

RESPECTING TRADE UNION RIGHTS IN GLOBAL VALUE CHAINS

Practical Approaches
for Business

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ABOUT SHIFT

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights.

Shift's global team of experts works across all continents and sectors to challenge assumptions, push boundaries, and redefine corporate practice, in order to build a world where business gets done with respect for people's dignity, everywhere and all the time. Shift is a non-profit, mission-driven organization, headquartered in New York City. Visit shiftproject.org and follow us at [@shiftproject](https://twitter.com/shiftproject).

ABOUT MONDIAAL FNV

Mondiaal FNV is a trade union solidarity support organization affiliated to the largest employees' organization in the Netherlands: the FNV. Mondiaal FNV strengthens labour organizations in Africa, Asia, Latin America, and the MENA region to campaign for decent work, engage in constructive social dialogue and improve labour conditions in high risk value chains.

FNV and Mondiaal FNV are also partners in different sectoral International Responsibility Business Conduct (IRBC) Agreements, including for: garment and textiles, food, natural stone, timber, and flowers and plants.

Mondiaal FNV can offer companies information on the situation of trade unions in our priority countries; for other countries we can make connections to the relevant (global) unions. In specific situations we may offer mediation or training and coaching.

Learn more at: www.mondiaalfnv.nl

CONTENTS

Executive Summary	5
Introduction	8
How to use this publication	11
PART 1: What are trade union rights and why are they important?	12
1.1 What are trade union rights?	14
1.2 What are international expectations regarding business respect for trade union rights?	15
1.3 How do impacts on trade union rights manifest on the ground?	17
1.4 Why should companies seek to respect trade union rights in practice?	18
PART 2: How can companies identify risks to trade union rights?	19
2.1 What factors can create heightened risk to trade union rights?	20
2.2 How can companies diagnose heightened risk?	25
A. External factors	26
B. Business models and practices	28
C. Governance and due diligence	30

PART 3: What actions can companies take?	32
3.1 Practical approaches for business	35
1. Identify higher-risk contexts	35
2. Name trade union rights as a salient issue	36
3. Make sure any audits are effective	37
4. Strengthen and leverage certification schemes	38
5. Strengthen capacity of local actors	39
6. Analyze the company's use of contract and temporary labor	40
7. Conduct a joint risk assessment	41
8. Formalize escalation pathways	42
9. Solve a specific problem together	43
10. Collaborate as a sector to raise standards	44
11. Influence the regulatory landscape	45
3.2 Case Examples	
I. H&M's Workplace Dialogue Program	46
II. Camposol's Social Dialogue Program in Peru	48
III. PepsiCo Working with IUF on Corrective Action in Pakistan	49
IV. Impactt's UP! Program	50
V. Freedom of Association Protocol in Indonesia	52
VI. ACT (Action, Transformation, Collaboration)	54
VII. Program for the Endorsement of Forest Certification (PEFC)	55
VIII. Collaborative Peer Efforts to Engage Government	56
Conclusion	57
Endnotes	58
Resources	59



EXECUTIVE SUMMARY

Businesses today recognize both the business and social imperative of respecting human rights throughout their global value chains. This includes the expectation that they respect core labor rights, including freedom of association and collective bargaining (jointly referred to as trade union rights throughout this publication).

In addition to being fundamental rights in and of themselves, trade union rights are also recognized as enabling rights, meaning that respecting these rights can often lead to the fulfillment of a number of other labor rights, including adequate wages, reasonable working hours, workplace safety, and a work environment free from discrimination and harassment. Companies have committed to respecting trade union rights in their company policy commitments, their adherence to industry standards, and their participation in multi-stakeholder initiatives.

EXECUTIVE SUMMARY

Yet, when it comes to taking action, many companies still struggle to identify and implement meaningful action to address identified risks to trade union rights in their global value chains.

This is due to a range of factors, both external and internal.

- **EXTERNAL FACTORS** arise from the contexts in which global companies operate, and into which their global value chains extend. This includes relevant laws and regulations and their implementation, the social practices that shape perceptions of trade unions, and the local capacity of trade unions and business partners to claim or respect these rights in practice.
- Other factors relate to certain **BUSINESS MODELS**, which can create heightened risks to trade union rights if not properly managed. These include sourcing from high-risk (and lower cost) markets, extensive use of contract or temporary labor, and a company's own purchasing practices.
- Another set of factors relate to **GOVERNANCE AND DUE DILIGENCE** relevant to trade union rights. These include assumptions and attitudes towards trade unions at headquarters, and weaknesses or common pitfalls in company due diligence processes.

EXECUTIVE SUMMARY

In order to develop meaningful approaches to taking action, companies first have to understand the range of factors that could be contributing to heightened risks to trade union rights.

Part 2.2 of this publication provides a diagnostic tool: a set of questions to help guide companies in assessing where and why they might face heightened risks to trade union rights.

But assessing and understanding the risks is only the first step. Ultimately, companies are expected to take meaningful action to prevent and address these risks. In doing so, they can utilize a range of approaches, including: taking action themselves, using leverage with business partners, and seeking to build additional leverage through collaboration with others (e.g., trade unions, peer companies, and other stakeholders).

The publication highlights a range of practical steps companies can take along this continuum depending on the risk factors that are present, summarized in the list below:

- 1. Identify higher-risk contexts**
- 2. Name trade union rights as a salient issue**
- 3. Make sure any audits are effective**
- 4. Strengthen and leverage certification schemes**
- 5. Strengthen capacity of local actors**
- 6. Analyze the company's use of contract and temporary labor**
- 7. Conduct a joint risk assessment**
- 8. Formalize escalation pathways**
- 9. Solve a specific problem together**
- 10. Collaborate as a sector to raise standards**
- 11. Influence the regulatory landscape**

Several of these approaches are illustrated in the eight case examples that follow.

As the authors of this publication, Shift and Mondiaal FNV hope to equip companies with practical ideas for action, in order to help close the gap between commitment and practice.

INTRODUCTION



The UN Guiding Principles on Business and Human

Rights¹ outline the expectation that all companies respect human rights throughout their operations and value chains. This includes the expectation that companies respect core labor rights, including the rights of workers to freedom of association and collective bargaining (collectively referenced as “trade union rights” throughout this publication). Many businesses recognize trade union rights as a salient human rights issue in their global value chains. In other words, they stand out because they are at risk of the most severe negative impact through the company’s activities or business relationships. This can be seen in the approaches of individual companies, in industry standards, and in multi-stakeholder initiatives and certification schemes.

Yet, when it comes to taking action, many companies still struggle to identify and implement meaningful steps to address identified risks to trade union rights in practice. But why?

Respect for trade union rights has become increasingly challenging, as business models evolve and the value chains of many companies, from small and medium enterprises (SMEs) to global multinationals, have become more complex and global in nature. Businesses may face a range of practical barriers in meeting the expectation to respect trade union rights.

Some of these barriers are external to the business, such as contexts where trade unions are banned or undermined (in either law or practice), or due to a lack of local capacity among supply chain partners and trade unions in countries of operation or sourcing markets. Other barriers are more internal, including corporate culture biases against trade unions, tensions created by business models that seek to lower costs or enhance business flexibility, or common due diligence pitfalls that can heighten risks to trade union rights.

As a result, the issues of freedom of association and collective bargaining remain among the most difficult areas for companies to effectively address in practice.

There are a host of existing resources for businesses to turn to when it comes to understanding trade union rights, including widely recognized international standards from the International Labour Organization (ILO) and other standard-setting bodies that outline specific expectations for companies in respecting these rights across their operations and value chains. There is equally extensive guidance from a broad range of actors² on how those standards might be applied across various contexts. Yet, there continues to be a gap when it comes to translating these expectations into practical approaches that companies might take to address common challenges and meet global expectations.

INTRODUCTION

This publication aims to help fill this gap by highlighting examples of practical approaches businesses have taken, and can take, to respect trade union rights throughout their value chains.

Our objective in sharing these approaches is to help move from analysis to action: from **understanding** trade union rights from a human rights perspective (Part 1), to **assessing** risks to trade union rights (Part 2), to **addressing** these risks in practice through meaningful action (Part 3).

This publication is based on a series of interviews with company representatives, trade union representatives, and labor rights advocates, as well as research and analysis. The publication is a result of a project partnership between Mondiaal FNV and Shift.

HOW TO USE THIS PUBLICATION

1

What are trade union rights and why are they important?

Learn more about trade union rights: what are they and why do they matter to business

UNDERSTANDING

2

How to recognize risks to trade union rights?

Use the diagnostic tool to assess how your company may be connected to impacts on trade union rights

ASSESSING

3

What actions can companies take?

Consider various approaches and become inspired by company examples to prevent and address impacts

ADDRESSING

PART 1

**What are trade union rights
and why are they important?**

Trade union rights are perhaps the least understood and least implemented of all core labor standards.

In many contexts, these basic rights are very far from being realized in practice. Failure to respect these rights continues to be cited as one of the most critical factors in high-profile examples of some of the most severe threats to workers' lives and overall working conditions in global value chains, from the Rana Plaza factory fire in Bangladesh to conditions for migrant workers who are building infrastructure connected to the FIFA World Cup 2022 in Qatar.

Nearly all stakeholders recognize this challenge, but what exactly do trade union rights mean in practice? What are international expectations when it comes to business respect for trade union rights? How do impacts on trade union rights manifest in the day-to-day lives of people? And why is it important for multinational companies with complex supply chains to ensure respect for trade union rights in practice?

