entitlements; discrimination; social security payments, severance pay, and notice periods; occupational safety and health concerns. Conversely, collective disputes typically concern on the status, recognition, and representativeness of trade unions and employer organizations, along with violations

of the rights to organize, bargain collectively, and engage in union activities free from discrimination.⁴

Labour-related grievances and disputes – whether individual or collective – can impose significant costs on workers, employers and society at large. Resolving labour disputes requires a significant investment of both time and money on the part of the disputing parties. It also requires the investment of substantial financial and human resources on the part of national labour administrations and justice systems. It is therefore essential to establish effective mechanisms to prevent labour-related grievances from either occurring or escalating.

In a national context, the rule of law implies the existence of a legislative environment that is conducive to facilitating access to justice for all without discrimination, while affording institutional and procedural guarantees to ensure fair processes and effective outcomes.

Ensuring effective grievance handling and access to remedies is a key component of robust labour dispute prevention and resolution systems. State-based judicial and non-judicial grievance mechanisms should form the foundation of a wider system of remedy, where operational-level grievance handling mechanisms can also provide workers with channels to raise concerns and seek redress but also strengthen trust in labour governance. By complementing state-based judicial and non-judicial processes, workplace-level mechanisms help resolve disputes efficiently, prevent escalation, and promote compliance with national laws and the principles of international labour standards, ultimately delivering fair and meaningful outcomes for affected workers.

Consistent and coherence international guidance is particularly important, as multinational enterprises frequently operate through extensive and complex networks of suppliers and subcontractors, where varying legal frameworks, enforcement capacities, and cultural norms can exacerbate risks related to labour rights. Cross-border disputes may involve multiple jurisdictions, further complicating the application of labour standards and access to remedies for affected workers.

Addressing these challenges requires effective and complementary State-based judicial and non-judicial mechanisms, as well as non-State-based grievance mechanisms, including at the operational or sectoral level. Together, these mechanisms ensure timely, accessible, and

effective prevention and resolution, including in the case of labour-related grievances that are cross-border in nature.

The overall effectiveness of a labour justice system is intrinsically related to the clarity of the legal and institutional framework and the complementarity between the different dispute-resolution avenues. Providing linkages between all these levels – in particular, linking company-level grievance handling with state-based alternative dispute resolution and judicial processes – is important for the delivery of effective remedies.

3. Who should ensure access to remedy?

Based on the guidance provided in the UN Guiding Principles on Business and Human Rights (UNGPs) and the MNE Declaration, States and businesses have a distinct role to play. States have a *duty* to establish effective judicial and non-judicial mechanisms through which grievances concerning business-related human rights abuse can be raised and remedy can be sought – while businesses have a *responsibility*, appropriate to their size and circumstances, to having in place processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute, and cooperating in remediation processes.

Duty of the State

As stated in question 1, foundational principle 25 of the UNGPs provides that the State bears the primary duty to ensure access to remedy to those affected by business-related human rights abuses. Guiding Principles 26 and 27 operationalize this State duty, explaining that States “should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms”, including by “considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy”, and also “should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive state-based system for the remedy of business-related human rights abuse”.⁵ This obligation stems from States’ international human rights commitments and requires them to ensure the availability of effective judicial and non-judicial grievance mechanisms capable of providing appropriate redress.

This is consistent with the MNE Declaration’s guidance which states that “As part of their duty to protect against

⁴ ILO, Access to labour justice for all: prevention and resolution of labour disputes. Report for the Tripartite Technical Meeting on Access to Labour Justice for All (Geneva, 17–21 February 2025). Para. 58. 2025

⁵ UN, Guiding Principles on Business and Human Rights, Principles 25, 26 and 27.

business-related human rights abuses, governments should take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction any affected worker or workers have access to effective remedy". It adds concrete elements pertaining to affordability and timely response, as follows: "Governments should ensure that voluntary conciliation and arbitration machinery, appropriate to national conditions, is made available to assist in the prevention and settlement of industrial disputes between employers and workers. The procedure should be free of charge and expeditious."⁶

Examples of judicial mechanisms include labour courts or tribunals, while non-judicial mechanisms have an essential role in complementing and supplementing judicial mechanisms and can be used by individuals, workers and communities that are being negatively affected by a given business operation. Non-judicial mechanisms can be state-based or non-State based. They can include alternative dispute resolution (ADR) services, such as mediation, conciliation and voluntary arbitration. Depending on the national legal framework, they may also include National Human Rights Institutions (NHRI), Mediation and Conciliation Agencies, Ombudsperson offices, or National Contact Points for responsible business conduct, set up in countries that adhere to the OECD Guidelines for Multinational Enterprises and Responsible Business Conduct.

