

Human Rights in the Global Supply Chain

The Ethical Maze

AUGUST 2023

Key findings

1

European Parliament approves new rules in draft form (June 2023). EU member states and the European Commission will negotiate to finalise the law. The rules include the ability of the EU to police human rights abuses in global supply chains for every firm with 500 workers and \$162 million in revenue.

2

Supply chain resilience continues to challenge business operators with on, friend and reshoring solutions being increasingly explored to bring supply chains closer to home.

3

76% of CEOs surveyed in the 2023 Supply Chain Barometer¹ expressed anxiety over the ethics in their supply chain and planning to commit more time on resolving issues over the next year.

4

There's no place to hide with a number of high-profile international brands severing ties with countries offering poor workplace conditions and restricted workers' rights.

5

Decarbonising the supply chain isn't always the greenest practice—electric vehicle (EV) batteries being one example where the ethical maze between environmental preservation, mining of minerals and the social impact on the workforce are at odds.

The ethical maze

The interconnected nature of the global economy means that corporations can no longer ignore the social impact of their operations, nor can they afford to neglect the wellbeing of workers contributing to their supply chains. Prioritising human rights and tighter due diligence within the supply chain has become a central component of governance frameworks and a firm expectation with investors, employees and customers.

With regulatory and legislative controls gradually tightening and shareholders becoming more vocal in taking brands (and employers) to task, the risk exposure for CEOs, boards and business owners, irrespective of scale, is becoming increasingly complex. And while supply chain transparency is generally improving, the question remains on whether full transparency can realistically be achieved even with boots on the ground to undertake workplace audits and living wage reviews.

While high-profile consumer brands are taking a visible stand against unacceptable working conditions and exploitative labour practices and issuing statements and publishing reports demonstrating progress being made, in reality, it has done little to move the needle.

Proxima's Supply Chain Barometer 2023² discusses the elevated priority of ethical supply chain practices on the CEOs' agenda, with 76% of CEOs surveyed expressing anxiety over the ethics in their supply chain and planning to commit more time on resolving issues over the next year. Supply chain resilience is also challenging industries and business operators across the board, with on, friend and reshoring being increasingly explored to improve on their current position.

Realistically, regulating supply chains to ensure fair/living wages and acceptable working conditions is an ethical maze. With cases of international business operators outsourcing living wages³ to external initiatives⁴ and transparency challenged by variable employment laws and workers' rights, collective action and partnership are needed to tackle the issue head-on.

De-risking supply chains and delivering visible/measurable evidence that more robust due diligence is in place is only part of the equation. Political change, regulatory enforcement and international co-operation are critical to deliver sustainable, resilient supply chains that on balance, progress is being made, however, there is work still to be done.

The year ahead presents a critical moment to rethink the way economies and industries operate, as attention mounts on the human rights implications of the drive to obtain the commodities critical to renewable energy, green technology and more environmentally sustainable economies.¹

— *Institute for Human Rights and Business (2022)*

This article explores the interconnected risks, challenges and opportunities facing international business operators at a time when supply chain bottlenecks remain and a challenging macroeconomic environment is hampering efforts to meaningfully drive change.



Protest

The global call for change becomes more vocal

Workers took to the streets² across multiple countries in 2023 with International Workers' Day protest marches across Pakistan, Turkey, South Korea, France, Germany, Lebanon, Indonesia and Spain.

The rallying call was wage rises in line with inflation, workers' rights, pension protection and better working conditions. Protests suppressed by the authorities have seen excessive force being used to disperse strike action and illegal orders being issued to prevent workers from gathering.

International brands are facing increased calls by shareholders, employees and activists to look beyond their immediate operations or retail store window and call for contractors, vendors and suppliers connected to their supply chain to adhere to ethical standards and fair working conditions.

Monitoring supply chains for human rights violations is not a straightforward task. Achieving living wages and improved work standards across a global supply is a challenging task with many encountering difficulties in aligning corporate purpose and core values with a co-ordinated approach to set a fair minimum wage.³



Human rights issues hampering the transition to ethical global supply chains

Child labour remains a prevalent concern across industries and regions worldwide. Examples include the cocoa industry, where child labour remains a persistent problem. With an estimated 2.1 million children in West Africa reportedly engaged in hazardous work on cocoa farms,⁴ a number of international brands have faced a significant backlash for child labour within their supply chains.⁵

Modern slavery, including forced labour and human trafficking, is a deeply entrenched issue within many supply chains.⁶

Conflict minerals sourced from regions plagued by armed conflicts and human rights abuses pose significant ethical challenges. The IT and electronics industries have faced growing criticism for their use of conflict minerals, including tantalum, tin, tungsten and gold. In response, a number of global tech giants have implemented stringent supplier requirements and due diligence procedures to ensure responsible sourcing.

