



**How trade unions can
engage in Human Rights
Due Diligence to safeguard
worker's rights**

INTRODUCTION

With the increasing need for companies to stop, prevent and/ or mitigate possible negative impacts on people and planet in their international value chains, the role of trade unions becomes more relevant every day. Since the endorsement of the [United Nation Guiding Principles on Business and Human Rights](#) in 2011 and the incorporation of these guidelines in the [OECD Guidelines for Multinational Enterprises](#) (updated in 2023), companies worldwide are expected to take their responsibility when it comes to respecting human rights, including labour rights, in their entire value chain by doing due diligence. Lately, more and more governments are introducing legislation that incorporates these guidelines, compelling companies to do human rights due diligence (HRDD).

For trade unions, especially in production countries, this offers a unique opportunity to claim their role as a key stakeholder in HRDD processes. Therefore it is crucial to understand the importance of this role (as rightsholders) in this process, and to realise that companies are not always aware of the role trade unions can play in HRDD. Trade union rights are fundamental rights in and of themselves. They are also recognized as “enabling rights,” meaning that respecting these rights often leads to the fulfilment of a number of other labour rights, including adequate wages, reasonable working hours and workplace safety. The existence of well-functioning trade unions therefore reduces workplace conflicts and sick leave because they are engaged in social dialogue, which results in increased labour productivity.

With profound knowledge of the HRDD process and the role they can play in this process, trade unions can become agents of change for their constituencies. HRDD offers trade unions an opportunity to engage proactively with management, supply chain partners, and other stakeholders to address the power relationships that underlie many of the structural problems workers face in international supply chains. This paper will address how trade unions can take up their role in HRDD processes.

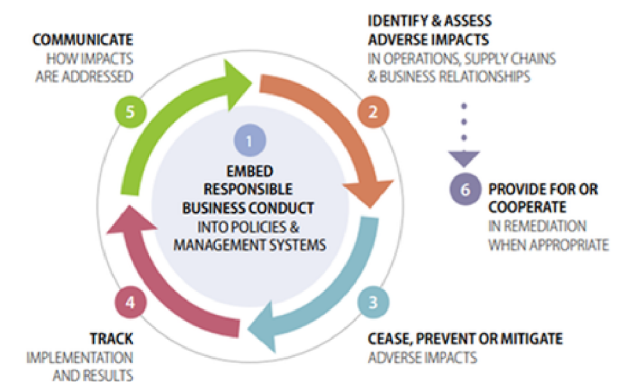


HUMAN RIGHTS DUE DILIGENCE

The core element of the international guidelines and upcoming legislation is Human Rights Due Diligence (HRDD). This is a dynamic, ongoing process that companies should incorporate in their business processes and policies to make sure they respect human rights, the environment and global climate in their international value chains. HRDD challenges companies to investigate and address risks of their own business activities and those in their value chain on others, such as workers, local communities and surrounding climate. The due diligence process consists of six steps:

For trade unions the due diligence process offers an opportunity to improve employees' working conditions. In each of these six steps companies have to involve stakeholders: those whose interests might be affected by activities of the company. A special group of stakeholders are rightsholders: these are people whose human rights might potentially be violated. Workers in factories or on plantations are an example of rightsholders. They are often difficult to reach for internationally operating companies, especially if located more upstream in the value chain. These workers, however, should be consulted in every step of due diligence. Trade unions represent these workers and are organised from local level (f.e. plantation, factory or mine) to national level. For companies, it is easier to talk to trade unions than to all individual workers. Thus trade unions play a key role in advocating in the workers' best interest in every step of HRDD.

Companies are not only required to engage stakeholders in every step of due diligence, but they are supposed to do so in a meaningful way. Meaningful means that trade unions are engaged timely when their constituencies are affected by business activities. This engagement should be based on transparent and accessible information provided by companies, and on a genuine desire to understand each other (two-way communication). Meaningful engagement starts with trust, and it might take time to build trust. Trade unions are well-positioned to develop these relationships with different actors in international supply chains, since they are organised from local to international level, and experienced in engaging with management through for example social dialogue.