Corporate responsibility

Access to remedy is also part of the responsibility of enterprises to respect human rights, requiring them to take action "[t]o make it possible for grievances to be addressed early and remediated directly" and to "establish or participate in effective operational-level grievance

mechanisms for individuals and communities who may be adversely impacted." (Guiding Principle 29 of the UN Guiding Principles on Business and Human Rights (UNGPs).

Based on this principle, the MNE Declaration recommends that multinational enterprises use their leverage to enable remediation, and states that workers should have the right to submit such grievance without suffering any prejudice whatsoever as a result and to have such grievance examined pursuant to an appropriate procedure. The guidance of the MNE Declaration provides further details, highlighting that multinational as well as national enterprises jointly with the representatives and organizations of the workers whom they employ should seek to establish voluntary conciliation machinery, appropriate to national conditions, which may include provisions for voluntary arbitration, to assist in the prevention and settlement of industrial disputes between employers and workers. The voluntary conciliation machinery should include equal representation of employers and workers.

Where a business enterprise identifies an adverse human rights impact, whether through its human rights due diligence process or other means, its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors. Where adverse impacts have occurred that the business enterprise has not caused or contributed to, but which are directly linked to its operations, products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so. Some situations, in particular where crimes are alleged, typically will require cooperation with judicial mechanisms and the law enforcement authorities

⁶ International Labour Organization, *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (Geneva: ILO, 2022), Paras 64 and 67.

► **Table 1. Types of adverse impacts (caused, contributed to, or directly linked to a business enterprise)**

If an impact is...	Then the enterprise should...
CAUSED by a business...	• Remediate the harm • Take steps to prevent its continuation or recurrence
CONTRIBUTED to by a business...	• Contribute to remediation of the harm • Take steps to prevent its continuation or recurrence • Seek to use its leverage to encourage others who contributed to the harm to do the same
DIRECTLY LINKED to a business's operations, products or services...	• Seek to use its leverage through its business relationships to encourage others to prevent the impact from continuing or recurring

4. What are the main mechanisms to provide access to remedy?

The UNGPs recognize three categories of mechanisms through which business-related human rights grievances should be resolved: (i) State-based judicial mechanisms, (ii) State-based non-judicial grievance mechanisms, and (iii) non-State-based grievance mechanisms.⁷ The overall effectiveness of a labour justice system is intrinsically related to the clarity of the legal and institutional framework and the complementarity between the different dispute-resolution avenues, as well as the extent to which they together form a remedial ecosystem. Providing linkages between all of these levels – in particular, linking company-level grievance handling with state-based ADR and judicial processes – is important for the delivery of effective remedies.⁸

State-based judicial mechanisms

These are provided by the State to address human rights harms, with judicial mechanisms forming an essential part of the rule of law and generally viewed as the primary avenue for obtaining remedy. From a labour justice perspective, national justice systems should provide effective judicial processes and institutions to resolve individual and collective disputes between workers, employers, and/or their respective organizations. Judicial systems play a central role in enforcing labour legislation, guaranteeing access to labour justice, and contributing to stable and well-functioning industrial relations. Adjudicative mechanisms for labour disputes differ across legal systems, ranging from specialized labour courts to ordinary courts, or dedicated divisions within general civil courts.⁹ The capacity of these mechanisms to provide effective redress for grievances and labour disputes is contingent upon their efficiency, accessibility, impartiality, and observance of due process (see “ILO’s principles of effectiveness” for judicial institutions, table 3 below). Consequently, states bear the responsibility of ensuring that legal, procedural or structural impediments do not prevent workers, employers and their respective

⁷ The UNGPs state that “State-based judicial and non-judicial grievance mechanisms should form the foundation of a wider system of remedy. Within such a system, operational-level grievance mechanisms can provide early stage recourse and resolution. State-based and operational-level mechanisms, in turn, can be supplemented or enhanced by the remedial functions of collaborative initiatives as well as those of international and regional human rights mechanisms United Nations, *Guiding Principles on Business and Human Rights: Implementing*

the United Nations “Protect, Respect and Remedy” Framework (New York and Geneva: United Nations, 2011), Principle 25 and Commentary.

