Good Practice Toolkit:

STRENGTHENING MODERN SLAVERY RESPONSES

UNSW Australian Human Rights Institute | RMIT University Business and Human Rights Centre | The University of Melbourne | Notre Dame Australia University | Human Rights Law Centre | Baptist World Aid | The University of Western Australia | 20 years of Business & Human Rights Resource Centre

Contents

Introduction

This **Good Practice Toolkit** provides guidance for business on how to strengthen responses to the Australian *Modern Slavery Act* (MSA) and how to conduct human rights due diligence. The Toolkit focuses on two areas that have been found to be particularly weak in assessments of business practice:

- **engagement with stakeholders**; and
- **engagement with suppliers**.

The evidence collected during this multi-year research project examining the effectiveness of the MSA and broader studies, shows that when done well, engagement with stakeholders and suppliers is key to combating modern slavery.[1]

The United Nations Guiding Principles on Business and Human Rights (UNGPs) envisage that stakeholder and supplier engagement occur at various stages of human rights due diligence.[2] Business should conform to standards of human rights due diligence. When implemented, human rights due diligence helps businesses identify, prevent, mitigate and account for how they address their adverse human rights impacts. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

In this Toolkit, we highlight examples of good practice that form part of an effective human rights due diligence approach to addressing modern slavery. These examples offer guidance for business, government and civil society who seek to ensure that the changes being implemented ultimately reach workers and change their lives for the better.

Disclaimer: The good practice examples provided in this Toolkit are for illustrative purposes only and not as an endorsement of any given practice or company.

Industrial textile factory
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This Toolkit is the fourth publication in a multi-year collaborative research project between nine academic and civil society organisations. It builds on previous research outputs that include:

- *Paper Promises: Evaluating the Early Impact of Australia's Modern Slavery Act* (February 2022) and *Broken Promises: Two Years of Corporate Reporting under Australia's Modern Slavery Act* (November 2022). These reports examined corporate statements submitted to the Government's Modern Slavery Register by approximately 100 companies sourcing from four sectors with known risks of modern slavery: garments from China, rubber gloves from Malaysia, seafood from Thailand and horticultural produce from Australia.
- *Australia's Modern Slavery Act: Is it Fit for Purpose?* (April 2023). This report revealed the results of a detailed survey of nearly 90 business groups, supported by in-depth focus discussion groups, on the impact of Australia's Modern Slavery Act as well as company approaches to remedying modern slavery in supply chains.

As we noted in our *Broken Promises* report, 'in order to be effective, the MSA must evolve from prompting a paper-driven response, to a people-driven response to tackling modern slavery'.[3] A focus on improving stakeholder and supplier engagement will facilitate that change.

Independent review of Australia's Modern Slavery Act

On 25 May 2023, the Australian Government released an independent report by Professor John McMillan AO on the impact of the MSA in its first three years of operation. The report acknowledged widespread views that *'there is no hard evidence that the Modern Slavery Act in its early years has yet caused meaningful change for people living in conditions of modern slavery.'*

The report made 30 recommendations, including that the MSA should be amended to require reporting entities to have a due diligence system in place that will identify, monitor and address modern slavery risks, and establish penalties for non-compliance.

This Toolkit aims to provide practical assistance to entities as they prepare for anticipated reforms to the MSA. In order to be effective, human rights due diligence systems must be informed by genuine stakeholder engagement. This will help entities to strategically identify and target key risks, and ultimately improve conditions for the people who are at highest risk of exploitation.

1. Stakeholder engagement

AS A CRITICAL ELEMENT OF HUMAN RIGHTS DUE DILIGENCE

Stakeholder engagement must form part of an effective human rights due diligence response. Both the UNGPs and the Guidance to the MSA stress the importance of meaningful and effective engagement by business with stakeholders who have a direct understanding of working conditions and drivers of exploitation on the ground.[4]

Stakeholder engagement should be ongoing and present throughout the different stages of human rights due diligence. Engagement begins with the design of policies and is sustained via ongoing identification and monitoring of the workplace, and at the point of remediation.

It should support and amplify the voices of affected stakeholders, particularly workers. Human rights due diligence requires meaningful consultation between business and stakeholders. Research demonstrates the limited utility of relying on social audits as a primary mechanism to either identify or respond to modern slavery risks. Too often audits are mistakenly seen as a mechanism for 'engaging' with workers, but they should not be seen as a proxy for holistic human rights due diligence.[5]

Businesses should identify and engage with *relevant* stakeholders. Failure to engage with workers, their representatives, and civil society is likely a key reason why the identification of modern slavery incidents was revealed to be so low in our research, pointing to a significant flaw in the practices commonly used by companies.[6] The Guidance to the MSA stresses that 'engagement with key stakeholders, such as at-risk communities or workers' is a key part of remediation.

Guidance on some key elements of effective stakeholder engagement outlined below include:

- Meaningful engagement with workers and their representatives
- Engagement with relevant stakeholders in the design of policies
- Sustained engagement with worker organisations and relevant stakeholders
- Using effective grievance mechanisms as an engagement tool
- Using digital technologies to engage with workers
- Participation in credible multistakeholder schemes

UNGP Principle 18:

> *In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:*
> *(a) Draw on internal and/or independent external human rights expertise;*
> *(b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.*

1.1 Meaningful engagement

WITH WORKERS AND THEIR REPRESENTATIVES

Our 2022 survey of businesses shows that engaging workers and their representatives is the most effective means of ensuring that modern slavery is addressed.[7] However, most businesses do not consult workers at different stages of human rights due diligence, particularly within high-risk supply chains. Workers and their representatives (such as unions or civil society organisations) are best placed to provide up-to-date information on where risks to workers are greatest and the types of risks that workers are experiencing.