1.1 WHAT ARE TRADE UNION RIGHTS?

For the purposes of this publication, trade union rights are defined as workers' freedom of association³ (including the right to form or join trade unions) and the right to collective bargaining.⁴ These rights form the foundation of social dialogue and industrial relations between employers and employees (see box 1), which in turn can serve as a means for managing conflicts in the workplace.

The freedom to establish unions and workers' ability to collectively bargain through a representative organization are recognized as necessary components in credible negotiation of working conditions.

In addition to being important rights in and of themselves, trade union rights are enabling rights, meaning that respecting these rights can, in many cases, lead to the fulfillment of a number of other rights (e.g., adequate wages, reasonable working hours, and a healthy and safe workplace that is free from discrimination and harassment). Addressing risks to trade union rights is therefore important on its own, but is also critical in addressing the root causes of many other workplace-related human rights impacts.

BOX 1: SOCIAL DIALOGUE AND INDUSTRIAL RELATIONS

According to the ILO, social dialogue refers to "All types of negotiation, consultation and exchange of information between or among representatives of, employers, workers and governments on issues of common interest in the field of economic and social policy. It includes bipartite and tripartite consultation, collective bargaining and all forms of management-labor cooperation."

"Industrial relations" refers to "the individual and collective relations between workers and employers at work and arising from the work situation, as well as the relations between representatives of workers and employers at the industry and national levels, and their interaction with the State."

Together, they are the means through which workers, employers and government set the framework for workplace relationships.

To learn more, see: ● [ILO, Social dialogue: Promoting sound governance and sustainable development.](#)

● [ILO, Glossary Of Labour Law And Industrial Relations](#)

1.2 WHAT ARE INTERNATIONAL EXPECTATIONS REGARDING BUSINESS RESPECT FOR TRADE UNION RIGHTS?

The rights to freedom of association and collective bargaining are laid out in binding international conventions, including [ILO Convention No. 87⁵ on Freedom of Association and Protection of the Right to Organize](#) and [ILO Convention No. 98⁶ on the Right to Organize and Collective Bargaining](#). The vast majority of [countries⁷](#) in the world have signed and ratified these conventions and incorporated them into domestic law. In addition, the [ILO Declaration on Fundamental Principles and Rights at Work⁸](#) clarifies that all ILO Member States must respect, promote, and realize freedom of association and the effective recognition of collective bargaining, even if they have not ratified the relevant ILO conventions. These and other ILO standards are accompanied by a considerable amount of authoritative guidance with respect to their meaning and application in practice. These standards set clear expectations for States to establish appropriate regulatory contexts to ensure that companies respect these rights in practice.

However, even where States have not fully met their obligations, businesses have a responsibility to seek to meet these international standards and respect human rights across their value chains. [The UN Guiding Principles on Business and Human Rights](#) are recognized globally as the authoritative framework for how businesses should prevent and address negative impacts on people.

They refer to the ILO Declaration (see Box 2) and outline the respective duties of States and responsibilities of business enterprises in ensuring respect for human rights across business operations and value chains. In practical terms, the UN Guiding Principles expect companies to undertake human rights due diligence in order to assess and address adverse human rights impacts across their value chains, including impacts on trade union rights.

BOX 2: THE UN GUIDING PRINCIPLES AND LABOR RIGHTS

Labor rights, or workers' human rights, are central to a business' responsibility to respect human rights. The UN Guiding Principles refer to the ILO Declaration as one of the key documents defining the 'internationally recognized human rights' that all companies should respect.

The principles and rights covered in the Declaration are:

- freedom of association and the right to collective bargaining;
- the elimination of compulsory labor;
- the abolition of child labor; and
- the elimination of discrimination in respect of employment and occupation.

The UN Guiding principles clarify that, "depending on the circumstances of their operations, enterprises may need to consider additional standards (...), which can include other relevant ILO Conventions."

To learn more, see: ● [OHCHR, The Corporate Responsibility to Respect Human Rights: An Interpretive Guide](#)

BOX 3: DEFINITIONS OF FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

According to the ILO, business respect for freedom of association means that companies are expected to:

- Not interfere with an employee's decision to associate;
- Recognize that all workers are free to form and/or join a trade union of their choice;
- Ensure that company policies, procedures, and practices do not discriminate against individuals because of their views of trade unions or for their trade union activities; and
- Not interfere with the activities of workers' representatives while they carry out their functions in ways that are not disruptive to regular company operations.

Additionally, business respect for collective bargaining means that companies are expected to:

In the workplace:

- Provide worker representatives with appropriate facilities to assist in the development of effective collective agreement. This may include affording workers' representatives the necessary time off work, without loss of pay, social and fringe benefits, for carrying out their representative functions or for attending trade union meetings;
- Recognize representative organizations for the purpose of collective bargaining. The right of workers to form or join organizations in order to bargain collectively cannot be realized if the employer refuses to recognize the trade union or to engage in collective bargaining; and

- Provide information needed for meaningful bargaining. This information should enable workers' representatives to obtain a true and fair view of the performance of the enterprise.

At the bargaining table:

- Provide trade union representatives with access to real decision makers for collective bargaining;
- Bargain in good faith. Collective bargaining can only function effectively if it is conducted in good faith by both parties; and
- Address any problem-solving or other needs of interest to workers and management, including restructuring and training, redundancy procedures, safety and health issues, grievance and dispute

settlement procedures, and disciplinary rules.

In the community of operation:

- Take steps to improve the climate in labor-management relations, especially in those countries without an adequate institutional and legal framework for recognizing trade unions and for collective bargaining.

To learn more, see:

- [ILO, "Q&As"](#)

1.3 HOW DO IMPACTS ON TRADE UNION RIGHTS MANIFEST ON THE GROUND?

For companies and other stakeholders, it can be a challenge to understand how trade union rights connect to day-to-day impacts on people. Yet, a lack of respect for trade union rights can lead to impacts on people that are potentially severe and often pervasive:

- A lack of respect for trade union rights is often the root cause of a wide range of impacts on workers' rights, including inadequate pay, excessive working hours, unsafe working conditions, workplace harassment, and other impacts that affect the ability of workers to live and work with dignity.
- Negative impacts on trade union rights can equally hinder effective grievance management within a company, meaning workers may be less likely to raise issues, and have less recourse to remedy, when they are affected by these or other workplace-related impacts. Often, this means that these impacts will continue to occur, may escalate and may affect a growing number of workers.
- Workers who advocate for the realization of trade union rights may be subject to particularly severe risks. In many contexts, workers may be fired, intimidated, discriminated against, harassed, blacklisted, or even physically harmed or killed because of their efforts to join or form trade unions, collectively bargain, strike, or otherwise organize with their fellow workers.

Impacts on trade union rights can occur in a range of business contexts, from deep within supply chains to the corporate headquarters of global multinationals.

1.4 WHY SHOULD COMPANIES SEEK TO RESPECT TRADE UNION RIGHTS IN PRACTICE?

Companies should first and foremost seek to respect trade union rights in practice because they have a responsibility to do so. Freedom of association and collective bargaining are internationally recognized rights that all workers are entitled to, and trade union rights are often seen as the most effective way for a business to drive respect for a number of related workplace rights, including those around wages, hours, health, and safety.

But many businesses have also recognized a clear business case for respecting trade union rights, including related to both business risks and benefits. For example:

- **LEGAL COMPLIANCE:** Respect for trade union rights is a legal requirement in most countries, although alignment with ILO standards, implementation and enforcement of relevant laws varies by jurisdiction.
- **BUSINESS BOTTOM LINE:** Many companies have faced heightened operational risks when trade union rights are not respected, including business continuity challenges resulting from labor unrest, work stoppages or preventable safety incidents. Others have seen benefits from being a workplace of choice, including better worker retention and less turnover, which can have a positive effect on quality, efficiency and safety, while reducing recruitment and training costs. (See, for example, the Case Example of Camposol, featured on page 48).
- **INFORMING DUE DILIGENCE:** Many companies rely upon respect for trade union rights as an essential tool in their broader due diligence approach, providing a pathway for engagement with workers as a core group of affected stakeholders and visibility into workplace conditions throughout the value chain. (See for example, the Case Example of H&M, featured on page 46).
- **CONTRIBUTING TO THE SDGS:** Many companies today are looking for effective ways to contribute to the Sustainable Development Goals (SDGs). Ensuring respect for trade union rights throughout global operations and value chains is likely to be one of the most powerful and scalable tools for doing so. (See, for example, Shift's case study on [various apparel brands involved in the ACT initiative](#), which touches on the connections between advancing trade union rights and providing workers with a fair living wage, and how those efforts link to a wide range of targets under the SDGs).⁹

PART 2

How can companies identify risks to trade union rights?

If there are clear standards, well-defined expectations, and a recognition of the fundamental nature of trade union rights, why does it remain so challenging for businesses to ensure respect for these rights in practice?

2.1 WHAT FACTORS CAN CREATE HEIGHTENED RISK TO TRADE UNION RIGHTS?

There are a number of common challenges and barriers that can arise, externally and internally, that heighten risks to trade union rights, including (A) external factors created by the operating context; (B) factors that often accompany certain types of business models and practices; and (C) factors arising from internal corporate culture and due diligence pitfalls.



EXTERNAL FACTORS: The contexts that companies operate in, or where their supply chain partners operate, can pose challenges for respecting trade union rights. While these factors may be beyond the control of the company, recognizing them can help companies identify areas of heightened risk and start putting in place actions to address the risk.