⁸ ILO, *Access to labour justice for all: prevention and resolution of labour disputes*. Report for the Tripartite Technical Meeting on Access to Labour Justice for All (Geneva, 17–21 February 2025). Para. 99. 2025

⁹ [Access to labour justice: Comparative law and practice on labour disputes prevention and resolution](#), Geneva: International Labour Office, 2023. P. 20.

organizations from accessing the courts when judicial recourse is required (e.g. criminal matters) or when alternative dispute resolution mechanisms (further explained below) are not adequate or insufficient. States also have a responsibility to establish effective enforcement mechanisms to ensure that judicial decisions are fully implemented in practice.

State-based non-judicial mechanisms

These are mechanisms for redress that are established by States but operate outside the formal judicial system (except for in-court conciliation/mediation¹⁰). Non-judicial mechanisms complement, but do not replace, judicial avenues. They can often resolve disputes more quickly and informally than courts, avoiding lengthy and complex legal proceedings, and they are often more accessible to victims who face barriers to accessing the judicial system, such as cost, language, or lack of legal knowledge. Additionally, by compiling and analysing patterns of grievances, non-judicial mechanisms can help identify systemic problems and encourage an employer to implement measures that prevent future harm.

State-based non-judicial mechanisms addressing labour issues encompass processes and institutions that facilitate consensus-based settlements. These typically include specialized Alternative Dispute Resolution (ADR) mechanisms and bodies handling individual and/or collective labour disputes, such as national mediation and conciliation agencies, conciliation/mediation services provided by labour administrations, or voluntary arbitration processes for interest disputes and industrial action. Other types of relevant state-based non judicial mechanisms (non-specialized on labour matters) include National Contact Points for Responsible Business Conduct, national human rights institutions and ombudsperson offices.

While they vary in scope and mandates, state-based non-judicial mechanisms normally cannot issue legally binding decisions, as they tend to focus on mediation and facilitation, rather than adjudication. Their primary

objective is to assist the parties in reaching a mutually agreeable solution. Where agreement is reached, the parties may choose to formalize it through a voluntary, legally binding contract. By contrast, arbitral bodies may perform a quasi-judicial function and issue binding arbitral awards, which can be subject to enforcement by the courts.

A distinction should be made between compulsory arbitration and compulsory conciliation.¹¹ Compulsory *arbitration* refers to arbitration imposed by law or public authorities, initiated by one party without the consent of the other, or initiated by public authorities on their own initiative, and may result in a binding determination of the dispute.

Compulsory *conciliation* by contrast, requires the parties to participate in a conciliation process but does not compel them to reach, or even seek to reach, an agreement.

While both systems depart from the principle of voluntarism, which calls for parties to be free to decide on the methods by which they choose to settle their disputes, the extent to which they do so is different. In compulsory arbitration, both the process and its outcome are imposed on the parties, whereas in compulsory conciliation, only participation in the process is mandatory, and the parties remain free to decide whether to reach an agreement. From an international labour standards perspective, voluntary arbitration is addressed specifically by the [Voluntary Conciliation and Arbitration Recommendation, 1951 \(No. 92\)](#). Clear limitations have been identified by the ILO supervisory bodies on compulsory arbitration processes.¹²

Some jurisdictions may use hybrid models where conciliation is a mandatory preliminary step before proceeding to binding arbitration or adjudication. In these cases, a settlement reached during conciliation can be formalized into a binding order by a tribunal or court. Overall, there are significant complementarities between the adjudicative and consensus-based approaches of labour dispute resolution. ADR procedures can serve to filter disputes before they reach judicial or quasi-judicial institutions. The judicial and non-judicial institutions, when

¹⁰ In-court mediator/conciliation is a process that is conducted within the judicial procedure, often under the supervision of a judge or court-appointed conciliator/mediator, as a preliminary step to adjudication.