Climate change, workplace standards, and ethics are disproportionately affecting indigenous communities and marginalised groups. In 2020, Global Witness⁷ recorded 227 murders of environmental activists protesting against attacks on communities connected to natural resources. The Institute of Human Rights and Business has highlighted areas where government, businesses and industries can address the present challenges. In addition to this, as the coal-fuelled industrial revolution is entering the 'just transition' phase, the community dependent on fossil fuels extraction needs a 'responsible exit.'⁸

Multiple brands exit Myanmar amidst human rights violations

Pressure continues to mount on international fashion retailer, H&M, to sever connections with Myanmar suppliers, following in the footsteps of Inditex, Primark and Marks & Spencer.⁹ The Business and Human Rights Resource Centre (BHRRC) tracked 156 cases of alleged worker abuses between February 2022 and February 2023, up from 56 in the previous year. The claims included reduced wages, unfair dismissal and harassment at work.

Evidence of forced labour in Malaysian solar panel factory

US solar panel manufacturer, First Solar Inc., confirmed reports of unethical practices and human rights violations following an on-site audit of its Malaysian operation. First Solar acknowledged the crystalline silicon supply chain's exposure to forced labour in Xinjiang and reaffirmed its zero-tolerance policy for forced labour.

Race to net zero and the unintended consequences of decarbonisation

The 2023 World Economic Forum Global Risks Report¹¹ highlights the risk of climate change mitigation failure, underscoring the need for collective action and industry-wide transformation to avoid reaching catastrophic tipping points.¹²

However, transition for transition's sake can lead to unintended consequences where people are concerned. The need for a 'just transition' is referenced in the 2015 Paris Agreement and in guidelines by the International Labour Organisation, which aim to help governments, companies and workers 'leverage the process of structural change towards a greener, low-carbon economy, create decent jobs at a large scale and promote social protection'.

In our race to achieve net zero carbon emissions by 2050, many companies are jeopardising success by leaving workers and communities behind. A just transition envisions resilient and thriving workers and communities, existing within the 1.5°C boundaries set out globally in the Paris Agreement.

— *World Benchmarking Alliance's Just Transition Assessment*

One example of where the urgent need to decarbonise is at odds with efforts to improve human rights is in the development of EVs. In the US, it is predicted that by 2040, all new vehicles sold will be electric, with the EU setting an ambitious target of 2035 for new cars and vans.¹³ While the development of EVs will help to reduce CO2 emissions, manufacturing processes require minerals including cobalt, nickel and lithium. Vehicle manufacturers are finding their 'sustainably sourced' mineral credentials being challenged amidst rising claims of unethical workforce conditions.

The Democratic Republic of Congo (DRC) provides around 60% of the world's cobalt, often sourced from poorly regulated mines where child labour and inadequate working conditions are common. Manganese is a relatively inexpensive mineral used for manufacturing EV batteries. While demand for manganese continues on an upward trend and an EV battery market is predicted to grow to US\$99 billion by 2029¹⁴ the cost to the workforce involved with mining and processing a potentially toxic mineral is generally overlooked.

There have been over 200 allegations linked to renewable energy projects during the past decade, according to research undertaken by the Business & Human Rights Resource Centre in 2021. Abuses include land and water grabs, violation of the rights of indigenous communities, and modern slavery.¹⁵

Process

Regulation, legislation, partnership and action—ethical supply chain cornerstones

Implementing tighter due diligence processes and ensuring all suppliers in the chain are fully compliant with local regulations and delivering against human rights performance metrics are helping to improve the process. Coordinated action to motivate tighter regulation

Progress is steadily being made with organisations such as the Global Living Wage Coalition¹⁶ undertaking benchmarking studies to highlight social inequality and regional/industry-specific wage levels to estimate realistic living wage benchmarks.

On 1 June 2023, the European Parliament approved the Corporate Sustainability Due Diligence Directive (CSDDD), making it mandatory for large organisations to carry out human rights due diligence throughout their supply chain.¹⁷ The CSDDD will complement the Corporate Sustainability Reporting Directive (CSRD), which came into force in January 2023 and harmonise existing EU laws on supply chain due diligence.

Scrutiny is deepening. Government supervisors are looking to regulate company and business operator obligations by introducing strict compliance standards and fines and penalties for getting it wrong. The French Duty of Vigilance Law¹⁸ and The Dutch Child Labour Due Diligence Law¹⁹ are two examples amongst others.