- **National laws or regulations** may restrict or limit trade union rights, or enforcement of regulations may be weak. This may be particularly relevant where governments have created export processing zones or special labor regimes to attract foreign investment. Yet many companies base their due diligence on a 'tick-box' approach of compliance with local laws, without assessing whether those laws align with international standards.
 - **Social norms and practices** can also discourage or prevent realization of trade union rights in practice. There may be negative perceptions of the role of trade unions, creating anti-union attitudes from businesses. These attitudes may manifest in active efforts to prevent workers from organizing, including union-busting, harassment and intimidation. Union activity is also likely to be more challenging where freedom of speech is restricted or there is a cultural norm of not speaking up.
 - **Local capacity** is necessary for realization of trade union rights, yet in many contexts trade unions may not be present, fully representative of workers, or sufficiently resourced or capacitated to effectively represent workers. Global businesses might choose to interpret the absence of effective trade unions as an excuse not to act, rather than a red flag for heightened risk.
- Certain demographics of workers (e.g., groups such as women, minorities, migrants, informal laborers or young workers) may face particular challenges if they have been historically disempowered or marginalized. This in turn may affect their ability or inclination to speak up and organize with others.



BUSINESS MODELS AND PRACTICES: Certain business models and practices can also heighten risks to trade union rights across a company's operations and value chain. While there may be business reasons for companies to follow certain models and practices, companies can fail to account for increased risk to trade union rights that may result from these choices.

- **Sourcing from high-risk markets:**
One of the primary ways that businesses reduce costs is by selecting sourcing countries that can offer lower labor costs. However, lower labor costs can often be the result of weak regulation or enforcement of trade union rights. These sourcing strategies can undermine a company's global policy commitment to respect human rights throughout its value chain unless they are accompanied by actions to address the increased risk to trade union rights these sourcing strategies may create.
- **Outsourcing and contract labor:**
Many businesses seek greater flexibility in their workforce to enable them to more efficiently respond to uncertain growth or seasonal demands, without incurring long-term employment liabilities. One of the primary strategies for doing so is the use of contract or casual labor models that employ temporary workers to create that flexibility. Yet these labor sourcing strategies create significant risks for trade union rights. Contract or casual laborers (including in the gig economy) are often a more vulnerable demographic. Their employment is more precarious, and they may not have the same protections under laws and regulations as permanent workers. As a result, they may be less likely to advocate, speak up, and organize.
- **Purchasing practices:** Many companies have made global commitments to respect trade union rights, yet the company's purchasing practices are not always aligned with these commitments. For instance, a singular focus on driving down prices in highly competitive markets may undermine expectations on social performance and impede the ability of suppliers to invest in better labor practices. Similarly, companies with high supplier turnover and short-term supplier relationships are likely to have limited leverage to influence supplier practices once engaged in the relationship.



INTERNAL COMPANY GOVERNANCE AND DUE DILIGENCE PITFALLS:

A number of internal factors can also create risks to trade union rights, including corporate attitudes towards trade unions and governance structures, as well as weaknesses or common pitfalls in company due diligence processes.

- **Corporate attitudes, assumptions and governance:** For some companies, there may simply be a lack of commitment, capacity, or understanding at the headquarters level around respect for trade union rights. This can lead to perceptions, internally and externally, of an anti-union bias within the company. In some cases, companies question the motivations of trade unions, perceiving them as political or self-interested organizations, rather than being primarily interested in better outcomes for workers. In others, trade union rights are framed as an issue for national governments to address. Even where there is clear leadership commitment, decentralized organizational structures can make it more difficult to implement headquarters level commitments in local operations in some operating contexts.
- **Weakness in due diligence processes:**
A lack of visibility into the supply chain will severely limit a company's ability to identify risks to trade union rights, if they do not know who the business entities are beyond the first tier, or workplace conditions throughout the supply chain. In some cases, market structures further impede this visibility (e.g., in globally traded commodities or value chains linked to the informal sector). Likewise, failing to take action when risks are identified in the supply chain can further undermine global commitments if companies fail to speak out or take action when anti-union activities are identified in their supply chains.
- **Common pitfalls in due diligence:**
Many companies rely upon Global Framework Agreements (GFAs), certification schemes, or promoting worker voice or worker committees as the full extent of their approach to addressing risks to trade union rights. **Global Framework Agreements** can be very important tools if meaningfully implemented. However, some may exist on paper at the headquarters level with global union counterparts, but are not translated into meaningful action or partnerships at the subsidiary level or in sourcing markets.



Many companies rely upon **certification schemes** for their due diligence, yet many certification frameworks have been criticized for being much weaker on social standards in comparison with environmental standards.

Worker voice mechanisms or worker committees can potentially be a useful step forward where full realization of trade union rights is a longer-term goal. However, many companies fail to push beyond these approaches, which do not provide the same level of protection and empowerment to workers as full realization of trade union rights.

2.2 HOW CAN COMPANIES DIAGNOSE HEIGHTENED RISK?

The following diagnostic tool is intended to help companies diagnose where trade union rights may be at risk in their operations or value chains by surfacing some of these common challenges and pitfalls. The tool is not intended to provide definitive answers, but instead an initial indication of where companies might prioritize further assessment and action when a number of these factors are present.

The diagnostic tool includes references to the practical approaches and case examples (which follow in Part 3) that may be helpful for companies to consider when determining what actions might help to prevent and address present risk factors.





EXTERNAL FACTORS

Companies, their suppliers or other business partners may be operating in countries or regions where respect for trade union rights is not the norm, in law and/or in practice. By recognizing where and how this is the case, a company can put in place measures to address these challenges.



CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

A.1 Laws and Regulations

- ☐ Does the national law where the entity operates provide protections around freedom of association and collective bargaining?
- ☐ If so, are these laws aligned with ILO standards? (See Resources on how to help assess this)
- ☐ Does the law apply to all workers (i.e., it includes all worker groups including migrant or informal workers)?
- ☐ Are the laws effectively enforced?
- ☐ Does the company or its supply chain partners operate under special labor regimes where these laws may not apply (such as export processing zones)?
- ☐ Does the government allow unions to be independently formed?
- ☐ Does the government allow unions to associate freely and bargain collectively?



IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)

PRACTICAL APPROACHES

- 7 Conduct a joint risk assessment
- 10 Collaborate as a sector to raise standards
- 11 Influence the regulatory landscape

EXAMPLES

- I H&M's Workplace Dialogue Program
- III Collaborative Peer Effort to Engage Government
- VI ACT

CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS






A.2 Social Norms and Practices

- ☐ Is there active obstruction of trade union rights?
- ☐ Is union membership heavily fragmented?
- ☐ Is union membership seen as taking a political stance, which may provide barriers for membership or impede the union's effectiveness?
- ☐ Is freedom of speech under pressure, or speaking up generally discouraged?
- ☐ Are there generational differences in attitudes towards unions, and more generally towards speaking up and organizing as workers? If so, how does this affect trade union rights in practice?
- ☐ Are there certain demographics in the workforce (e.g., vulnerable workers, including women, migrants, minorities, informal laborers, or young people) who may be historically disempowered or marginalized, in ways that might affect their ability or inclination to speak up and organize with others?
- ☐ Has the sector in which the company or supplier operates seen significant changes in workforce demographics (e.g., a sector's majority workforce evolves from primarily male to female), and has the company reflected on what this change means for worker representation?

A.3 Limited Local Capacity

- ☐ Are local unions present? If not, why not?
- ☐ Are local unions fully representing workers' interests and perspectives (as opposed to incorporating management or government interests)?
- ☐ Do they have sufficient resources and capacity to represent workers effectively?
- ☐ Are there other barriers to their effectiveness?
- ☐ Is local management willing and able to engage with the local unions and workers representatives?
- ☐ Are there other ways in which lack of local capacity can be a barrier to ensuring respect for trade union rights?

IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)

7 Conduct a joint risk-assessment**10** Collaborate as a sector to raise standards**5** Strengthen capacity of local actors**10** Collaborate as a sector to raise standards**I** H&M's Workplace Dialogue Program **IV** Impactt's UP! Program **VI** ACT **I** H&M's Workplace Dialogue Program **II** Camposol's Social Dialogue Program in Peru **III** PepsiCo Working with IUF on Corrective Action in Pakistan **IV** Impactt's UP! Program **VI** ACT 



BUSINESS MODELS AND PRACTICES

Certain business models and practices are likely to pose challenges to respect for trade union rights across a company's operations and value chain. While there may be legitimate business reasons for companies to follow certain models and practices, companies often fail to take account of increased risk to trade union rights that may result from these choices.



CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

B.1 High-risk Countries and Business Partners

- ☐ When the company selects sourcing countries, does it consider risks to trade union rights connected to low labor costs?
- ☐ Does the company have a robust understanding of the government's position on trade union rights, and a relevant counterpart to dialogue with in the labor ministry (or other relevant ministry)?
- ☐ Do business partners in those countries have a shared understanding of what is expected or required (in terms of respecting trade union rights)?
- ☐ Does the company have formal policies and procedures in place to prevent and mitigate the increased risks to trade union rights that these sourcing strategies may create?
- ☐ Is the company sufficiently internally aligned to address these risks? (see also next diagnostic)



IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)

PRACTICAL APPROACHES

- | | |
|---|--|
| 2 Name trade union rights as a salient issue | 8 Formalize escalation pathways |
| 5 Strengthen capacity of local actors | 10 Collaborate as a sector to raise standards |
| 7 Conduct a joint risk assessment | 11 Influence the regulatory landscape |

EXAMPLES

- | | |
|---|--|
| I H&M's Workplace Dialogue Program | |
| VI ACT | |

CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

B.2 Outsourcing and Contract Labor

- ☐ Does the company or its supply chain partner(s) use substantial numbers of contract workers?
- ☐ If so, are these hired directly by the supplier, or does the supplier rely on an employment agency? In either case, are individual labor brokers involved in sourcing workers for the supplier or agency? (the latter increases risks, see box on page 40)
- ☐ Do contract workers have the same protections under the law and regulations as the company's own employees?
- ☐ Do they have the same opportunities to organize as the company's own employees?
- ☐ Could the company or a supplier have a deliberate strategy to use contract laborers in order to limit union organization?