¹¹ See: "Glossary", Annex III to the Report for the Tripartite Technical Meeting on Access to Labour Justice for All (Geneva, 17–21 February 2025)

¹² "Compulsory arbitration imposed by the authorities or unilaterally sought by the parties engaged in collective negotiations in the case that the parties have not reached an agreement is generally contrary to the principles of collective bargaining. In the view of the ILO supervisory bodies, compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the

term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis. However, voluntary arbitration accepted by both parties is always legitimate." (ILO, *Giving Globalization a Human Face: General Survey on the Fundamental Conventions concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization*, 2008, ILC.101/III/1B, 2012, para. 247).

functioning in coordination, complement one another and constitute the ecosystem to access effective remedy.¹³

Non-State-based ADR and grievance mechanisms

Non-state mechanisms for accessing remedy are established and administered by non-governmental actors, such as businesses, industry groups, multistakeholder initiatives and financial institutions. Complementing State-based judicial and non-judicial mechanisms, they can provide a faster, and more direct and flexible way to address grievances arising from business activities.

Such mechanisms can play an important role in enabling the early identification and remediation of adverse impacts and are an important component of the corporate responsibility to respect human rights. They can also contribute to the broader remedy ecosystem by providing additional avenues for affected workers and communities to raise concerns and seek redress, particularly in cases where access to formal channels is difficult or impractical.

However, non-State-based mechanisms should not substitute for effective State-based judicial and non-judicial mechanisms. The latter form part of the State's broader system of accountability and remedy and are integral to the discharge of the State's duty to protect human rights. Non-State-based mechanisms should therefore operate as a complement to, rather than a replacement for, effective State-based avenues for accessing remedy.

Various international labour standards provide guidance for the establishment of effective grievance handling mechanisms, in particular the [Examination of Grievances Recommendation, 1967 \(No. 130\)](#). Additional sector-specific guidance is also available, such as under the [Maritime Labour Convention, 2006 \(MLC, 2006\)](#), which sets out on-board and onshore complaint procedures for seafarers.

Non-state-based mechanisms for labour dispute prevention and resolution can take several forms, including:

- mechanisms at the operational level where the worker(s) concerned is/are employed. The establishment, running and periodic review of the mechanism may involve management alone or also include the workers and their representatives;

- grievance mechanisms established as part of a collective bargaining agreement at enterprise or sectoral level;
- mechanisms outside of, and independent from, the company where the worker(s) concerned is/are employed. These may be operated by an industry or multi-stakeholder initiative, NGO or commercial service. Non-State based mechanisms can also include traditional and community-based dispute resolution processes.

These mechanisms are more common in supply chains, and can operate at project level (e.g. more common in the case of the extractives industry), at enterprise-level (e.g. common in the garment industry), and some are part of a broader system, operating at national level (e.g. a grievance mechanism operating in a sector in a country, such as the Bangladesh Accord), regional level and/or international level (e.g. a grievance mechanism set up by one or several multinationals, managed by a third party). Often, different types of operational-level grievance mechanisms co-exist to deal with different types of issues, or to provide various avenues for workers to make grievances.

Non-state mechanisms to access remedy can also include Private ADR mechanisms—such as arbitration and mediation administered by independent professionals or industry bodies. In some cases, these may offer an alternative to formal litigation for resolving labour disputes.

5. What are the main complementarities between the different mechanisms to access effective remedy?

The main complementarities between the different mechanisms to access effective remedy lie in their ability to function in a mutually reinforcing manner rather than as substitutes. ILO's International labour standards, emphasise the complementarity of proceedings between judicial and non-judicial mechanisms. This approach ensures that workers have multiple avenues to seek redress, thereby enhancing accessibility and effectiveness.

The role of judicial authorities, courts and tribunals, including specialized bodies, in implementing and

¹³ [Access to labour justice: Comparative law and practice on labour disputes prevention and resolution | International Labour Organization](#)

enforcing national laws and standards is referred to in various ILO instruments. The provision of ADR services, formal and informal, in addition to judicial proceedings, forms the basis of the continuum of the dispute-resolution processes envisaged by the international labour standards, starting with consensus-based approaches and moving towards arbitration and adjudication processes. International labour standards also call for the establishment of appropriate workplace-level grievance procedures and complaints mechanisms—both formal and informal—covering any measure or situation that concerns the employment relationship or affects conditions of employment. The principal instrument in this regard is the [Examination of Grievances Recommendation, 1967 \(No. 130\)](#), which provides guidance on grievance handling. Additional sector-specific guidance is also available, such as under the [Maritime Labour Convention, 2006 \(MLC, 2006\)](#), which sets out on-board and onshore complaint procedures for seafarers.