THE ROLE OF TRADE UNIONS IN EACH STEP OF HRDD

HRDD offers trade unions the opportunity to intensify their work in securing workers' rights. In some ways it might require a new mindset. Trade unions need to cooperate more with other stakeholders, like civil society organisations or local communities. They also need to intensify their national and international connection to be able to cooperate with different actors in the value chain. Trade unions at plantation level for example intervene with plantation management, while the national (con)federation might start interacting with the trader, and their international allies with international buyers. Trade unions in production countries and trade unions in the countries where the product is consumed play different, but very complementary roles. Together they can have more impact in securing labour rights. At the same time, the core work of the trade unions remains the same. Social dialogue will remain the key instrument for trade unions.

Below different tools and actions trade unions can take, are listed per step of HRDD. Under HRDD legislation, companies have an obligation to involve trade unions and to make sure they respect fundamental labour rights. Therefore, involving trade unions in their HRDD offers companies the opportunity to enhance the quality of their HRDD, to make sure it is impactful and even to become a preferred supplier for international buyers. Trade unions should be able to explain this win-win to companies they work with. International buyers also have very clear responsibilities: besides the fact that they need to involve trade unions in their entire value chain, they also need to examine their own purchasing practices (f.e. do they pay a fair price, do they not have unrealistic demands) and they have a shared responsibility to solve possible and actual negative impacts on labour rights in their entire value chain. They cannot push all responsibility up or down the value chain, nor just leave and start sourcing from somewhere else. It is precisely this concept of shared responsibility that offers trade unions the real opportunity to ensure all companies in the entire value chain respect workers' rights and to secure safe and fair employment for their membership.



Step 1 in practice

In the garment sector, where the majority of workers in factories are women, there is a high risk of gender-based violence. That is why the Indonesian textile trade union federation Garteks successfully negotiated for the inclusion of gender-related clauses in 6 Collective Bargaining Agreements (CBAs) and supported in setting up gender committees in multiple factories. Both of these measures ensure that there are better internal policies and procedures on gender-related issues such as sexual harassment, discrimination or menstrual leave.

Step 1: Embedding responsible business conduct into policies and management systems

Companies are required under the UNGPs and the OECD Guidelines to embed respect for human rights, including workers' rights, into their policies and management systems. This applies to companies in production countries and international buyers, and requires input from workers through a constructive dialogue. Trade unions regularly interact with their members, for example in focus groups or when conducting surveys. Thus, as a trade union, you are an indispensable source of information for companies that are required to develop human rights policies and new procedures that are informed by stakeholders and experts. As you are abreast of current issues on the work floor, as a trade union you can:

- Inform foreign buyers on current working conditions and provide input to them, when they are developing policies and procedures on how to respect human rights in their supply chains;
- Participate in developing policies and procedures for companies in producing countries to ensure a better protection of workers' rights at the work floor;
- In particular contribute to the development of internal policies, procedures and regulations on social dialogue, collective bargaining and freedom of association; Communicate and explain to employees and employers about new policies and procedures and how to comply with them or how these policies and procedures influence them.

Trade Union Instrument: Social Dialogue

The consultation between trade unions, employers and governments on socio-economic issues is called social dialogue. Social dialogue includes all forms of negotiation (such as collective bargaining). But consultations and the exchange of information on socio-economic topics are also forms of social dialogue. Social dialogue is a sustainable instrument to improve the quality of work, working conditions, and income through collective agreements at national, sector, and company levels. It allows for joint outcomes between workers and employers in a peaceful, and thus sustainable, way. This requires strong partners on both the employers' and the employees' sides. Dialogue based on respect prevents labour unrest, which in turn promotes the investment climate and sustainable economic and social development. This instrument is useful throughout the six steps of HRDD: it can be used as a way of making agreements on how to cease, prevent or mitigate adverse impacts, but it could for example also be used to discuss how remedy can be provided to workers in the most effective way possible. [Here](#) you can find more information on social dialogue.