B.3 Role of Purchasing Practices

- ☐ Does the company have a full understanding of how its purchasing practices affect suppliers' ability to meet standards?
- ☐ Has the company surveyed suppliers to inform where this understanding needs to be built?
- ☐ Do purchasing practices address meaningfully the potential tension between price and other order requirements on the one hand, and expectations on social performance and respect for worker rights on the other?
- ☐ Does the company rely upon short-term supplier relationships and see high turnover among suppliers?
- ☐ If so, does the company's supplier selection process adequately consider respect for trade union rights before suppliers are approved?

IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)

- 6** Analyze the company's use of contract and temporary labor practices
- 11** Influence the regulatory landscape

- 2** Name trade union rights as a salient human rights issue
- 5** Strengthen capacity of local actors
- 10** Collaborate as a sector to raise standards

III PepsiCo Working with IUF on Corrective Action in Pakistan



VI ACT





GOVERNANCE AND DUE DILIGENCE

Challenges in respecting trade union rights may have their roots internally. For some companies, there may be an anti-union bias at the headquarters level, which affects how the company as a whole treats trade union rights. For others, there may be limitations in the due diligence process, from limited visibility into the supply chain to assumptions that existing approaches are an adequate response to the risk.



CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

C.1 Corporate Attitudes, Assumptions and Governance

- ☐ Do senior leaders meaningfully engage with the perspectives and experiences of relevant external stakeholders on trade union rights?
- ☐ Do company governance systems back up formal roles and responsibilities in relation to trade union rights with the necessary power and influence?
- ☐ Do senior leaders and governance arrangements actively enable tensions between day-to-day business pressures and respect for trade union rights to be surfaced and addressed?
- ☐ Does the company capture, share and embed related lessons from successes and failures?
- ☐ Do the most senior leaders, through their own words and actions, proactively promote respect for trade union rights?
- ☐ Does top leadership have methods to regularly listen to the voices of affected workers whose trade union rights are potentially undermined?



IF THERE IS A RISK, THESE APPROACHES
AND EXAMPLES MAY HELP (SEE PART 3)

PRACTICAL
APPROACHES

EXAMPLES

2 Name trade union rights as a salient issue

II Camposol's Social Dialogue Program in Peru



III PepsiCo Working with IUF on
Corrective Action in Pakistan



CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

C.2 Weaknesses in the Due Diligence Process

In relation to own operations:

- ☐ Has the company identified trade union rights as a salient human rights risk?
- ☐ Does the company have a process for identifying risks to trade union rights in specific countries or business relationships?
- ☐ Are trade unions and workers themselves involved in identifying and prioritizing risks to trade union rights?
- ☐ Does the company have an effective process for addressing impacts, including appropriate processes for remedy when an impact to trade union rights has been identified?

In relation to suppliers or other business partners:

- ☐ Does the company know who its supply chain partners are, including beyond the first tier?
- ☐ Are there areas of the supply chain (e.g., traded commodities) where visibility into supply chain partners (and therefore the ability to conduct due diligence on trade union rights) is structurally more challenging?
- ☐ Does the company engage the supplier and take action when anti-union activities among suppliers are identified?
- ☐ Does the company look creatively across all forms of leverage to apply it towards suppliers or other business relationships, including engaging in efforts to support lifting of any formal restrictions on trade union rights?

C.3 Common Due Diligence Pitfalls

If the company relies significantly on certification schemes, does the company:

- ☐ Use complementary due diligence approaches and not rely solely on certification?
- ☐ Assess whether the certification scheme is strong enough on trade union rights, in both its standards and implementation?
- ☐ Assess whether the governance structures of the certification scheme include representation from organized labor?
- ☐ Account for any weaknesses of social auditing if the mechanism relies on such an approach?

If the company has a Global Framework Agreement, does the company:

- ☐ Regularly engage GFA counterparts to identify and address issues in the value chain?
- ☐ Develop action plans with GFA counterparts to implement the agreement at the national level across the value chain and track their effectiveness?

Where the company relies on worker voice or worker committee approaches (in lieu of full recognition of trade unions), does the company:

- ☐ Take additional steps toward the full recognition of trade union rights, including by actively engaging suppliers or subsidiaries on the limitations of such approaches?
- ☐ Complement these approaches with parallel efforts to support lifting of any formal restrictions on trade union rights?

IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)


3 Make sure any audits are effective


7 Conduct a joint risk assessment

8 Formalize escalation pathways

9 Solve a specific problem together

10 Collaborate as a sector to raise standards

I H&M's Workplace Dialogue Program 

III PepsiCo Working with IUF in Pakistan 

V Freedom of Association Protocol in Indonesia  

4 Strengthen and leverage certification schemes

5 Strengthen capacity of local actors

8 Formalize escalation pathways

10 Collaborate as a sector to raise standards

11 Influence the regulatory landscape

I H&M's Workplace Dialogue Program 

V Freedom of Association Protocol in Indonesia  

VI ACT 

VII PEFC 

PART 3

**What actions can
companies take?**

So, what can businesses do in practice? The expectation of the UN Guiding Principles is that companies take action to prevent or mitigate human rights risks they may be connected to. That may mean taking action directly to address impacts caused by the company itself. In other cases, it will mean using its leverage to seek to influence the behaviors and practices of other entities in the value chain. Where a company does not have enough leverage on its own, it should seek to build its leverage, often through collaboration with other actors.

Companies often think about leverage only in commercial terms, and this can impede effective action. In practice, leverage can exist or be built through many forms:¹⁰

- The commercial relationship, including issues related to pricing, volumes and duration of contracts;
- The broader business relationship, often including capacity-building approaches;
- Collaboration with industry peers, through joint initiatives and setting appropriate industry standards;
- Bilateral collaboration with another actor, including a trade union, civil society organization or government entity; and
- Multi-stakeholder collaboration, as is the case with many certification schemes and other types of multi-stakeholder initiatives.

In looking to take action to address risks to trade union rights, companies should start with what they can do already, often jointly with a trade union where possible. Where risks to trade union rights are pervasive in a geographic context or sector, companies might need to look to collaborative approaches with peers, influencing certification schemes, lobbying for regulatory reform, or other more creative approaches.

This section outlines 11 practical approaches companies have taken to address risks to trade union rights in their global value chains, followed by 8 more detailed case examples that help to illustrate these approaches and these different forms of building and using leverage. Many of these examples are drawn from the apparel sector, where trade union rights have been recognized for some time as salient human rights issues for the industry, and therefore industry experience is greater.

The intent in sharing these approaches is to inspire companies with ideas for concrete action, to move from recognizing risks to trade union rights to taking meaningful action to address those risks. These approaches are not intended to be used as a step-by-step roadmap, but rather as a menu of potential options for action, recognizing that different approaches may be relevant in different circumstances, depending on the risk factors that are present.

PRACTICAL APPROACHES FOR BUSINESSES

(Section 3.1 below)

1	Identify higher risk contexts:	As part of the company's human rights due diligence, identify operating and sourcing contexts throughout the company's value chain that might pose heightened risks to trade union rights.
2	Name trade union rights as a salient issue:	This can be an important first step to signal the importance of the issue, opening up opportunities for dialogue internally and externally
3	Make sure any audits are effective:	Use social compliance audits more strategically to identify red flags around trade union rights.
4	Strengthen and leverage certification schemes:	Ensure that they credibly and effectively include attention to trade union rights.
5	Strengthen capacity of local actors:	This can help ensure, at the supplier level, that both management and workers have the understanding and capabilities to engage with each other meaningfully.
6	Analyze the company's use of contract and temporary labor:	Ensure that labor practices are not contributing to impacts on trade union rights.
7	Conduct a joint risk assessment:	Assess gaps and opportunities in complex or high-risk markets with trade union counterparts and/or industry peers.
8	Formalize escalation pathways:	Create channels for appropriate global engagement on local issues.
9	Solve a specific problem together:	In moments of crisis, work with trade union counterparts, and use the opportunity to transform relationships.
10	Collaborate as a sector to raise standards:	Collaborate across an industry to address systemic challenges.
11	Influence the regulatory landscape:	If local laws and regulations create challenges for respecting trade union rights in practice, seek to influence the regulatory landscape around trade union rights.

COMPANY CASE EXAMPLES (Section 3.2 below)

I H&M's Workplace Dialogue Program	V Freedom of Association Protocol in Indonesia
II Camposol's Social Dialogue Program in Peru	VI ACT (Action, Transformation, Collaboration)
III PepsiCo Working with IUF on Corrective Action in Pakistan	VII Program for the Endorsement of Forest Certification (PEFC)
IV Impactt's UP! Program	VIII Collaborative Peer Efforts to Engage Government

3.1 PRACTICAL APPROACHES FOR BUSINESS

1

Identify higher-risk contexts

If knowing where to begin is part of the challenge, start by identifying operating and sourcing markets throughout the company's value chain that might pose heightened risks to trade union rights.