In our focus group discussions with business representatives, many participants recognised that businesses were often more concerned with designing policies that minimised *risk to the company* than policies aimed at addressing *risk to workers*.

Effective human rights due diligence practices will:

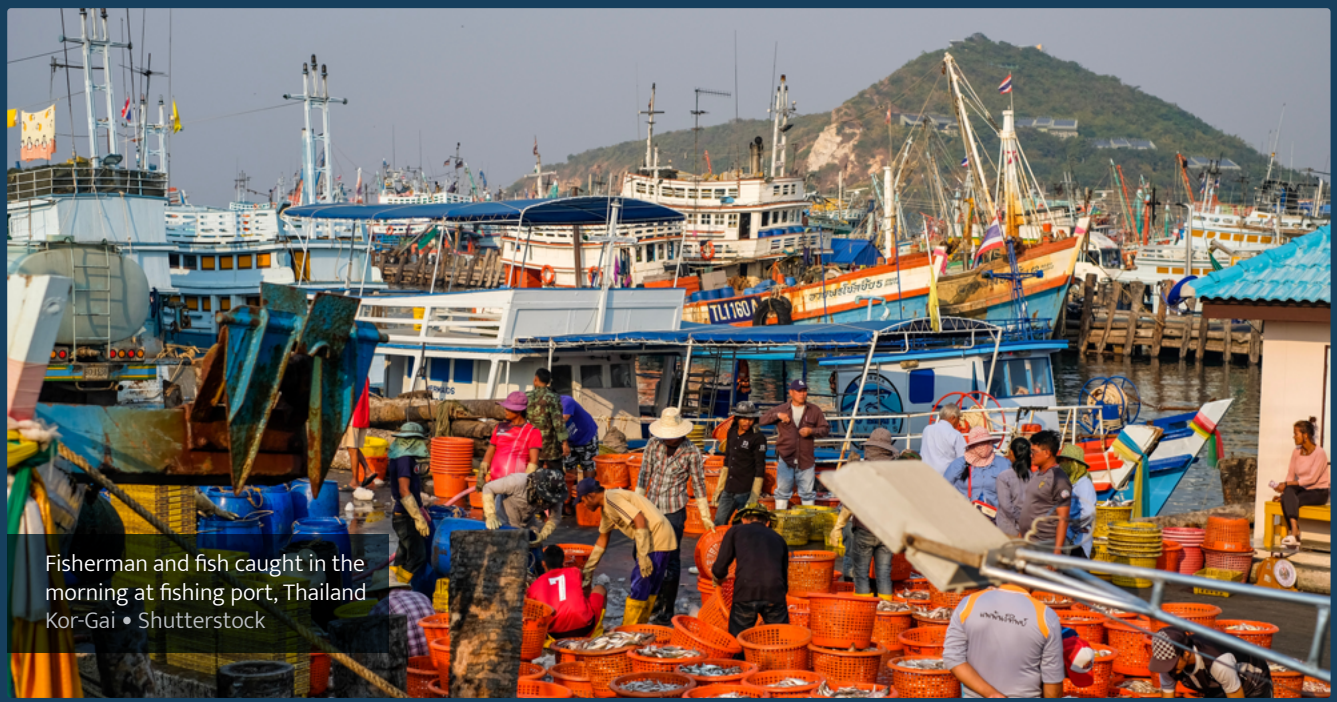
- **Identify local unions, worker organisations and civil society groups** connected to the workplace. It is these stakeholders that will be best placed to have the trust of workers to share their experiences.
- **Consider the context in which these organisations are operating and their ability to speak freely on behalf of workers.** In some countries, because of repression of independent unions, it may be difficult to find an organisation that is able to speak freely on behalf of workers or there may be competing unions – some independent and some allied with employers. Care should be taken to seek out worker organisations that are democratic, representative and can speak on behalf of workers without endangering them.
- **Seek out the opportunity to build more trust-based and collaborative relations** with workers and their representatives. This entails going beyond simply having a policy respecting freedom of association, to actively working with unions and other worker organisations.
- **Be open to implementing different forms of collaboration and assess the credibility of various forms of engagement** which may include:
  - partnerships between business and unions or worker organisations
  - engagement with credible multi-stakeholder systems
  - engagement with worker-led monitoring systems
  - enrolment in state-coordinated sector-wide stakeholder engagement
  - involvement in international organisation-led worker monitoring initiatives
  - business-led consultation and collaboration, particularly in high-risk sectors

Good practice examples:

- **Coles**, a leading supermarket, retail and consumer services chain, states that it hears directly from affected workers and unions in its supply chain through its union partners, and at worker education events. 'It is important to us that we include the voice of affected stakeholders in our improvement process.'[8] In its 2022 Modern Slavery Statement, Coles reported conducting a worker education event that included 'farm workers, suppliers, local representatives, the QLD Labour Hire Authority and community representatives. The session was designed to educate workers about their workplace rights. Multilingual union representatives attended the event to interpret and engage with workers for whom English was not their first language. Attendees used the session to ask questions about topics such as payslips and deductions, as well as changes to the Australian Horticulture Award.'[9]

- **Thai Union** is one of the world's largest seafood processors with a turnover of US$4.4 billion employing predominantly migrant workers. The company acknowledged in 2015 that migrant workers were highly likely to commence their employment with a significant debt burden as they were being recruited through unscrupulous brokers. The seafood industry in Thailand came under intense scrutiny after media exposés highlighted that migrants from Myanmar and Cambodia were working in 'slave-like' conditions).[10] The seafood processing sector employs around 300,000 workers of which two thirds are migrants and a similar proportion are women.[11]

  To address this, Thai Union collaborated with Migrant Workers Rights Network (MWRN – a membership-based organisation for migrant workers from Myanmar residing and working in Thailand) and initiated an 'Ethical Migrant Recruitment policy' in 2016.[12] According to independent research conducted by Impactt, the average cost for the workers prior to implementation of the policy was USD 413 - USD 523.[13] MWRN has also collaborated to strengthen the company's welfare committee system which trains and consults workers about their rights at work. Organisations like MWRN are particularly useful in cross-border work arrangements, even where freedom of association is supported by government.