State-based non judicial and workplace-grievance mechanisms can offer workers a practical and timely avenue to raise concerns and seek resolution without the financial and procedural burdens often associated with litigation. By providing a workplace or sectoral processes for addressing grievances, non-judicial mechanisms help prevent escalation of disputes, promote dialogue, and ensure that workers' rights are protected even in environments where access to formal judicial recourse is limited.

Operational-level mechanisms are, in principle, the most accessible for workers; can respond the quickest; and can help management to identify areas where policies and procedures could be strengthened to prevent future occurrences. However, they also have inherent limitations. They are typically designed to address issues within the scope of the enterprise or sector and their mandate, functions and powers therefore vary greatly. The extent to which a mechanism has been provided with the necessary independence from the business activities will also depend on the mechanism's mandate and objectives. Furthermore, such mechanisms may not be equipped to handle severe violations or systemic issues that require authoritative adjudication. Workplace-level mechanisms and alternative dispute resolution (ADR) processes are intended to operate alongside, rather than replace, judicial remedies and oversight by competent labour authorities.

Crucially, international labour standards underline that non-judicial processes shall not preclude access to courts and tribunals. Workers must retain the right to apply directly to the competent labour authority, labour court, or other judicial body in respect of a grievance, even when ADR mechanisms are provided. Moreover, some claims, by

their very nature, cannot be appropriately addressed through workplace grievance mechanisms or state-based ADR processes, particularly matters that constitute criminal offences. This layered approach forms the ecosystem of access to remedy, by ensuring that remedies are both accessible and effective, while safeguarding rights to judicial recourse.

6. What are the main barriers that workers typically face to access remedy?

Access to remedy is a cornerstone of international human rights and it is crucial to enable decent work when labour rights have been infringed. Yet, numerous barriers persist that prevent workers—particularly those in vulnerable situations—from effectively seeking and obtaining redress. Workers can face systemic and multifaceted obstacles when seeking remedies for labour rights violations. These include financial constraints such as high litigation costs and income loss during proceedings, as well as procedural hurdles like lengthy, complex, and bureaucratic processes. Limited awareness of rights and available mechanisms further compounds the problem, particularly among vulnerable groups such as migrant and informal workers, who also encounter language barriers and cultural norms discouraging complaints.

When institutions are weak due to, inter alia, under-resourced labour inspectorates and ineffective enforcement, this undermines the ability to process and assess the merits of claims, and the credibility of remedies. Fear of retaliation can deter workers from initiating claims. Even when judgments are favourable, enforcement gaps persist, so the human rights harm may not counteracted or made good. Collectively, these barriers erode trust in labour justice systems and calls for simplified procedures, stronger protections against retaliation, and inclusive mechanisms to ensure equitable access to remedies.

Additionally, a restricted scope of labour legislation can constitute a further barrier to access. Both direct and indirect legal exclusions significantly undermine the effectiveness of labour dispute prevention and resolution systems. In many countries, labour laws explicitly exclude certain groups of workers in vulnerable situations – most notably domestic workers or agricultural workers – leaving them without access to remedy. Beyond these explicit exclusions, indirect barriers arising from restrictive legal definitions and qualifying requirements further limit access to justice, as some workers and employers are unable to meet the conditions for legal coverage.

In fact, in many countries, the scope of labour laws—and consequently access to formal labour dispute resolution institutions—is defined by the existence or non-existence of an employment relationship. Workers who fall outside, or who seek to have their status legally recognized, may therefore be excluded from some labour protections and dispute resolution mechanisms. This is of particular concern for migrant workers and workers in the informal economy. These exclusions disproportionately affect workers most vulnerable to decent work deficits and least able to access protection and remedy.

Across all types of mechanisms, social, technological, and cultural barriers can play a significant role. Workers may be unaware of their rights or the existence of grievance mechanisms. Language barriers, low literacy levels, and fear of retaliation—particularly among migrant workers, women, and those in informal employment—can prevent individuals from coming forward. Discrimination and marginalization further exacerbate these challenges, making access to remedy uneven and inequitable. The digital divide can further hinder access to justice, as many dispute resolution systems are increasingly digitalized.