- Most global businesses have complex global value chains with operations spread across the world and suppliers even more geographically dispersed, numbering in the thousands, tens of thousands, or more. It can be challenging to even know where to begin. Several companies use screening tools as part of their human rights due diligence processes to identify contexts with heightened risks to trade union rights.

For example, many companies use the International Trade Union Confederation's (ITUC) annual Global Rights Index¹¹ as an initial screening tool, which provides a color-coded map and ranking based on country compliance with collective workers' rights. Once a country context is identified, the ILO provides detailed country reports on respect for labor rights. Using these two tools in conjunction can be a useful start for a company seeking to understand where operating or sourcing markets might pose heightened risks to trade union rights.

2

Name trade union rights as a salient issue

If internal corporate culture and governance are part of the challenge, then start by identifying trade union rights as a salient human rights issue.

- This might begin by conducting an internal assessment of corporate culture and governance structures that might undermine trade union rights as a means of understanding internal barriers.

When it comes to taking action, it could be as simple yet significant as explicitly identifying freedom of association and collective bargaining as two of the company's salient human rights issues. This can send an initial signal of the importance of these rights as a first step, and create the basis for further internal dialogue to surface and challenge corporate assumptions, behaviors and attitudes. For one company, recognizing the issue enabled company leaders and its stakeholders to seize opportunities to move the issue forward that had previously not been apparent (see Case Example III for more on PepsiCo's experience in taking this step).



3

Make sure any audits are effective

If the company relies on social performance audits, then ensure that they are addressing trade union rights as effectively as possible.

- Social performance audits have been the subject of a number of critiques, particularly in their ability to effectively assess respect for trade union rights. However, social auditing is likely to continue to play an important role for many companies in their supplier due diligence processes. Companies can take steps to ensure that these tools are addressing trade union rights as effectively as possible, and strengthen approaches where necessary.

According to some labor leaders, this means that audits should assess:

- If a union is present, that its leadership was chosen through independent elections;
- If there is a collective bargaining agreement, whether the CBA meets international standards, and does not restrict fundamental labor rights (e.g., prohibiting strikes);
- Auditing against the standards set in the CBA, to ensure that it is implemented in practice.

Equally important, audit processes should seek to verify these expectations through interviews with workers and trade union representatives, and through the records of the labor inspectorate (or other government labor monitoring bodies).

4

Strengthen and leverage certification schemes

If the company relies on certification, then assess and strengthen how trade union rights are addressed.

● Many companies rely upon certification schemes as a cornerstone of their due diligence and responsible sourcing approaches, but few interrogate the effectiveness of these certification approaches with regard to ensuring respect for trade union rights. For example:

- the underlying standards may defer to local law rather than international standards;
- certification often relies on a methodology with severe limitations (e.g., announced one-off social audit visits where a limited number of workers selected by management are being interviewed); and
- corrective action plans that follow, which typically encourage tick-box compliance rather than addressing the underlying root causes.

Companies should assess the quality of social standards in the certification schemes that they are a part of and how those expectations are monitored in practice (often through social audit). At a minimum, this might include ensuring that freedom of association and collective bargaining are assessed in the social audit process, and that meeting these expectations is a condition of certification.

It might also include assessing whether trade unions have been involved in the development of the certification scheme's standards and, if necessary, advocating for trade union representation in governance structures, including complaints procedures. (see Case Example VI on PEFC in the forestry sector)



5

Strengthen capacity of local actors

If local capacity around trade union rights is a challenge at the supplier level for management, workers or both, seek to strengthen it.

● Many global companies have supported capacity building for local actors in their supply chains on trade union rights, including both management and workers at the supplier level. Companies often collaborate with a variety of partners in implementing these programs, including global and local trade unions, employers' associations, government bodies, expert organizations, and industry associations that focus on advancing respect for trade union rights. These programs often focus on building basic understanding of international expectations around trade union rights, and then building the skills necessary for workers and management to meet these expectations in practice. At the same time, capacity-building programs need to be monitored and evaluated in meaningful ways to understand whether more training and capacity-building is leading to better outcomes for workers in practice.

It often remains an open question whether such efforts lead to long-term changes, and tracking effectiveness of training and linking it to impact is not an easy task.¹²

For example:

- H&M's industrial relations program focuses on building capacity at the supplier level to improve respect for trade union rights, including through partnerships with the global union federation IndustriALL, the Swedish trade union IF Metall, the ILO, the Swedish development agency SIDA, and the apparel initiative ACT (Action, Collaboration, Transformation), and in countries where those rights may be restricted by law or social practice (see Case Example I, H&M's Workplace Dialogue Program).
- Many apparel brands engage with their suppliers to participate in the ILO's Better Work Program, which focuses on building the foundations for social dialogue, collective bargaining, and worker representation with workers and management in factories that participate in the program.
- Impactt (an ethical trade consultancy) is partnering with a local trade union in Bangladesh to provide direct leadership training to female factory workers in Bangladesh. Through initial trainings on financial literacy, health and nutrition, the program identifies those that demonstrate leadership potential for advanced training in the skills needed to organize and represent workers. (See Case Example IV, Impactt's UP! program)



6

Analyze the company's use of contract and temporary labor

If contract labor is a feature of the value chain, then start by assessing how the company uses contract labor.

● Several companies have recognized the connection between labor sourcing practices and heightened risks to trade union rights. There are often significant disparities in working conditions between full-time employees and contract laborers, including wages, training, provision of safety equipment, access to company facilities, and security of employment, even where contract laborers are performing similar functions and may have worked at a company for several years. In some cases, this differential treatment has resulted in labor unrest and conflict between full-time employees and contract laborers. (See Case Example VIII on PepsiCo's collaboration with IUF to address labor unrest in its supply chain in Pakistan).



Some companies have begun undertaking enterprise-wide assessments of how contract labor is used, either in their own operations or through their value chains, to gain more awareness and data around the level at which the company uses these employment models and the roles that are being contracted out (for instance, core functions and long-term positions). Several companies have been surprised by the large proportion of contract workers as compared to full-time employees in some of their operations, and have taken steps to address imbalances. They are also developing due diligence tools to assess their labor service providers and strengthen their own labor purchasing practices to align with their commitments to respect human rights.

EMPLOYMENT AGENCIES AND THIRD-PARTY LABOR BROKERS

Contract workers may be hired directly by a supplier, or the supplier may use an employment agency that employs workers itself. In addition, the supplier or the employment agency may rely on third party labor brokers to source workers, which is often the case in situations of domestic and international migrant labor.

Regardless of how they are hired, contract workers

are often more vulnerable than employees. However, use of labor brokers in particular can substantially heighten risks to trade union rights, because it is often not clear where accountability for the overall process lies. In many cases, labor brokers may be smaller companies, or even individuals, with few formal processes. Interactions often take place over a distance, with cultural barriers and

differences in business practices further complicating effective due diligence. All of these factors can have the effect of heightening risk to trade union rights.

To learn more, see:

● [EC sector Guidance](#)

7

Conduct a joint risk assessment

When considering entry into a new market that may pose heightened risk to trade union rights, don't go it alone: conduct a joint assessment with global trade union counterparts.

● When companies consider entry into a new operating context or sourcing market, they are expected under the UN Guiding Principles to conduct human rights due diligence, including assessment of the risks that the context may pose to respect for human rights, including trade union rights. Some companies have conducted assessments of new potential markets jointly with trade union counterparts in high-risk markets.

For example, a global manufacturing company was considering entering a particularly high-risk market where the company recognized weak regulatory protections around basic labor rights and working conditions. The company collaborated with a global trade union confederation (with whom it had

a Global Framework Agreement) on a joint field visit to assess the specific risks the company would likely encounter in the market. The visit concluded with an engagement with the government body responsible for driving foreign investment and economic development in order to present shared concerns.

Other companies have collaborated at an industry level, although not with trade union partners, to conduct sector-wide analysis of how the laws, regulations, practices, and enforcement mechanisms within a particular market or other relevant context align (or might not align) with internationally recognized trade union rights, and how the company and its peers might together address any gaps or conflicts between the two.

8

Formalize escalation pathways

If visibility into workplace conditions in the supply chain is a challenge or local counterparts are uncooperative, then create pathways for escalation.

● Global companies may not always be aware of issues affecting trade union rights across their value chains. Sometimes, resolution of local issues requires the participation of global companies or unions, to support or influence local actors to engage constructively. Several companies have developed formalized escalation pathways to allow local issues to be brought to the attention of global counterparts.

From a top-down perspective, companies have used Global Framework Agreements (GFAs) or similar arrangements between companies and international unions to formalize communication channels that allow local challenges around trade union rights to be brought to the attention of multinational companies. Examples of this approach include the GFA between H&M, IndustriALL, and IF Metall¹³, as mentioned in Case Example I (H&M's Workplace Dialogue Program); the GFA between QDVC, Vinci, and Building and Wood Workers' International (BWI)¹⁴, which is based on BWI's Model Framework Agreement¹⁵; and the GFA between Inditex and IndustriALL.¹⁶

From a bottom-up perspective, the approach of formalizing escalation pathways for brand engagement on local issues could take the form of country-specific protocols with leadership and direct involvement in the negotiations from local trade unions and suppliers, as well as sign-on from global brands where relevant, such as the Freedom of Association Protocol developed in collaboration with sportswear brands sourcing from Indonesia (see Case Example V, Freedom of Association Protocol in Indonesia).