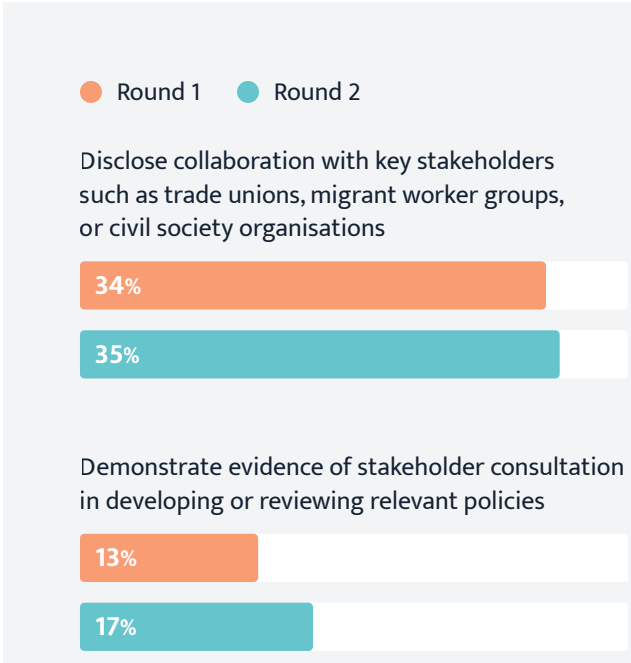
Fisherman and fish caught in the morning at fishing port, Thailand
Kor-Gai • Shutterstock

Good practice example:

Garment firms that source from major garment producing countries can join the **Better Work** initiative which has the advantage of being designed and supported by the International Labour Organization (ILO) and the International Finance Corporation (IFC). It brings together partners from all levels of the garment industry including workers and unions; employers (factories); national governments; development partners; and brands and retailers. The programme is presently active in 1,700 factories employing more than 2.4 million workers in nine countries.[14] The Better Work Programme initiative combines factory compliance assessments with advisory services and training at both factory and industry levels to build capacity, facilitate and strengthen social dialogue. Participants may register to purchase reports for factories registered in Better Work programmes. The programme's effectiveness is demonstrated in improving compliance with core labour standards and national legislation covering contracts, compensation, occupational health and safety, and working time. The programme's large size and scope, however, results in varied implementation across countries and regions; slow decision-making processes; and compromises to reach consensus among all parties involved. The program also faces marked risks in political resistance in countries with low experience in social dialogue; lack of willingness of factories to improve compliance with ILO standards; and the impact of rising production costs on brand's sourcing decisions.[15]

1.2 Engagement with relevant stakeholders in the design of policies

One of the early steps in human rights due diligence, according to the UNGPs, is the development of policies. The UNGPs explain that the responsibility to respect human rights requires that businesses have policies and processes through which they can both know and show that they respect human rights in practice.[16] The UNGPs recommend that meaningful engagement with stakeholders occurs in the formation of those policies. However, our assessment of statements made by reporting entities under the MSA over a two-year period, found only marginal improvements in collaboration with key stakeholders, with less than a fifth consulting stakeholders in the formation of policies.



Source: *Paper Promises* and *Broken Promises* reports

Effective human rights due diligence practices will:

- **Engage with relevant stakeholders in the design of policies so that policies actively target the *specific* pathways to modern slavery** in the sectors and regions where sourcing occurs, such as low wages, recruiting fees, high onsite accommodation costs, people smugglers, or repression of unions. Most firms currently develop *generic* modern slavery policies, and this is why they are failing workers.

- **Take into account how the business's *own practices* exacerbate risks of modern slavery, and how those practices should change.** Such practices include short turnaround times on orders, payment of orders long after the order has been delivered, small or fluctuating orders, and so on. Most businesses currently fail to address their own contributions to supply chain dynamics that lead to modern slavery. In the most recent round of statements assessed in our research, there was a failure to describe risk factors such as low wages, downward cost pressures and lack of independent oversight, with just 8% of companies (up from 6% in the preceding year) disclosing risks regarding lack of freedom of association or union coverage of workers.[17]

- **Focus on the *empowerment* of workers to be able to report modern slavery and other forms of labour exploitation.** Most businesses currently have processes which do not assist workers because they are not easily accessed or workers lack trust in the integrity of the process.

Good practice example:

Veja is a French sneaker company that has adopted a direct sourcing model. It designs its sneakers in France but produces its shoes in Brazil.[18] Veja's direct sourcing of raw materials is critical to their maintenance of high standards and management of production costs. Instead of buying raw materials from agents, they source all core materials directly from producers working directly with 'cooperatives' in the region. This direct sourcing model also has the advantage of enabling full supply chain traceability and leverage over the production conditions. Veja purchases rubber directly from associations of family growers known as cooperatives and works in partnership with Cooperacre, the largest cooperative in the Brazilian state of Acre. To incentivise rubber production, Veja offers a rubber price that is significantly higher than the market price for rubber. The bonus paid by Veja to producers is linked to socio-environmental monitoring to ensure rubber is being produced without advancing deforestation. In partnership with the producer families and cooperatives, in 2020-2021 Veja co-designed and developed a sustainable production protocol that includes a set of socio-environmental criteria, monitoring and evaluation methods and a governance framework to evaluate progress on meeting these targets.