Step 2 in practice

As part of the Fair Work Monitor, trade union CONFETRAYD in Nicaragua conducted a risk analysis by distributing a questionnaire on working conditions and living wage to their members. It was filled in by 840 workers. The published results gave CONFETRAYD insights into labour rights and wages within specific companies, giving an insight into some of the negative human rights impacts and risks upstream in the sugar cane supply chain. At the same time, it strengthened CONFETRAYD negotiating position as formal representatives of the workforce during CBA negotiations. As a result, CONFETRAYD negotiated a 9.5% wage increase for all workers in the sugar cane sector in Nicaragua based on the data collected.

Step 2: Identify and assess adverse impacts in operations, supply chains and business relations

To be able to map their entire value chain and all possible negative impacts on human rights, companies need a lot of information. Even though all companies worldwide already should identify their entire supply chain under the UNGPs, it is most likely that due to the upcoming legislation, foreign buyers will more frequently request local companies to cooperate and share their input. Again, trade unions are valuable sources of information because of their connection to the work floor and position in the value chain. In particular, as a trade union you can:

- Support the mapping of the value chain: At this moment, trade unions in sourcing countries are already involved in first broad scoping exercises of companies downstream. Trade unions in producing countries can play an important role in adding more detailed information to these scoping exercises the moment international buyers proceed beyond the first general scoping exercise. By handling raw materials and inputs local trade union members often know the origin of these upstream products. They can also identify buyers through labels and packaging, or by proactively researching this themselves using online tools such as the [Open Supply Hub](#). Trade unions in sourcing countries and in producing countries should thus play complementary roles, working together in the identification of the different value chain actors.
- Identify risks in the value chain: Your members best know about possible negative impacts on workers in their own factory or plantation and can address these impacts through social dialogue. Also, companies worldwide often fail to identify freedom of association or collective bargaining rights as fundamental and enabling human rights. Trade unions worldwide play an important role in raising awareness for the importance of realising these trade union rights.
- Participate in the prioritisation process: Companies cannot address all possible negative impacts at once. Therefore they have to prioritise which negative impacts they will address first before moving on to the next. This is a very precarious exercise, where the severity and likelihood of negative impacts needs to be weighed. This cannot be done without the input of those who are most affected. Trade unions should therefore be involved: because of your daily communication with workers, you know best which issues in factories, mine sites or plantations are the most urgent. If trade unions are not invited by the companies for a prioritisation dialogue, as a trade union you yourself should proactively publicly raise the identified issues. This can be done for example through letters, campaigns, social media or at shareholder meetings.

Trade Union Instrument: CBA Database



CNV Internationaal has developed a new and innovative tool: The Collective Bargaining Agreement (CBA) database. It shows the available CBAs in Kalimantan and Riau and analyses the quality of CBAs and company regulations in accordance with International Labour Organisation (ILO) standards and national laws. A good CBA shows that basic labour rights are being respected and implemented as they are the product of social dialogue between workers and employers. This database is hosted at SPOTT and provides companies, traders, and investors with information on whether a palm oil plantation has a proper CBA in place. Using the CBA database increases transparency and will make it easier to mitigate labour rights risks throughout supply chains. The database not only provides input for the risk identification but can also encourage dialogue to find solutions and by updating regularly serve as an instrument to monitor progress at the production level. As a trade union, you can easily refer to this tool in conversations with companies to give them information on the current CBAs and provide evidence on whether or not this CBA is properly ensuring that basic labour rights are being respected.

Step 3: Cease, prevent or mitigate adverse impacts

When companies encounter possible or actual adverse impacts, they need to cease, prevent or mitigate them. In order to decide which course of action to take, trade unions should always be consulted. In particular, as a trade union you can:

- Act as formal representative of the workforce: When trying to solve labour rights issues, like low salaries or unsafe working conditions, trade unions can negotiate on behalf of their members. These negotiations could lead to Collective Bargaining Agreements (CBA). CBAs are useful, not only because they ensure and safeguard workers' rights, but also because having a CBA is an important indicator for (international) buyers that a potential supplier takes its duty to uphold labour rights seriously. Having a CBA indicates the management of the factory and the workers are engaged in a social dialogue in which (probably) workers' rights are discussed and risks of infringement of these rights are mitigated. Not having a CBA is a red flag for (international) buyers, since this could mean workers' rights are not protected;
- Act as informal representative of the workforce: Trade unions also represent workers (their members) on issues that remain outside of CBAs. When searching for solutions on how to prevent or mitigate negative impacts on the work floor, workers often have very suitable solutions since they know operations best. Also, trade unions can discuss concerns of employers with members or major changes that are about to happen where input of the unions is requested, like large scale redundancies;
- Train workers: As trade unions, you are trusted by your members, and thus in an excellent position to support changes in the company by educating and training staff where necessary. For example, trade unions can train workers on how to use protective equipment to prevent unsafe or unhealthy working conditions, or on how to engage in dialogue with employers;



Trade Union Instrument: Multi-Company Collective Bargaining Agreements (MC-CBAs)

While CBAs are often negotiated on a company level, Multi-Company Collective Bargaining Agreements (MC-CBAs) are collective labour agreements that are developed by several companies in the same sector within a specific geographic region (district/city/region/province). CNV Internationaal has been facilitating these kinds of unique cooperative projects in Indonesia since 2014 and in Vietnam since 2018. They involve trade unions, employers' associations, and public authorities, and they have been set up to support effective social dialogue in the garment sector. MC-CBAs are an efficient way to impact many workers at once. They negotiate for the inclusion of provisions beyond what is encompassed in current legislation and thus significantly improve working conditions for many people. Even though CNV Internationaal plays the crucial role of facilitator, coordinating efforts among various parties, your role as a trade union is indispensable in this process.

- Train local unions: trade union can provide consults, guidance, and training for company level trade unions (including wage negotiations);
- Co-develop projects, programs or initiatives together with employers to promote creativity, innovation, and technical improvements at the workplace. These programs could increase employees' skills which may lead to fewer workplace accidents or other infringements of workers' rights and increased job satisfaction.

Trade unions are not only well connected to the work floor, but also to their confederation, branches and communities.

As a trade union you can:

- Connect companies to other affected stakeholders, represented for example by other civil society organisations, to ensure that all stakeholders are included in development of action plans;
- Link companies to other buyers in the same sector or area, so they can create more joint leverage. This is often necessary in order to cease, mitigate or prevent human rights impacts. This can best be done in conjunction with trade unions from the country of origin of the foreign buyer, who can use their network and presence in for example multi stakeholder fora like the covenants;
- Advocate and lobby for social values and norms related to working conditions with policy makers such as governments or companies. Doing so, governments can create prerequisites for inclusive social dialogue and ensure ratification, implementation and compliance with ILO conventions.

Step 3 in practice

After a long lobbying campaign by the Cambodian Trade Union CLC, a new pension scheme is finally in place in Cambodia. With this new scheme, more than 2 million workers who did not receive any benefits after the age of 60, are now eligible for disability benefits, pension or survivor benefits in case of death. CLC promotes the pension scheme, so that employees are aware of their rights.



Step 4 in practice

Since 2022, as part of the Fair Work Monitor, yearly surveys have been carried out in the garment sector in Cambodia. By collecting data on the same topics throughout the years, progress or lack of progress within the working conditions in garment factories in Cambodia is being monitored. That is how, in 2023, it became clear that the average cost of living for workers had increased drastically and the amount of debt amongst workers had increased as well. This information on the lack of progress was used by the involved trade unions to strengthen their position in the minimum wage negotiations, resulting in a minimum wage increase of USD 3. At the same time, it is being used by CNV Internationaal and the trade unions as evidence in conversations and lobby activities towards brands and multi-stakeholder initiatives to demonstrate the need for improved purchasing practices and prices.