9

Solve a specific problem together

If a company has unconstructive relationships with trade union counterparts, then look to solve a specific problem together to transform the relationship.

● For those companies that have poor relationships with trade union counterparts, transforming those dynamics may seem like a long, daunting and even impossible task. Some companies have reversed years of hostile relationships through crisis, specifically by reaching out to trade union counterparts to solve a specific problem of mutual concern at a time of need. Opening lines of communication and gaining practical experience working together can break down historical barriers, create personal relationships and build the foundations for further collaboration.

There are many examples of where this type of direct engagement between companies and trade union – often triggered by a specific crisis where both parties have recognized a shared interest in seeking better outcomes for workers – has created opportunities for repositioning or transforming the broader relationship. Some of these examples include:

- Global apparel brands that became involved in the Accord on Fire and Building Safety in Bangladesh¹⁷ following the catastrophic Rana Plaza factory collapse in 2013.

These brands have gained significant exposure to tools and networks that they can tap into to advance trade union rights, and many have applied learnings from their involvement in the Accord to open internal dialogues around trade union rights and adjust misconceptions. Particularly interesting is the initiative to set up ACT to promote freedom of association and living wages in the apparel sector via a subset of partners from the Accord. (see Case Example IV, ACT)



- Mondiaal FNV's work with Camposol in Peru, where both employers and unions worked to change their default modes around trade union rights from striking or calling lawyers to coming to the table for dialogue, and solving specific issues. (see Case Example VII on Camposol's social dialogue in Peru)
- PepsiCo's work with the International Union of Foodworkers (IUF) in Pakistan to tackle a specific trade union rights case, which has created opportunities for broader engagement. (see Case Example VIII).



10

Collaborate as a sector to raise standards

If the risk to trade union rights is a systemic issue, and efforts with individual suppliers or the government are not effective, then seek to set your own standards as an industry.

● Changing the regulatory landscape and changing practices at the individual supplier level may be necessary, but many companies have found that this process can be slow to produce results and resource-intensive. In one notable example, 17 apparel companies opted to collaborate with each other and a global trade union in a pre-competitive manner towards the creation of sector-based collective bargaining agreements to advance the provision of living wages to workers in apparel supply chains (see Case Example VI on the ACT initiative). In addition, and perhaps more long term, efforts should also focus on seeking to engage the government, as changes in national law may ultimately be required to achieve systemic change.



11

Influence the regulatory landscape

If local laws or regulations on trade union rights are weak, or their enforcement is insufficient, seek to improve the regulatory landscape.

- When companies or their value chain partners operate in countries with challenging regulatory contexts for trade union rights, trying to address these risks at the supplier level alone will often be ineffective. What may be needed is a change to the regulatory landscape itself.

In such cases, companies have often turned to collaboration with their peer companies, industry associations, trade union advocates and others, to influence government actors to change rights-restricting laws and/or ineffective enforcement systems. Apparel companies in particular have taken this approach in collectively tackling challenges around national laws and trade union rights. (See Case Example III, on the apparel sector's engagement with the government of Cambodia).



3.2 CASE STUDIES

I. H&M'S WORKPLACE DIALOGUE PROGRAM

COMPANY: H&M

SECTOR: Apparel

GEOGRAPHY: Global

PARTNERS: Global trade union confederation, headquarters union counterparts, local trade unions and development agencies

Global apparel brand H&M's value chain relies upon production in a number of low-cost labor markets. H&M has recognized that these lower cost labor markets often pose heightened risks to the rights of workers, and has identified trade union rights (i.e., freedom of association and collective bargaining) as one of its salient human rights issues (i.e., one of the most severe risks to people across its value chain).

The company's approach in addressing this salient issue has focused on raising awareness and building capacity at the local level around trade union rights, instituting holistic structures and processes that provide support for worker organizing and collective bargaining, and partnering at international and national levels with trade unions and other employers. These partnerships with trade unions have played a constructive role in informing H&M's due diligence on its supply chain by helping the company to identify instances of unapproved sub-contracting and resolving labor-management tensions in specific factories and sourcing markets.

H&M has a production office and staff in almost every country in which the company's products are made. One of the important roles of these local teams is to facilitate relationships between factory workers and factory owners through its social dialogue programs. These efforts focus on raising awareness among workers and management of their respective rights and obligations, including around freedom of association and collective bargaining. The company aims for contact and engagement at the local level to be consistent and systematized as local H&M staff lead day-to-day in implementing these efforts and partnering with local worker representatives and management.

The company has also partnered with the global union federation IndustriALL and the Swedish trade union IF Metall through a Global Framework Agreement (GFA), signed in November 2015. To implement the GFA, National Monitoring Committees (NMCs) have been set up in Bangladesh, Cambodia, India, Indonesia, Myanmar, and Turkey, with another to come in Pakistan in 2020. The NMCs are composed of



I. H&M'S WORKPLACE DIALOGUE PROGRAM *continued*

local IndustriALL affiliated trade union representatives, and local H&M group production office representatives. They are tasked with creating, monitoring, and evaluating implementation of the GFA; collaborating with and providing guidance and advice to trade unions or other worker representatives and suppliers at the factory level; and facilitating (but not participating in) the resolution of industrial relations issues and disputes. The approach of the Workplace Dialogue Program is for all conflicts to be resolved at the factory level wherever possible. However, where needed, escalation pathways provide support through the NMCs. These structures and processes under the GFA have, for instance, assisted in the positive resolution of conflicts in Myanmar and Pakistan.

Where registered trade unions are not yet in place, H&M's Workplace Dialogue Program also plays a role in facilitating the democratic election of worker representatives, which can lead to the establishment of trade unions, and which are aimed at forming a foundation for collective bargaining systems and effective conflict resolution. In 2017, factories producing 52% of H&M's product volume implemented democratically elected worker representation. In Bangladesh, for instance, 100% of the company's garment manufacturing units have held democratic elections of worker representatives (including all direct suppliers and their sub-contractors), 40% of which were women.

H&M has also partnered with the ILO, the Swedish development agency Sida, and the apparel initiative ACT (see Case Example VI) to provide further resources, expertise, industry commitments, collaboration, and government advocacy to support the advancement of respect for trade union rights, which the company sees as supporting access for workers to many other human rights, including health and safety, living wage, and gender equality. The company also prioritizes these efforts to support stable, predictable, and peaceful purchasing markets, as well as fair competition between suppliers.

To learn more, see:

- [H&M Sustainability Report 2017](#) and
- [GFA between H&M, IndustriALL, and IF Metall](#)

II. CAMPOSOL'S SOCIAL DIALOGUE PROGRAM IN PERU

COMPANY: Camposol



SECTOR: Agriculture



GEOGRAPHY: Peru

PARTNERS: Local trade unions and Mondiaal FNV

Peruvian food company Camposol has partnered with Mondiaal FNV to improve respect for trade union rights in its operations and value chain. The company's situation was once characterized by permanent union clashes, strikes each year, mutual distrust between employers and workers, and a high number of complaints before the Peruvian labor authority. There were little to no inclinations to negotiate among all relevant parties, and the company cites quantifiable business impacts as a result in the form of problems in local recruitment, corresponding costs to recruit farther away from job sites, transportation costs in bringing in workers from farther locations, loss of productivity for workers with significant commute times each work day, and expensive litigation costs in responding to labor complaints.

The goal of Camposol's work with Mondiaal FNV to improve in these areas was to develop mutually beneficial capabilities on both sides to facilitate the development and resolution of direct, efficient, and sustainable management agreements between the parties. It also aimed to fundamentally change the relationship between the company's managers and the workers and their representatives through trust-building and changing of habits on both sides.

The company's resulting social dialogue program involved capacity-building within the company on labor rights, effective communication and negotiation, as well as training with union leaders on collective bargaining, trust building, and win-win outcomes. The program also focused on improving transparency around company financials and payment processes and negotiation processes around worker benefits.

As a result of the program, the company has experienced more than four consecutive years of an improving work environment without conflict or stoppages. There is continuing social dialogue between management and workers, and a decrease in complaints to the labor authority due to direct resolution of issues via new company-worker communication channels. Freedom of association has also formally been recognized in the company's code of conduct.

Camposol cites quantifiable results in the form of lowered recruitment costs, transportation costs, and legal fees after improving industrial relations and social dialogue with workers.

III. PEPSICO WORKING WITH IUF ON CORRECTIVE ACTION IN PAKISTAN

COMPANY: PepsiCo



SECTOR:
Food and Beverage



GEOGRAPHY: Pakistan

PARTNERS:
Global trade union IUF

In September 2016, the International Union of Food Workers (IUF) alleged that the distribution of permanent employees and contract workers in PepsiCo's Lahore, Pakistan, snacks plant was not compliant with local standards. The IUF allegation escalated into a formal campaign by the trade union that resulted in protests by workers at the site, highlighting a growing discord between permanent employees and contract workers. After an investigation by PepsiCo substantiated the allegation, the company met with the affected parties and implemented corrective action plans to address the root causes of the issue. As part of its plan, PepsiCo hired more than 460 contract workers into permanent positions to ensure compliance with local standards.

What was different about PepsiCo's approach in addressing this set of circumstances was its open engagement and dialogue with IUF to find a resolution that worked for all parties. This included field visits to Pakistan involving IUF and PepsiCo leaders to better understand the root causes of the situation and potential solutions. IUF was able to facilitate coordination with the affected workers through their local affiliates. PepsiCo's engagement with IUF also enabled a smooth transition from the originally formed union at the plant to a new majority/IUF-affiliated union.