Consultation in the design of policies and business processes can result in substantially new business models. Veja shortened its supply chains in order to maintain transparency and control over quality, working conditions and sustainability standards.

Rubber tapping in the Chico Mendes Reserve in Acre, Brazil for Veja
Justine Nolan

1.3 Sustained engagement

WITH WORKER ORGANISATIONS AND RELEVANT STAKEHOLDERS

Ongoing and sustained collaboration with worker organisations and relevant experts is required to update policies and approaches and identify specific risks to workers. Sustained engagement will ensure that the root causes of workplace issues are addressed rather than just treating the symptoms. Yet, there is little evidence of such ongoing engagement. Many company statements referring to the use of one-off questionnaires or reliance on contractual representations and warranties as their primary means of monitoring, neither of which are reliable forms of effective collaboration.

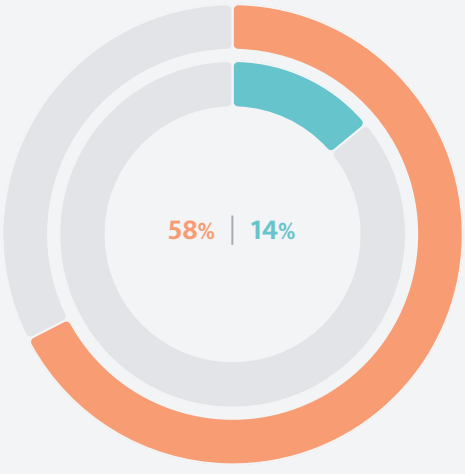
Although 58% of the statements we assessed in the second year of reporting said they supported freedom of association for workers in their supply chains, just 14% provided evidence of the presence of independent trade unions in their operations or supply chains which suggests comprehensive and sustained engagement is lacking.

Effective human rights due diligence practices will:

- **Schedule regular consultation with worker organisations such as unions around working conditions.** This approach is more likely to lead to a partnership approach that engages worker organisations and relevant stakeholders in a manner where they feel comfortable in flagging issues, challenges and developing collaborative solutions to address workplace abuses.
- **Participate in collective agreements with unions to address workplace abuses.** Collective agreements offer a long-term sustainable opportunity to create improvements in the workplace.
- **Support the capacity building of relevant stakeholders.** Business needs well resourced, connected and skilful partnerships to ensure long term improvements and this may involve investment in civil society to support this.
- **Co-operate with other businesses and civil society organisations** to develop creative solutions for long-term employment benefits, particularly for vulnerable workers and victim-survivors.

Percentage of second round statements that...

- Reported they supported freedom of association for workers in their supply chain
- Provided evidence of the presence of independent trade unions in their operation or supply chains



Source: *Broken Promises* report

Good practice examples:

- **Kathmandu**, a travel and adventure brand, involves workers and unions in regularly auditing suppliers. While social and ethical audits are conducted every two years (with requirements of union involvement in opening and closing meetings), these are just one of the methods by which Kathmandu conducts its due diligence. It also conducts anonymous worker surveys, seeks to incorporate worker voice through mobile technology including real-time feedback on worker wellbeing, social media-based grievance mechanisms, and ongoing relationships with local partners such as NGOs or other trusted contacts with local knowledge. However, union engagement can be challenging due to the absence of independent unions in some supplier countries, such as China, as identified in Kathmandu's 2021 statement.[19]

- **Marshalls PLC** in the UK is a landscaping, building and roofing products business with global supply chains.[20] Marshalls PLC is one of the business members of 'Bright Future', an independent co-operative set up to fast-track survivors of modern slavery into secure employment.[21] Bright Future's members include businesses who provide job opportunities and placements, and charities who refer survivors into the programme. By 2019, Bright Future had 28 charity partners, 20 business partners, had received 95 referrals, had facilitated 26 work placements, and 20 candidates had been offered permanent positions.[22]

1.4 Engagement of workers through grievance mechanisms

A key aspect of human rights due diligence is the **remediation of grievances**. A grievance is understood to be an actual or perceived injustice that has been experienced by an individual or group. For our purposes, a grievance mechanism is a routinised process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought. Operational-level grievance mechanisms both support the identification of adverse human rights impacts as a part of an enterprise's ongoing human rights due diligence, and once identified, allow grievances to be addressed and for adverse impacts to be remediated early and directly by the business enterprise, thereby preventing harms from compounding and grievances from escalating.[23] It also allows the business to analyse data and trends to tackle issues in a more systemic way.

Company-led grievance mechanisms are not an equal substitute for genuine empowerment of workers to uphold their rights themselves. No grievance mechanism can ever be a replacement for workers being able to join or form their own associations to defend and uphold their rights. Noting this, however, what follows provides guidance for the design and operation of such company-led responses.

Effective human rights due diligence practices will:

- **Involve workers and their representatives in the co-design of grievance mechanisms.** Our analysis of the second round of reporting under the MSA, showed that only around 4% of businesses described how potential or actual users were engaged on the development of the grievance mechanism.

- **Deploy a range of techniques to ensure a grievance mechanism is supplemented by other processes.** Our survey evidence showed that trade union engagement is far more effective than simply the existence of a grievance mechanism or auditing to identify and address harms. It is essential to view a grievance mechanism as one tool, rather than the complete tool box, in addressing labour exploitation.