While multiple grievance mechanisms exist to uphold labour rights and provide remedies, each type presents advantages but also weaknesses that may constitute distinct barriers that limit their effectiveness. Judicial mechanisms can be complicated to access for some are often inaccessible due to legal and financial constraints; state-based non-judicial mechanisms struggle with institutional limitations; and private or workplace-level mechanisms can lack credibility and enforcement capacity.

Addressing these barriers requires a coordinated approach that strengthens legal frameworks, enhances institutional capacity, promotes worker awareness and representation, and ensures the independence and effectiveness of grievance system. The table below provides an overview of some of the barriers typically faced by workers when it comes to each type of mechanisms to access remedy.

7. What are the key elements of access to remedy?

Access to effective remedy has both procedural and substantive dimensions. Procedural aspects refer to the

availability, efficiency, accessibility, and fairness of the processes through which individuals can seek redress, while substantive elements concern the outcomes of those processes, namely whether the remedies provided are effective in addressing the harm suffered, counteracting or making good any human rights harms that have occurred.

The procedural side of access to remedy focuses on the mechanisms and pathways available for victims to seek redress. When it comes to labour rights, procedural rules are a critical factor that determine certain essential features of labour dispute-resolution systems. For instance, the costs imposed on parties are a key factor in determining the accessibility of dispute-resolution systems. In addition to fees and costs, other factors influencing the accessibility of labour dispute-resolution systems include the scope of labour legislation, the provision of legal aid, the participation of representative organizations and the determination of the admissibility of claims.¹⁴ Other important aspects are simplified and streamlined procedures, the existence of fast-track procedures for sensitive matters, the determination of the burden of proof, set timelines and the efficient and speedy processing of applications, and fairness in dispute prevention and resolution.

The substantive elements of remedy refer to the actual outcomes and measures provided to victims of harm. These elements ensure that the remedy is not merely a procedural formality but leads to meaningful and tangible redress and justice. From the UNGPs perspective, the remedies provided by the grievance mechanisms may take a range of substantive forms, including: apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, e.g., injunctions or guarantees of non-repetition.¹⁵

ILO standards also provide for various forms of remedy, including appropriate compensation for damages and injunctive relief, as well as remedies specific to employment and labour relations, such as reinstatement and the right to resign with compensation. Certain instruments also provide for remedies tailored to specific forms of harm or violations, such as the ILO [Violence and Harassment Recommendation, 2019 \(No. 206\)](#) (paras. 14-22).¹⁶

¹⁴ ILO, Access to labour justice for all: prevention and resolution of labour disputes. Report for the Tripartite Technical Meeting on Access to Labour Justice for All (Geneva, 17–21 February 2025). Pg. 39. 2025

¹⁵ OHCHR, Commentary on the Foundational Principle No. 25, in : *Guiding Principles on Business and Human Rights: Implementing the United Nations*

“Protect, Respect and Remedy” Framework (New York and Geneva: United Nations, 2011),

¹⁶ See: ILO Guidance note on the establishment and management of grievance procedure in case of violence and harassment in the workplace (forthcoming)

8. What are the effectiveness criteria of grievance mechanisms?

The UNGPs (specifically Principle 31) provide criteria for non-judicial grievance mechanisms (both state-based and non-state-based, including company-level mechanisms) to be considered "effective" from a human rights perspective. The criteria include that these mechanisms are legitimate, accessible, predictable, equitable, transparent, rights compatible, a source of continuous learning, and in the case of operational-level grievance mechanisms, based on engagement and dialogue.

The UNGPs conceptualize a "spectrum of mechanisms" for access to remedy, yet the formal effectiveness criteria delineated in Guiding Principle 31 are applied differentially across these mechanisms. The core principle of effectiveness for all mechanisms is to provide for the actual redress of harm. However, the specific criteria (Legitimate, Accessible, Predictable, Equitable, Transparent, Rights-compatible, and a source of continuous learning) constitute the primary benchmark for non-judicial mechanisms, encompassing both state-based (e.g., National Contact Points, National Human Rights Institutions) and non-state-based operational-level mechanisms.