PepsiCo's proactive rather than reactive stance in this scenario facilitated an outcome-oriented approach, and both the company and IUF found common ground in wanting to address the issues in Pakistan. But the impact on the broader relationship between PepsiCo and IUF was equally significant. Working together to resolve this particular situation create the space for a new form of constructive dialogue between the company and an important external stakeholder, which has led to open and ongoing communication between the two organizations.

To learn more, see:

● [PepsiCo's human rights webpage](#)

IV. IMPACTT'S UP! PROGRAM

COMPANY: None



SECTOR: Apparel



GEOGRAPHY: Bangladesh

PARTNERS:
NGO, local trade union

In Bangladesh's apparel sector, one of the key barriers for respecting freedom of association is a lack of local capacity among workers at the factory level. Ethical trade consultancy Impactt has partnered with the Awaj Foundation, a local trade union organization in Bangladesh that is also a member of the global union federation IndustriALL, to develop an innovative approach to addressing this barrier. Funded by the C&A Foundation, UP! is a community-based training program focusing on improving the lives of workers in the readymade garment (RMG) sector. The program is training a new generation of leaders in the workforce, equipping them with the individual and collective skills and tools to mitigate workplace risks and strengthen worker rights. With a majority female workforce in the RMG sector in Bangladesh, UP! has a focus on women's empowerment, with 73% of participants being women.

One of the distinctive features of the program is its initial focus on essential life skills, training a broad base of workers on topics including financial management, health, and nutrition – issues that are immediately relevant to all workers covered by the initiative. These initial trainings are used to identify a smaller cadre of potential leaders from the work force, equipping them with more advanced skills relevant to becoming leaders in the workplace. Leading candidates from each round of training are selected for additional rounds of progressively advanced training and skills development, on topics including leadership, negotiation, labor laws and union organizing. UP! graduates then take these skills back into their workplaces to lead the efforts of workers to advocate and negotiate for better working conditions.

A second distinctive feature of the program is that training activities take place in the community (in Awaj cafes located in areas of RMG production), rather than in factory settings. This is a deliberate component of design, in order to build worker skills and empowerment outside of the context of existing power relations within the factory.

An external evaluation of the program highlighted a number of significant outcomes for workers from the UP! initiative. Approximately 16,500 workers reported benefiting from improved conditions in their workplaces, which were negotiated and agreed to by 145 UP!+3 graduates (the most advanced level of training in the program). This covered 74 out of 75 of the factories where trainees worked. The participation of UP! graduates in various workplace dialogue structures (forums, committees, grievance channels) has increased from 8% to 20%, and there has been a 66% increase in the number of cases or disputes that are taken up by these structures on behalf



IV. IMPACTT'S UP! PROGRAM *continued*

To learn more, see: ● [UP!](#)

of workers. At a more systemic level (although an indirect outcome of the program) Awaj negotiated six out of the ten collective bargaining agreements signed in the RMG sector in Bangladesh in 2017.

While UP! does not involve global brands directly at this stage, the initiative provides insights into some of the elements that global companies might consider in efforts to strengthen the capacity of workers in their supply chains: an innovative training design to identify the next generation of leaders; tailored content that can immediately improve conditions for workers; community-based (as opposed to factory-based) training design, and a partnership that combines the capacity of international expert organizations with context-specific expertise and access provided by trusted partners at the country level. The initiative also points to the potential for global companies to partner directly with local and global trade unions to build worker capacity, independently from their engagement with their supply base.

V. FREEDOM OF ASSOCIATION PROTOCOL IN INDONESIA

COMPANY: Several



SECTOR:
Apparel and Footwear



GEOGRAPHY: Indonesia

PARTNERS:
Brands, local trade unions,
local manufacturers

The Freedom of Association Protocol in Indonesia of 2011 is a multi-party agreement negotiated between Indonesian trade unions, international sport brands (Adidas, Nike, Puma, New Balance, ASICS, Pentland, and others), and Indonesian footwear manufacturers that supply to the signatory brands.

Indonesia has long been a very challenging context for the respect of trade union rights in the apparel supply chain, due to a lack of clear guidance from the Indonesian government over the exercises of associational rights in the workplace and a highly fragmented union landscape. Many factories have multiple unions in a single workplace, and there was a lack of clarity on the rights of minority unions in factories. Brands and factories that were complying with local laws and regulations were still potentially infringing on the rights of workers to freedom of association. Through collaboration at the national level and then down to the factory level, the Protocol has enabled employers and unions to reach a common understanding over the implementation of representational rights under Indonesian law, aligned with international standards, by establishing specific expectations for freedom of association in participating factories. It currently applies to approximately 300,000 factory workers employed in industrial districts throughout Java, most of whom are young women. It was developed in the context of a long-running global campaign by trade unions and labor rights organizations (including Fair Play Campaign members such as Oxfam) around the need for sportswear brands to better uphold workers' rights in their supply chains.

Worker representatives have been active decision-makers and participants in the design, dissemination, implementation, and governance of the protocol. According to a 2016 analysis by the Non-Judicial Human Rights Redress Mechanisms Project, as well as a February 2019 report by the International Labor Rights Forum (ILRF), this has contributed to relatively high levels of local stakeholder ownership of the protocol compared with other initiatives. As a result, the Protocol is actively used as a tool in the collective bargaining process within individual workplaces. The protocol has also been formalized at the factory level through various collective bargaining agreements, which are enforceable by national law.

According to the 2016 report, the involvement of Indonesia-based unions and suppliers in the protocol negotiations has also resulted in provisions



V. FREEDOM OF ASSOCIATION PROTOCOL IN INDONESIA *continued*

To learn more, see:

- [Freedom of Association Protocol in Indonesia and](#)
- [February 2019 report by the International Labor Rights Forum \(ILRF\)](#)

more tailored to the Indonesian context, including provisions that enable greater visibility and space for minority unions to operate. The involvement of a skilled third-party facilitator has helped in maintaining ongoing engagement by all parties, despite the need for significant commitments of time and resources.

Although the Protocol is limited in its scope to freedom of association, its impact on workers' rights is potentially much greater. The platform for dialogue created by the Protocol – both at the national level but even more so within individual factories – has provided workers with the space to raise concerns and address them constructively with factories and brands over a number of other labor rights issue, and a pathway for escalation to international brands where necessary. For example, unions in a number of factories reported using the process to speak out against factory efforts to seek government exemptions from annual increases in the local legal minimum wage. After several disputes on this issue in Nike supplier factories, Nike adopted a policy prohibiting its first-tier suppliers from seeking minimum wage waivers from the government. Adidas had adopted the same policy earlier. This has brought important benefits to thousands of workers, since in recent years there have been significant annual legal minimum wage increases in many of the relevant provinces.

VI. ACT (ACTION, TRANSFORMATION, COLLABORATION)

COMPANY: 19 companies



SECTOR: Apparel



GEOGRAPHY:

Bangladesh, Cambodia, Myanmar, Turkey, Vietnam

PARTNERS:

Global union IndustriALL

Launched in 2015 to address systemic issues in the apparel sector, the ACT (Action, Collaboration, Transformation) Initiative is an agreement between international brands, retailers and trade unions to, “transform the garment and textile industry, and achieve living wages for workers through industry-wide collective bargaining linked to purchasing practices.” The initiative centers on a memorandum of understanding between the global union IndustriALL and 19 global brands and retailers (including Arcadia, ASOS, Bestseller, C&A, Cotton ON, Debenhams, Esprit, H&M, Inditex, Kmart, NBrown, New Look, Next, Pentland, Primark, PVH, Tchibo, Tesco and Zalando).

ACT is tackling the most systemic issues in the A component (Action) with a focus on industry-wide collective bargaining between employers and unions to create registered, legally enforceable agreements at the national level. This relies on the establishment and healthy functioning of trade unions at the factory level. The process is aimed at the successful negotiation of apparel workers’ wages across a specific country, so that wage-setting is nationally appropriate, informed by worker voices and uniform regardless of the factory employing the worker and the brands or retailers those factories source from.

To learn more, see:

● [ACT \(Action, Collaboration, Transformation\) initiative](#)

In advancing this approach, the ACT initiative is supporting capacity- and relationship-building among member brands’ supplier factories, IndustriALL’s affiliated unions, and governments in target countries, including awareness-raising and skill-building around freedom of association and collective bargaining.

Very significantly, ACT member brands have also adopted Global Purchasing Practices Commitments to support collective bargaining processes at industry level in producing countries, meaning that they have committed to aligning their own purchasing practices with their commitments under ACT.

The initiative’s current focus countries include Bangladesh, Cambodia, Myanmar, Turkey, and Vietnam. Member brands are also collaborating through the initiative to engage the governments in each of these countries around labor laws, and national minimum wage-fixing enforcement mechanisms in particular.

Additional apparel companies are highly encouraged to join so as to further build the collective leverage that characterizes the ACT approach, and other sectors may learn from and potentially replicate the model as a means of addressing complex and industry-wide risks to trade union rights.

VII. PROGRAM FOR THE ENDORSEMENT OF FOREST CERTIFICATION (PEFC)

COMPANY:

Multi-stakeholder initiative



SECTOR: Forestry



GEOGRAPHY:
Global

PARTNERS:

Business, NGOs, trade unions

Certification schemes are often relied upon by global companies to assess and address social and environmental risks in their extended supply chains. While the majority of these certification approaches include core labor standards as part of their commitments, they are often criticized for being much less effective in practice in ensuring adherence to social commitments, as opposed to environmental commitments. One point of data in this critique is the composition of membership and governance structures. Many have strong representation from environmentally-focused civil society organizations, and perhaps some representation from more socially- or human rights focused civil society organizations. But very few have formal representation from trade unions.