Many workplaces in higher risk industries have multiple posters advertising the complaint hotlines of buyers, yet these hotlines may not be used, even where there are well-evidenced breaches of labour standards. The likelihood of the use of such hotlines increases when additional steps are taken, such as training, additional information and support by worker representatives.

- **Identify the barriers to vulnerable workers accessing grievance mechanisms.** Workers who are at highest risk of modern slavery are often multiple steps removed – in second, third or even sixth tiers of supply chains, and geographically remote. Such workers generally do not speak English, and may speak lesser-known languages. Such barriers necessitate additional action and efforts to reach vulnerable workers.

- **Be transparent about reported grievances and responses to them.** While the majority (82%) of reporting entities we reviewed under the MSA report having some form of grievance mechanism or whistleblower hotline,[24] only 40% provided details about their mechanism in the second round of reporting under the MSA.[25] Details could include, for example, the number of complaints received, the nature of those complaints (in a manner that respects confidentiality and worker safety considerations), and any follow-up actions taken to investigate and/or remediate substantiated complaints.

Good practice example:

Kathmandu's grievance mechanism is anonymous and accessible to workers in their own language and on their own phone through social media platforms such as WeChat in China and Zalo in Vietnam that enable them to connect directly with Kathmandu CSR.[26] This increases the accessibility of remediation to these workers. It is committed to providing full compensation to workers for harms they have caused or contributed to.

Machine in industrial textile factory
Kevin Limbri • Unsplash

1.5 Using digital technologies to engage with workers

A range of digital technologies are now commonly used to detect and address modern slavery, including social media, apps, blockchain and different forms of remote surveillance, including satellites and CCTV. While web-based applications, such as social media, are most commonly used, followed by apps, other forms of digital technology are proving useful for human rights due diligence, including blockchain and remote surveillance.

Different technologies are useful for addressing different problems. Both social media and apps can assist with detection and information provision. Apps are used to enable workers to provide (often anonymous) input on working conditions, and to gather worker data so that companies might better understand specific issues or complaints and others offer a more holistic 'survey approach'. Blockchain can help to trace provenance and protect against the tampering of records. Remote surveillance, such as satellite imagery, assists in detecting 'hidden' forms of modern slavery in remote locations such as fisheries, artisanal mines and farms, while CCTV and biometric scanning have been used to check hours of work and monitor management.

Effective human rights due diligence practices will:

- **Identify the gap or barrier to the implementation of effective human rights due diligence** processes and adopt the digital technology that best addresses that problem.
- **Avoid tech-based approaches falling into the same trap as social audits, being brand-driven not worker-driven.** Technology may be a useful supplement for gaining insight into working conditions, but much depends on the tool's accessibility and uptake (trustworthiness) among users.
- **Ensure users' security**, holistically taking into account human rights risks such as privacy, safety and freedom from retaliation for workers that report on their conditions.
- **Be most effective when combined with the face-to-face contact** with workers so vital to facilitating a connection between them and those attempting to uncover and address workplace problems.

Construction worker using mobile phone
Savo Ilic • Shutterstock

Good practice example:

NXP Semiconductors (NXP),[27] headquartered in the Netherlands manufactures semiconductors for the automotive, digital networking and secure identification industries, with manufacturing sites in Malaysia, Thailand, Singapore, China, Taiwan, USA and the Netherlands. It uses a hotline and a worker-voice app. NXP's 'Speak Up' hotline enables employees and supply chain workers to report violations of NXP's Code of Conduct. Including supply chain workers is key as they are often at higher risk of modern slavery. Workers receive a business card with non-retaliation information, a local toll-free number, and email address; the cards are translated into different languages for migrant workers. The hotline is managed by a third-party and anonymous reports are passed to the legal department of NXP for investigation and resolution.

NXP recognised the need to improve grievance mechanisms, so in addition to the hotline, they developed a tool for operational-level grievances. Site visits confirmed that workers use smart phones. They developed an app called 'WOVO' and piloted it at the Kuala Lumpur manufacturing site for greater access to grievance processes, particularly for migrant workers who are highly vulnerable to modern slavery. 95% of workers at the pilot site have downloaded the app. NXP note that a high level of commitment is required to ensure that the app is implemented effectively to ensure timely and appropriate responses and maintain trust. Assessing *whether* vulnerable workers are engaging with existing tools and understanding *how* vulnerable workers best engage (e.g. considering language needs, anonymity, access to smartphones) is key to an effective grievance mechanism.

Workers on electronics production line
Pixparts • Shutterstock

1.5.1 Digital tools: strengths and weaknesses

In this table, we explore the strengths and weaknesses of four categories of applications of digital technology and provide pro tips for adopting each type.