For state-based judicial mechanisms, the criteria are not applied as a direct checklist; rather, effectiveness is a foundational expectation derived from the state's duty to uphold the rule of law and overcome practical and legal barriers (such as cost, complexity, and corruption) to ensure a fully functioning judicial system capable of adjudicating business-related human rights claims.¹⁷

When it comes to the world of work, the ILO has adopted a set of "Principles of effectiveness" for labour dispute prevention and resolution institutions to assess the performance of judicial and non-judicial institutions and explore ways to improve their functioning, with a view to advance access to labour justice for all (see table below). Ten of these principles apply to both judicial and non-judicial institutions: *efficiency, speediness, accessibility, fairness, equality, accountability, independence, impartiality, professionalism* and *enforcement*. Three additional principles apply specifically to non-judicial institutions: *voluntarism, confidentiality* and *prevention*. These principles have been consolidated into a Diagnostic tool designed to

facilitate self-assessment of the performance of judicial and non-judicial institutions.¹⁸ This tool enables the Office, in collaboration with tripartite constituents, to establish priorities for enhancing institutional effectiveness and to develop technical assistance action plans accordingly

The ILO Principles of effectiveness were endorsed by the 2025 Tripartite Technical Meeting on Access to Labour Justice for All. The [conclusions](#) adopted by the meeting provide, among others, that "The [MNE Declaration] and the [UNGPs] provide useful guidance on access to remedy and effective grievance mechanisms", and called on the ILO to provide capacity-building and technical assistance drawing on the generally accepted principles of effectiveness derived from comparative law and practices, and international labour standards.

While both the UN Guiding Principles on Business and Human Rights (UNGPs) and the general principles of effectiveness identified by the ILO aim for effective redress for harms, they are complementary in scope and objectives. The UNGPs employ the process-oriented ALAP (Accessible, Legitimate, Equitable, Predictable) criteria primarily for assessing the functionality of non-judicial grievance mechanisms (state-based non-judicial and non-state-based operational-level mechanisms) to ensure they are rights-compatible and transparent from a victim perspective.

In contrast, the ILO principles of effectiveness apply to state-based institutional frameworks for labour dispute prevention and resolution—encompassing judicial and non-judicial bodies. They emphasize broader structural imperatives such as the rule of law, efficiency, specialization of labour courts, enforceability of remedies, legal empowerment of workers, and where applicable, tripartism in institutional design. Thus, the UNGPs provide a human rights-based benchmark for specific grievance mechanisms, while the ILO principles of effectiveness outline institutional and procedural requirements for sound and performant national labour justice system

¹⁷ OHCHR's Accountability and Remedy Project (ARP) is a United Nations Human Rights initiative focused on enhancing access to effective remedies for victims of business-related human rights abuses, aligning with the UN Guiding Principles. The project provides practical recommendations for states and businesses to improve judicial and non-

judicial grievance mechanisms based on research and consultations. More information is available on the OHCHR project website.

¹⁸ Access to labour justice: A diagnostic tool for self-assessing the effectiveness of labour dispute prevention and resolution | International Labour Organization

9. How does the ILO support access to remedy?

Access to labour justice is integral to the broader notion of social justice and forms part of the ILO's core mandate. The ILO's action in this area is grounded in the recognition that the overall effectiveness of labour dispute governance systems is a determining factor in preventing and resolving conflicts, ensuring the effective realization of rights at work, promoting an enabling environment for sustainable enterprises and strengthening social peace.

The ILO advances and operationalises access to labour justice for all through various complementary means of action, including technical assistance, research and partnerships, with a view to strengthen of the systems, institutions and processes that enable workers and employers to resolve disputes effectively and obtain appropriate remedies when labour rights have been infringed. However, more generally, as mentioned in the introduction, the ILO's normative framework and the ILO supervisory system actively contribute to advancing access to labour justice for all, including access to remedy.

The ILO supervisory bodies can help assessing whether national law and practice provide effective mechanisms for the enforcement of labour rights arising from ratified ILO standards. Through regular supervision and special procedures, including representations and complaints, the ILO supervisory system can identify gaps in protection and implementation, recommend legislative, institutional or practical measures to address them, and support member States in bringing their law and practice into conformity with their obligations. Even where the relevant Conventions or Protocols have not been ratified, they can serve, together with ILO Recommendations, as important points of reference for governments and enterprises in designing and strengthening frameworks and processes to address labour rights violations and facilitate access to effective remedies.