Global trade union leaders point to the Program for the Endorsement of Forest Certification (PEFC) as an exception, and one of the stronger certification schemes when it comes to trade union rights. PEFC is the world's largest forest certification system, acting as an umbrella organization that endorsed national forest certification systems that have been developed through multi-stakeholder processes and tailored to local priorities and conditions. Like many other certification programs, PEFC's standard requires that forestry practices and operations comply with fundamental ILO conventions, including the rights to freedom of association and collective bargaining.

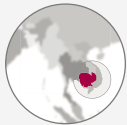
However, unlike many other certification schemes, PEFC's governance structure includes the ongoing structural participation of trade union representatives. The Board of Directors of PEFC includes a reserved spot for a representative of a global trade union federation (currently held by Building and Wood Workers International, BWI). This composition of PEFC's governance structure has played a key role in strengthening the practical implementation of labor-related standards of the certification system. At a country level, it has assisted in laying a foundation for multi-stakeholder dialogue and engagement by local trade union representatives, via the global union's affiliates. In addition, the board has engaged in government advocacy in country contexts where certification is sought but trade union rights are restricted, and where PEFC's stronger focus on labor standards may be embedded as additional local safeguards.

Trade union leaders also point to PEFC's formal complaints process as critical to the effort to ensure that commitments to trade union rights are adhered to. Interestingly, they do not point to any formal complaints being filed concerning respect for trade union rights. Rather, their experience has been that availability of the formal complaints channel, coupled with trade union representation in governance structures, has created substantial leverage in ensuring that any concerns regarding trade union rights are resolved early through proactive engagement by relevant parties, in part to avoid a formal complaints process.

To learn more, see:

● [Program for the Endorsement of Forest Certification \(PEFC\)](#)

VIII. COLLABORATIVE PEER EFFORTS TO ENGAGE GOVERNMENT

COMPANY: Several**SECTOR:** Apparel**GEOGRAPHY:** Cambodia, Mexico**PARTNERS:**

Industry associations and multi-stakeholder initiatives

To learn more, see:

- [March 2018 Open Letter to the Cambodian government](#); ● [July 2017 Letter to the Government of Mexico](#); ● [2015 Letter by 9 Brand Companies](#);
- [“Mexico’s Workers Can Finally Choose Unions. Old Unions Are Pushing Back”](#);
- [Labor Reform: Mexico’s Independent Unions Highlight Progress](#)

Global brands and retailers in the apparel sector have come together in various contexts to collectively engage governments. They have lobbied on laws and regulations, or the implementation and enforcement of laws and regulations, that do not meet key labor standards and principles.

For example, a group of the largest apparel brands in the United States and Europe, including members of the Fair Labor Association, the American Apparel & Footwear Association, and the Ethical Trading Initiative, called in a March 2018 open letter to the Cambodian Government for an end to legal and other restrictions on freedom of association and collective bargaining in the country. Leading brands in the sector, which employs more than 700,000 Cambodians and generates the majority of Cambodia’s export income at more than US \$5 billion, then met in October 2018 with senior Cambodian government officials to further advocate for changes to regulations that limit the ability of Cambodian workers to form and engage freely in trade unions. Those efforts have not yet been successful, leading companies to the realization that further measures are necessary. (See the ACT case example above).

A similar engagement occurred when 14 clothing brands and the Fair Labor Association sent a letter in July 2017 to the Government of Mexico expressing their support for proposed labor reform to better protect freedom of association and collective bargaining. This was preceded by an earlier letter in 2015 by 9 brand companies that expressed support for recommendations made by the ILO about the potential content of legal reform, in particular to align the law with ILO Conventions 87 and 98. The reform is aimed at giving unions more independence from management and enabling them to be more representative of workers, and addressing the issue of protection contracts that the brands frequently find in their social compliance audits of Mexican suppliers. The new law took effect in May 2019. While changes are not expected to come easily and unions say further reforms are needed, the reforms are considered major progress by IndustriALL and its local partners.

CONCLUSION

Across sectors, sourcing markets and business models, respect for trade union rights remains one of the most challenging issues for companies to address effectively in practice. While businesses often recognize the importance of this set of rights and commit to respecting them in practice, there has been a global gap when it comes to practical and meaningful action.

In moving towards action, an important first step for businesses is to diagnose the particular barriers, both internal and external, that are creating risks to trade union rights in any given scenario. Businesses may then be in a position to draw from the menu of approaches highlighted by cases examples in this publication to move from analysis to meaningful action.

ENDNOTES

- 1 U.N. Working Group on Business and Human Rights. UN Guiding Principles on Business and Human Rights. PDF File. July 26, 2019. https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- 2 See Resources.
- 3 ILO, "C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)," Accessed July 26, 2019. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087.
- 4 ILO, "C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)," Accessed July 26, 2019. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C098:NO.
- 5 Ibid.
- 6 Ibid.
- 7 ILO, "Ratification by Convention," Accessed July 26, 2019. <https://www.ilo.org/dyn/normlex/en/f?p=1000:12001::NO>
- 8 ILO, "1998 "Declaration on Fundamental Principles and Rights at Work," Accessed July 26, 2019. https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453911:NO
- 9 Shift Project, "ACT Initiative," Accessed July 26, 2019. <https://www.shiftproject.org/sdgs/living-wages/act-initiative/>. See also: https://www.ituc-csi.org/IMG/pdf/tudcn_issue_paper_-_social_dialogue_development_en.pdf
- 10 Typology developed by Shift. Learn more at <https://www.shiftproject.org/resources/publications/leverage-business-relationships-reduce-human-rights-risk/>
- 11 International Trade Union Confederation, ITUC Global Rights Index: The World's Worst Countries for Workers. PDF File, July 26, 2019. <https://www.ituc-csi.org/IMG/pdf/2019-06-ituc-global-rights-index-2019-report-en-2.pdf>
- 12 For more, see Shift's Valuing Respect Project: <https://www.valuingrespect.org>.
- 13 IndustriALL, "Global Framework Agreement (GFA) between H&M Hennes & Mauritz GBC AB and IndustriALL Global Union and Industrifacket Metall," Accessed July 26, 2019. http://www.industrialall-union.org/sites/default/files/uploads/documents/GFAs/hm-industrialall_gfa_agreed_version_09-09-2015.pdf
- 14 BWI, "Framework Agreement," Accessed July 26, 2019. https://www.bwint.org/web/content/cms.media/661/datas/Signing_BWI_QDVC_Vinci.pdf
- 15 BWI, "Model Framework Agreement," Accessed July 26, 2019. https://www.bwint.org/web/content/cms.media/15/datas/EN_IFA_BWI%20ModellIFA.PDF
- 16 IndustriALL, "Global Framework Agreement Between Inditex and IndustriALL Global Union," Accessed July 26, 2019. http://www.industrialall-union.org/sites/default/files/uploads/documents/GFAs/signed_gfa_inditex_-_english.pdf
- 17 Bangladesh Accord, Accessed July 26, 2019. <https://bangladeshaccord.org/>

RESOURCES

Information on Trade Union Rights and business responsibility

- Further information on the relation between UN Guiding Principles and Trade Union Rights: https://www.ituc-csi.org/IMG/pdf/12-11-22_ituc-industriall-ccc-uni_paper_on_due_diligence_and_foa.pdf
- Trade Union Guide on The OECD Guidelines for Multinational Enterprises: <http://www.tuaoecdmneguidelines.org/Docs/TradeUnionGuide.pdf>
- ILO Helpdesk for Business on International Labour Standards (with specific pages on “Freedom of association and the right to organize” and “Collective bargaining”): www.ilo.org/business
- Catalogue of ILO resources on freedom of association and collective bargaining: https://www.ilo.org/global/topics/freedom-of-association-and-the-right-to-collective-bargaining/WCMS_423680/lang-en/index.htm
- Business Guide: The labour Principles of the United Nations Global Compact: https://www.ilo.org/empent/Publications/WCMS_101246/lang-en/index.htm

Country specific information

- Information on the relevant trade union rights violations or issues in all relevant countries worldwide by ITUC: <https://survey.ituc-csi.org/?lang=en>
- ILO NORMLEX: Information System on International Labour Standards (with country profiles): <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:>
- ILO country pages: <https://www.ilo.org/global/regions/lang-en/index.htm>
- Business and Human Rights Resource Center region and country pages: <https://www.business-humanrights.org/en/regions-countries>

General resources on the UN Guiding Principles

- Text of the UN Guiding Principles on Business and Human Rights: <https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshreN.pdf>
- Shift page on the UN Guiding Principles: <https://www.shiftproject.org/un-guiding-principles/>
- Doing Business with Respect for Human Rights: Practical advice, experiences and insights to help companies respect human rights: <https://www.businessrespecthumanrights.org>
- UN Guiding Principles Reporting Framework: <https://www.shiftproject.org/what-we-do/reporting/>
- Salient human rights issues: <https://www.ungpreporting.org/resources/salient-human-rights-issues/>
- Business and Human Rights Impacts: Identifying and Prioritizing Human Rights Risks: https://www.shiftproject.org/media/resources/docs/Shift_SERworkshop_identifyHRrisks_2014.pdf