↓ Social media	↓ App	↓ Blockchain	↓ Remote surveillance
Benefits			
⊕ **Detection:** (known as social listening) analyse social media for complaints by workers of bad working conditions on social media ⊕ **Information provision:** share information about worker rights and other services ⊕ **Support:** advertise services and grievance mechanisms	⊕ **Detection:** conduct worker surveys via apps, for large response rates and validity ⊕ **Information provision:** share information about worker rights and other services ⊕ **Prevention:** Recruit directly, eliminating recruitment fees ⊕ **Remediation:** complaint lodgment by workers	⊕ **Detection:** trace provenance of goods (e.g. minerals) to production/extraction points (e.g. mines) ⊕ **Prevention:** Smart contracts can store employment contracts and supplier contracts across supply chains	⊕ **Detection:** harness biometrics (eg facial recognition) to record and monitor working hours, and CCTV to monitor labour abuses; in the fishing industry, satellite image analysis shows vessel movement and fishing activity at each site to estimate work hours
Drawbacks			
⊗ Mistrust due to misinformation common social media ⊗ Privacy concerns	⊗ Use more data and storage than workers have available on phones ⊗ Low usage rates unless incentivised ⊗ Mistrust ⊗ Failure of reports of modern slavery to result in business action	⊗ Expensive and carbon emitting (depending on the servers and technology) ⊗ Resources are required to collect the data, and relevant expertise is required to process the data onto the blockchain, so does not overcome problems of worker fear, reporting, etc.	⊗ Still requires on-the-ground communication with workers and investigation ⊗ Access to satellite images is expensive ⊗ Privacy concerns
Pro tips			
✓ Sharing information with workers about their rights via social media that they already use is more effective than developing a new app	✓ Provide face-to-face training to workers on how to use apps ✓ Work with local worker groups to promote apps and support workers to use	✓ Only use blockchain where the problem is clearly one blockchain can address, otherwise there are cheaper solutions	✓ Develop machine learning to analyse large volumes of data
Examples			
◇ OFWwatch ◇ Job-seeking websites, forums, Facebook pages, YouTube channels, and Yelp and Google reviews are used by workers	◇ Golden Dreams: ◇ Labour Link ◇ FairWork Ombudsman Record my Hours app	◇ Blockchain Solution to address Worker Right Challenges ◇ Minespider ◇ Irespond	◇ Establishing Person-Centered Decent Labor Policies in Distant Water Fisheries

1.6 Participating in credible multistakeholder schemes

For long term prevention and systemic change, it will often be useful and efficient for business to engage with credible multi-stakeholder schemes. Multistakeholder schemes which involve a mix of stakeholders can assist in addressing business and human rights challenges. In order to be both credible and effective they should include representation from workers and affected communities. If critical stakeholders are not involved the scheme may lack legitimacy and the expertise to work effectively.

Effective human rights due diligence practices will:

- **Encourage collaboration and joint problem solving in a multistakeholder environment.** Best practice is to seek input from a variety of stakeholders and resist the temptation of just working within a 'safe space' with business peers.
- **Ensure the multistakeholder platform prioritises and is informed by worker experience.** Often workers are more of an afterthought than an integral part of the process, yet workers remain the best monitors of their own workplace.
- **Provide transparent and verified data to facilitate sustainable sector wide improvements.** The potential efficiencies provided by a multistakeholder platform will be undercut if information gathered is neither transparent nor verified. While there are now a multitude of multistakeholder and certification systems claiming to address modern slavery, not all are credible. Indeed, many are a form of 'blue washing'. Those which do not entail worker-led monitoring and involve legitimate worker organisations fail to empower workers and cannot effectively combat modern slavery.

Good practice example:

The **Fair Food Program** is now in operation in more than 90 percent of Florida's $650 million tomato industry.[28] Prior to the development of the program, workplace abuses – including forced labour, sexual harassment and wage underpayment – were widespread. This worker driven model of social responsibility has dramatically improved workplace conditions and ensures workers play an integral and leading role in designing workplace codes of conduct. The enforcement system is driven by workers, including: a grievance procedure with easy access for workers and an efficient response to worker complaints; worker education, so that workers themselves can be the 24-hour monitors needed to ensure compliance.[29] The benefit of joining such a program for business is that they can avoid the costs and difficulties of establishing a new process. Unlike initiatives that are business-led and more top-down, worker led programs such as Fair Food, are more supportive of worker empowerment. Thus, business can be more certain of gaining accurate information about working conditions in supply chains and resolving grievances.

Good practice examples:

- **Electronics Watch** is an independent monitoring organisation that uses worker driven monitoring to address labour issues in the electronics sector.[30] It collaborates with civil society organisations in electronics production regions with expertise in labour rights. Electronics Watch has played a key role in advancing understanding of what constitutes adequate remediation. In 2019, following three years of worker driven monitoring, Electronics Watch (along with its partner, MWRN) was successful in securing full compensation from Cal Comp for excessive recruitment fees paid by 10,570 migrant workers.[31] Working with expert civil society groups, Electronics Watch is able to harness their expertise to document workplace violations and seek redress. MWRN, a membership-based organisation for migrant workers from Myanmar residing and working in Thailand, is on the ground near workers' communities and has insight into daily working conditions.

- The **Cleaning Accountability Framework** (CAF) provides for certification, worker engagement and remediation in the cleaning industry. It is a multi-stakeholder initiative to address labour standards non-compliance in the commercial real estate cleaning industry, which has long suffered from underpayment, poor working conditions, and exploitation. CAF brings together building owners, cleaning companies, the union representing cleaners – the United Workers Union, cleaners themselves, and other industry stakeholders.[32] Worker engagement is a key aspect of CAF's approach, as it seeks to involve cleaning workers in the process of identifying and rectifying labour violations.

  A key component of CAF's process is conducting independent audits. These audits involve engaging with cleaners at worker engagement meetings and collecting information on their working conditions and pay via a survey. This direct engagement with workers helps to uncover labour violations and ensures that workers have a voice. CAF works closely with the trade union to ensure that workers' interests are represented in decision-making processes. This allows the trade union to advocate for their members in the context of CAF's certification and remediation efforts. CAF has identified and addressed numerous cases of labour standards non-compliance.[33] Cleaners have played a vital role in this process. Despite the successes in engaging workers and improving labour conditions, CAF faces challenges in achieving industry-wide impact due to its voluntary nature, and there remains substantial resistance among actors in the cleaning supply chain to meaningfully address non-compliance and labour exploitation.