Step 4: Track implementation and results

Companies need to track progress of the implementation of the action plan: did they take the right measures? Should the plan be adjusted? In this process, as a trade union you can:

- Support companies in their monitoring as you are well connected to the workforce. Through informal conversations, focus groups or surveys, trade unions can collect information on the effectiveness of the measures taken or the number of incidents that might still occur. Trade Unions can share this information with the company as input for the monitoring process, and use the information for their negotiation process with the employer;
- Participate in audits: audits are an important instrument for buyers to monitor the performance of factories or plantations on workers' rights. Auditors visit production locations announced as well as un-announced and usually involve interviewing workers. Your members should be prepared to participate in these audits;
- Become a member of a global certification system: Leading standards like RSPO and Bonsucro have different constituencies. As stakeholder engagement is key within a high quality standard, they strongly welcome community and workers representatives. Key is being part of the revision of the Principles and Criteria to make sure labour rights are sufficiently included and audits are done as agreed.
- Share information with local authorities like labour inspections on the numbers of incidents that occur.

Trade Union Instrument: Fair Work Monitor

Data is essential to gather information on the working conditions within factories or on properly, CNV Internationaal has developed the Fair Work Monitor in which data is collected through a digital survey that workers can complete anonymously and voluntarily on their phone, tablet or computer. The monitor provides information on, amongst others, wages, safety, cost of living and overtime – all of which are important for foreign companies to get a better understanding of the human rights risks in their supplier factories. With the support of trade unions themselves, the surveys are carried out each year to ensure that progress can be monitored as well. Not only can you use this data to inform stakeholders in the supply chain about the working conditions in the factories or the progress that is (not) being made following the introduction of HRDD policies, but at the same time you can use it to strengthen your position in social dialogue and minimum wage negotiations.

Step 5: Communicate how impacts are addressed

Companies need to communicate about their due diligence process in a way that is relevant and understandable for different stakeholder groups. As a trade union you can:

- Provide valuable input for general reporting requirements of the company or good practices that local and international companies can use in their communication;
- Facilitate meetings to enable the company to communicate with its employees (your members) whenever important decisions are taken or input is needed. Trade unions can also support companies in making sure this communication is meaningful, that employees are communicated with in a language they understand, they receive necessary information, and are able to understand what is communicated to them;
- Keep members, employers and (international) buyers informed about CBAs, internal regulations or due diligence process results, either directly via meetings or conferences or indirectly through papers, internet and multimedia channels.
- Coordinate the organisation of periodic conferences of employees by conducting social dialogue in accordance with legal regulations, share and summarise lessons learned

Step 5 in practice

When the RSPO standard is updated, companies that are members of RSPO are required to inform all workers on the new procedures and regulations required to comply with the prerequisites of the certification. Plantation management collaborates with the local trade unions to inform, train, share all new Health and Safety rules procedures and materials to ensure safety of their workers. By including the trade unions in this process, it is ensured that the communication is clear, meaningful and accessible to the workers.



Step 6 in practice

In Benin and Niger, trade unions have set up a help desk for complaints around gender-based violence and harassment at work so that they can provide legal assistance and advice to individual members of the trade unions. The help desks are accessible via a free phone line for advice, mediation and assistance. More women are breaking the silence and knocking on the helpdesk trade union COSI for help with violence and harassment at work. The help desks received over 500 telephone enquiries and 135 requests for help in 2022, resulting in 135 women receiving help in Benin and 59 women in Niger. If necessary, they refer to legal or psychological assistance.

Step 6: Provide for or cooperate in remediation when appropriate

When the exact negative impacts are identified, companies need to provide for or cooperate with remedial measures, when applicable. When workers are harmed by a business' activities, their employers should contact them and the trade unions that represent them, to discuss which measures should be taken. Therefore, in step 6, as a trade union you can:

- Support the company in setting up the obligatory grievance mechanism, by providing information on how companies can make sure workers trust the mechanism, if the procedures are fair and understood by the workers, and if the workers know where they can file grievances. Trade Unions can also assist members in filing complaints and monitoring the follow up of the complaint;
- In case of individual grievances, exchange with employers to find out feasible solutions, and provide legal assistance and advice to individual members;
- Hold companies accountable for negative impacts on workers, either by publishing own research, by filing complaints on behalf of workers or as a last resort by taking companies to court.





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