Another central pillar of ILO's work in this area is the provision of **technical assistance and advisory services to member States** to strengthen the overall effectiveness of LDPR systems, as well as related policies and regulatory frameworks. The ILO's diagnostic tool for the self-assessment of the effectiveness of judicial and non-judicial LDPR institutions provides governments and social partners with a basis for developing a shared understanding of existing strengths and challenges, identifying potential opportunities for improvement, and jointly devising measures to address them. The ILO's support also extends to the establishment and strengthening of bipartite processes, grievance-handling

mechanisms and access to remedy, including where labour disputes have a cross-border dimension. This work builds on the guidance provided by international labour standards and the ILO principles of effectiveness.

Recent support has also focused on harnessing the potential of technology to strengthen labour justice systems, including through the development and implementation of digital case management systems aimed at improving access to justice and facilitating the more efficient resolution of labour disputes.

Technical assistance and advisory services in the areas of freedom of association and the effective recognition of the right to collective bargaining, as well as more broadly, in relation to the strengthening of social dialogue and sound labour relations, also play an essential role in preventing labour disputes from arising or escalating. Assistance in this area is sometimes tailored to the specific needs of certain sectors, both private and public, or to specific categories of workers and employers. Examples of targeted support include strengthening grievance-handling mechanisms in relation to violence and harassment at work and forced labour; addressing the specific challenges faced in sectors such as the garment and agricultural sectors; and improving access to LDPR for specific groups, including migrant workers and workers in the informal economy.

Additionally, the ILO provides **training and capacity building** support for judges, labour administrations, conciliators, mediators and arbitrators, as well as the social partners, in dealing with individual and collective disputes. These initiatives strengthen knowledge of international labour standards, enhance dispute resolution skills, facilitate knowledge sharing on good practices and promote practical approaches to preventing and managing workplace conflicts. Training and capacity-building is also organized to strengthen labour and industrial relations systems more broadly. By enhancing the capacity of governments, employers' and workers' organizations to foster sound labour relations and effective social dialogue, such activities contribute to the preventive dimension of LDPR. Again, activities in this area may also be tailored to the specific needs of particular sectors or to those of specific categories of workers and employers.

Furthermore, to inform policy and institutional reform, the ILO undertakes **comparative research** on national laws and practices, identifying challenges, good practices and innovative approaches to dispute prevention and settlement, and labour-related remedies. Research is also undertaken in relation to new trends and developments in the nature of labour disputes and methods for their resolution, or regarding the role of the social partners in LDPR. The ILO also **collects data and statistics** on LDPR. This analytical work supports evidence-based labour justice

reforms and peer learning among member States and constituents.

Partnerships include collaboration with other United Nations agencies, including the Office of the United Nations High Commissioner for Human Rights (OHCHR), in the areas of access to remedy and access to justice, in line with Sustainable Development Goals 8, 16, 10 and 5. Some of these partnerships have emerged in the context of the ILO's Global Coalition for Social Justice.

At the operational level, the [ILO Helpdesk for Business](#) builds on the MNE Declaration to provide **information and guidance** on aligning business policies with international labour standards and build good industrial relations, including freedom of association and the right to organize, collective bargaining, workplace cooperation, consultation, access to remedy and examination of grievances, and settlement of industrial disputes.

In addition, several ILO programmes provide technical assistance to the establishment and strengthening of

grievance mechanisms. The **BetterWork programme** is currently conducting parallel initiatives in Bangladesh and Cambodia aimed at strengthening workers' access to remedy and justice in the garment sector, with a particular focus on gender-based violence and harassment (GBVH) and other labour rights violations.

The Conclusions of the 2025 Tripartite Technical Meeting on Access to Labour Justice for All provide strategic guidance for the Organization's future engagement in this area. Overall, through its standard-setting function, technical cooperation, research, training and field programmes, the ILO works to ensure that access to remedy in the world of work is not only a legal principle, but a functioning reality.

Additional information about ILO's work on access to labour justice, grievance handling and access to remedy is available in the [ILO's thematic portal on labour dispute prevention and resolution](#).



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ILO Priority Action Programme on Decent Work in Supply Chains, Trade and Investment

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