Cleaners using a flat wet-mop and machine
Tanasan Sungkaew • Shutterstock

2. Supplier engagement

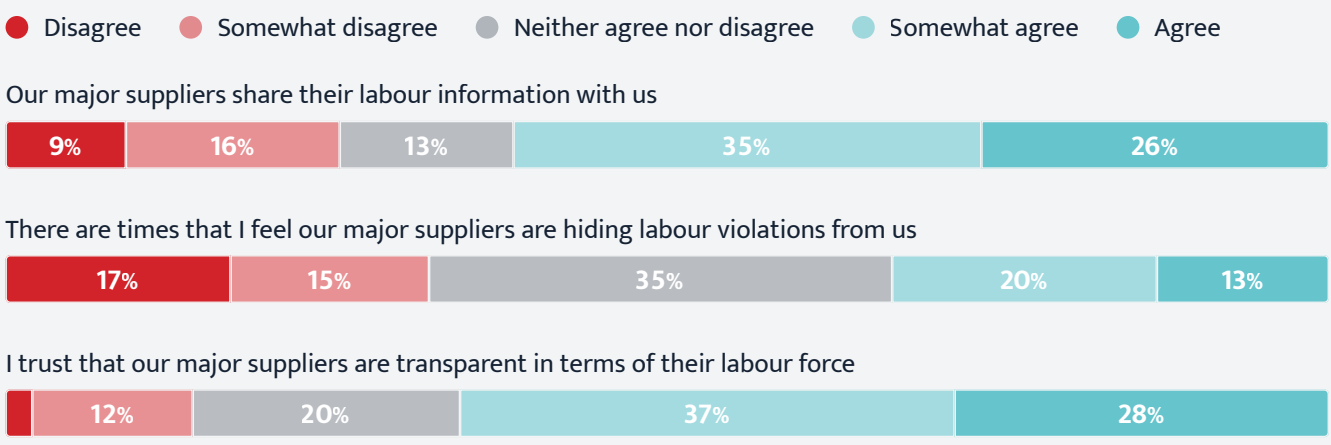
AS A CRITICAL ELEMENT OF HUMAN RIGHTS DUE DILIGENCE

Engaging with suppliers in a meaningful manner is a critical aspect of lifting labour standards across supply chains and driving a 'race to the top' in company performance. Effective human rights due diligence practices require sustained and meaningful engagement with suppliers. The UNGPs note that business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties, such as suppliers. Modern slavery often occurs in smaller businesses that supply goods and services or in informally subcontracted suppliers. It is for this reason that the most effective way for large Australian companies to address it is to engage with their suppliers.

However, engagement with suppliers is commonly 'top-down' and lacks collaboration and capacity building. It may be limited to engagement with only those suppliers with whom the company has a direct relationship and suppliers within a company's broader value chain are often overlooked. Companies are, in many cases, simply shifting responsibility for modern slavery via contract clauses onto those deeper in the supply chain, rather than providing support to assist suppliers to do better. Recent research highlights the need for international buyers to invest in sustainable supplier relationships and not to 'run away' when human rights abuses come to light in supply chains.[34] Data shows that business is struggling with engagement with suppliers in a variety of ways. Our 2022 survey data described a failure of suppliers to share information about labour conditions breaches or being honest about labour issues and multiple barriers to engagement with suppliers.

Guidance on some key elements of effective supplier engagement outlined below include:

- Prioritisation of suppliers with demonstrated respect for human rights
- Working in partnership with suppliers in designing and communicating expectations
- Demonstrating sustained engagement with suppliers



2.1 Prioritisation of suppliers with demonstrated respect for human rights

Prioritisation of suppliers should take into account a demonstrated respect for human rights. The UNGPs recommend that human rights due diligence should be initiated as early as possible in the development of a new activity or relationship. Human rights risks can be mitigated at the stage of tendering and structuring contracts or other agreements. This can be as simple as prioritising suppliers who respect human rights by requiring robust evidence of such respect and giving such respect increased weighting in tendering processes.

Effective human rights due diligence practices will:

- **Prioritise suppliers that demonstrate sustained respect for human rights.** Currently, only 26% of Australian companies undertake human rights due diligence on new suppliers as part of their selection processes.

Good practice example:

Lendlease is a large global company in the construction sector. This industry is considered high risk due to the complex and fragmented supply chains which encompass both product and services. According to its 2022 MS statement, Lendlease has 12,200 active suppliers.[35] They provide a detailed account of how they implement due diligence in their supply chains and assess risks for sourcing services such as cleaning, general maintenance, and security as well as sourcing items such as concrete, steel, hydraulics and plastering. This includes how they have implemented a supply chain audit program and a case study of its effectiveness with one large contractor The Exchange TRX from Malaysia.[36] Lendlease engaged Bureau Veritas and performance was assessed against the Ethical Trade Initiative Base code so that it conformed to local laws and a structured methodology for reviewing documents, site visits and interviews of employees and management was followed. The key outcomes included improving processes for onboarding migrant site workers, providing documentation in native language and providing relevant training to migrant workers around modern slavery risks.

Workers under sunlight
Rahul Kashyap • Unsplash

Good practice example:

Country Road is an apparel, accessories and homewares retailer which involves its Ethical Sourcing Team into supplier and factory engagement from the onset, as part of conducting human rights due diligence pre-screening. In its 2021/22 MSA statement, an example is given of a situation where there was a commercial need to quickly onboard a supplier for a new product range.[37] A decision was made not to proceed with a particular factory because there was insufficient time to verify that it could meet its ethical sourcing standards based on its lack of previous audits. This demonstrates a prioritisation of 'better suppliers' based on respect for human rights alongside cost and technical considerations. Pre-screening and rigorous tendering processes can be an effective way of combatting modern slavery.