Organisations such as the World Benchmarking Alliance²⁰ launched in 2018, benchmark supply chain practices using ‘just transition’ metrics that incentivises business impact towards a sustainable future. Their focus includes reskilling workers to mitigate workforce (and workplace) risks and embedding a commitment to human rights.

Companies must engage in dialogue with local authorities, workers, unions and other stakeholders, with particular attention to vulnerable groups. Companies must anticipate how decarbonisation will affect people and communities and plan accordingly to ensure their fundamental rights are respected, as a part of and while undertaking low-carbon strategies.

— World Benchmarking Alliance, 2023

To ensure a just transition²¹, organisations should take into account international industry standards, regulations and benchmarks, including:

- **United Nations Sustainable Development Goals (SDGs):** The SDGs provide a comprehensive framework for addressing social, economic and environmental challenges. Companies can align their sustainability efforts with relevant SDGs to ensure a holistic approach. Monitoring progress against specific SDG targets can help track the impact of sustainability initiatives. Moreover, over 90% of SDG goals and targets correspond to better human rights standards.
- **OECD Due Diligence Guidance for Responsible Business Conduct:** The OECD provides guidelines for responsible business conduct, including due diligence in global supply chains. The guidance assists companies in identifying and addressing risks, including human rights abuses and environmental impacts, throughout their value chains.²²
- **Global Reporting Initiative (GRI) Standards:** The GRI Standards provide a widely recognised framework for sustainability reporting. By following these standards, organisations can ensure transparency and accountability in reporting their ESG performance.²³
- **EU Regulation:** The European Parliament approved a new rule in June 2023 which requires large enterprises to identify and prevent human rights abuses in their supply chains. The law is expected to be finalised soon and would cover EU as well as foreign companies that operate in the region. While the law is only applicable on EU nations as of now, it can be a catalyst in protecting human rights, including their health, safety and free speech around the world.²⁴
- **The Sustainable Finance Disclosures Regulation (SFDR)** established human rights disclosure requirements in the EU. These rules require investors to publish data about portfolio firms’ compliance with the UNGPs and OECD Guidelines. Additionally, under the Corporate Sustainability Reporting Directive (CSRD), financial and non-financial corporations operating in the EU must report on their Human Rights Due Diligence (HRDD).



Mitigating risk and promoting ethical practices

Where insurance, risk management and workplace wellbeing can play a direct role in driving positive change:

- **De-risking the supply chain:** A supply chain audit is a detailed examination and critique of the end-to-end process from product source through to production and delivery to the end consumer, ensuring full compliance with legal and regulatory obligations across all operating markets. This includes problem-solving for all types of risk and providing business leaders with the necessary framework to develop an appropriate supply chain risk management programme.
- **Supply chain visibility:** Transparency and demonstrated commitment to improvement have become an integral 'insurability' consideration as insurance providers and underwriters place closer scrutiny on reputation risk and social and environmental performance is often integral to D&O insurance liability limits. A number of cases have been reported of insurers refusing to offer cover for offending brands. Transparency remains a challenging agenda for CEOs and brands globally, with the practical issues associated with trying to establish a 100% view of the end-to-end supply chain and local customs and regulations varying between jurisdictions making it harder to level-set benchmarking of fair work conditions.
- **Tighter supplier due diligence:** Conducting compliance-focused due diligence and benchmarking suppliers against ethical expectations, requiring suppliers to submit a detailed human rights compliance questionnaire and monitoring their compliance through regular audits.
- **Partnership:** Collaboration with stakeholders, such as NGOs and industry peers, can help companies gain insights, share best practices and drive systemic change. Engaging with suppliers through capacity-building programmes, training and supplier development initiatives can foster responsible practices and enhance human rights awareness.
- **Contractual clauses:** Contractual obligations that require a supplier to operate within agreed parameters, including open access for their partner to conduct periodic workplace audits to ensure full compliance with expected human rights obligations.
- **Managing weak links in the supply chain:** Taking direct action to improve an individual supplier's ethical performance can help to mitigate interconnected supply chain risk. Ongoing performance monitoring to ensure compliance or severing ties with a consistently underperforming supplier is generally viewed as the next step.
- **Thinking beyond the immediate supply chain:** Broadening the due diligence criteria to include the extended supply chain could be of value in higher-risk, workplace violation-associated industries such as the tech and fashion industries.
- **Local community partnership and engagement:** Building close ties and investing in the local community can help to identify and successfully manage emerging worker and workplace risks, potentially forming part of the broader audit and compliance framework.



Progress

Transparency, reporting and accountability

A growing number of organisations are reporting on their social impact and successes on improving conditions for workers including living wage standards. However, with only 3% of companies surveyed in the 2021 Just Transition Assessment disclosing their decarbonisation plans including the protection of workers, there is still a long way to go until visible progress is made across the board.

International standards continue to play a vital role in bringing necessary regulatory changes to social performance. Several EU nations have enacted or proposed HRDD legislation, including France, Germany, Denmark and the Netherlands. Outside the EU, Australia, Canada, Japan, Norway, Switzerland, the UK and the US have passed or proposed due diligence, supply chain transparency or modern slavery regulations.

Visible implementation of supply chain best practice

- **Nestlé's responsible sourcing of palm oil:** Nestlé implemented a robust responsible sourcing programme for palm oil, working closely with suppliers and NGOs to ensure palm oil production aligns with environmental and social standards, addressing issues such as deforestation, child labour and land rights.
- **Unilever's sustainable tea sourcing:** Unilever has implemented sustainable tea sourcing practices in partnership with the Rainforest Alliance among others. They work closely with tea farmers to promote sustainable agricultural practices, improve livelihoods and protect workers' rights.
- **Ikea's better cotton initiative:** As of September 2015, Ikea has stopped sourcing cotton from the conventional industry. Since then, Ikea has partnered with a leading environment NGO for making more sustainable cotton. Farmers have adopted the sustainable farming techniques from Ikea to grow cotton with less water and chemical fertilizers.
- **Starbucks's C.A.F.E Practices programme:** The Coffee and Farmer Equity (C.A.F.E) Practices programme is a set of guidelines designed to promote sustainable, transparent and profitable coffee growing practices that give good yield and protect the wellbeing of coffee farmers and their families.
- **Adidas** has established a comprehensive sustainability-reporting framework, which includes information on its supply chain and human rights initiatives. Its annual Sustainability Report provides insights into the progress, challenges and future goals relating to responsible sourcing and labour conditions.
- **Outdoor clothing company, Patagonia,** through their 'The Footprint Chronicles' initiative, enables consumers to trace the journey of every Patagonia product from origin to store.³¹ Their supply chain transparency efforts extend to workers, through association with the 'Fair Trade Certified' programme and a premium that transfers straight to the workers. This approach fosters higher wages, incentives for suppliers to create safe working conditions and community development for employees in various regions.
- **Apparel giant Levis** launched their 'Worker Well-Being' initiative, partnering with the Harvard T.H. Chan School of Public Health. This initiative supports the health and family wellbeing, financial empowerment and workforce equality, acting on first-hand experiences given by the workers and have improved the wellbeing of almost 200,000 workers in 118 factories across 16 countries.
- **Tech giant, Apple,** has implemented stringent supply chain expectations, requiring suppliers to sign their 'Supplier Code of Conduct' that explicitly stipulates the need to provide fair working conditions, prevent forced labour and promote safe workplaces. Their Supplier Responsibility programme sets out compliance requirements to meet Apple's ethical standards. Independent third parties conduct regular audits of these suppliers and they're held accountable if any violations are found during the audits.

While the above examples highlight that positive progress is being made to make workers' rights and ethical supply chains more visible and transparent, and much is being done to address worker exploitation and protect vulnerable communities, concerns continue on whether sufficient improvements are being made and initiatives are truly moving the needle.

Legal action continues and the 2022 ITUC Global Rights Index reported record high levels of workers' rights abuse and the erosion of the rights to protest, presenting heightened risk exposure for global brands making every effort to effect positive change which has led to brands choosing to exit markets.



Closing remarks

The social impact of every link in the supply chain needs to be considered with care. Risk mitigation including tighter due diligence on supplier selection and extending the scope to place scrutiny on supplier's partner relationships, is playing an important role in addressing human rights issues and stepping up the visible commitment to positive change.

A growing realisation that local communities are the most likely to experience the impact of supply chain decisions made by international brands, while being the least likely to benefit economically, socially and environmentally, the interconnected flow of risk needs to be fully understood.

To address these challenges, corporate risk managers, supply chain owners, sustainability officers, and key decision-makers must work collaboratively to strengthen due diligence processes. This includes carrying out regular audits and on-the-ground assessments to measure and report on the social and environmental impacts of their international operations.

Although reporting of worker protests and strike action continue to feature in 2023 news headlines, positive progress continues to be made. Legislative and co-ordinated regulatory change is a promising development as is the growing number of brands willing to take stronger action to reinforce their commitment to their supply chain partners. Whether this is truly moving the needle and de-risking the supply chain is open to question.



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Spotlight



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