2.2 Working in partnership with suppliers

IN DESIGNING AND COMMUNICATING EXPECTATIONS

The evidence shows that Australian businesses are not yet effectively communicating their expectations concerning modern slavery to their suppliers. UNGP 16 stipulates that as part of their responsibility to respect human rights, business enterprises should outline the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services such as direct suppliers. It should ensure that such expectations are both publicly available and communicated to such business partners and suppliers.

Our assessment of the second round of reporting under the MSA showed that 65% of Australian companies analysed had policies that set out their expectations of how suppliers and business partners should address modern slavery risks.[38] Though this is a high proportion of companies, it is not clear that policies are being communicated effectively. Around 18% legally required their suppliers to cascade modern slavery standards down their own supply chains,[39] and a further 32% set a non-binding expectation to this effect according to our assessment of statements.

Effective human rights due diligence practices will:

- **Ensure suppliers are engaged in the co-design and implementation of policies.** If not, expectations may be unrealistic and incapable of being implemented, making them 'paper tigers'.
- **Move beyond simply sharing policies, and conduct supplier training on human rights due diligence.** Supplier training has been shown to be the most effective action to achieve effective remediation. Survey evidence shows that only around 39% of Australian businesses frequently or always train their suppliers.
- **Work collaboratively with industry peers, worker organisations, civil society and human rights experts to develop more efficient 'one stop shop' supplier platforms that provide transparent information.** As one focus group participant noted: 'A lot of issues come from suppliers being spread too thin, because they're having to comply with so many things that in reality they're not out to do the wrong thing. They themselves are just not resourced to keep up with the businesses' requirements.'

Good practice examples:

- **Outland Denim** was founded in 2018 and is a purpose driven company – 'denim to end poverty'. It employs women who have been victims of exploitation, slavery, or domestic violence.[40] Around 80% of their workforce are women from vulnerable backgrounds predominantly working in their manufacturing facilities in Kampong Cham province in Cambodia. Outland Denim focuses on extensive training for its employees and having a vertically integrated supply chain. The training provided by Outland Denim is multi-faceted in nature including trauma counselling to ensure that the women are work ready. Their NGO partner, International Justice Mission also runs anti-trafficking workshops for their suppliers to educate them on due diligence and modern slavery. They integrate training around technical skills such as cutting and sewing but more importantly focus on training that ensures their financial literacy. Training on critical aspects such as health education, sanitation, self-defence and career progression is also integrated and customized to the workforce.[41] Their efforts extend into the lower tiers of their supply chain and their Sag Salim program, implemented in their supplier farms in Turkey, aims to support some of the most vulnerable workers at the bottom of the cotton supply chain. Working closely with one of their primary suppliers, Outland Denim designed a responsive outreach program that involves workers in identifying workplace hazards and builds collaboration with other brands to reduce exploitation and build a more sustainable human rights focused supply chain.

- **The Property Council of Australia** in collaboration with property companies, Informed 365 and industry experts including Better Sydney, has developed a common platform for suppliers to input information about the actions they are taking to identify and address modern slavery risks. Suppliers complete a single questionnaire that is accessible through an online dashboard, enabling Property Council members to collect, compare and share data. This industry collaboration facilitates greater efficiency for suppliers and reduces their administrative burden to report. The platform is free for suppliers and the number of questions they must respond to is driven by the size of organisation and assessed potential of their risk of posing harm to people. The platform is designed to be a learning experience that includes information about topics such as grievance mechanisms and it may also encourage information exchange among businesses to share lessons learned in working with specific suppliers and the veracity and transparency of the information received.[42] The suppliers can choose to share their responses with all the current platform partners or just with specific companies. The platform also provides suppliers with a Continuous Improvement Pathway setting out areas for improvement over time and providing them with relevant resources. Like any self-assessment tool, the information provided in response to supplier questionnaires should be only one source of identifying risk and not the sole source of information, as self-assessment naturally involves a degree of bias and lacks the integrity of a third-party assessment.

Cotton growing and cleaning industry, Central Asia
sky-lord • Shutterstock

2.3 Demonstrating sustained engagement with suppliers

Engagement not only includes training, but supporting suppliers in other ways. Regular engagement with suppliers is low, with our research showing that **only 1 in 4 companies provide examples** of how they proactively work with suppliers to build capacity.[43]

Effective human rights due diligence practices will:

- **Avoid immediately terminating a relationship when labour abuses are suspected or detected** but invest time in investigating the cause of the problem. Prioritization does not mean ending relationships with suppliers when modern slavery is identified, as this will only lead to further hardship for workers.
- **Reward practices that demonstrate respect for human rights.** This may include committing to longer term contracts to demonstrate stability and trust with the supplier and providing preferential contracting to trusted suppliers.
- **Encourage information sharing and transparency.** Shining a light on both poor and good practices is essential to educating ourselves as to how to strengthen responses to modern slavery. Our research indicates that information sharing when a labour incident occurs between suppliers and brands is often ad hoc and sporadic.

Good practice example:

In their 2022 modern slavery statement, Australian retail group **Woolworths** revealed the identification of forced labour in one of their Malaysian suppliers.[44] Investigations indicated the presence of 'debt bondage, excessive overtime, retention of identity documents, restriction of movement, and withholding wages including penalties for leaving employment or bonds for workers to return to their home country'.[45] Woolworths reported working with its supplier and a local NGO to ensure repayment of recruitment fees to migrant workers and instigate changes for improved working conditions. The company has prioritised suppler engagement and capacity building for a two-year period to monitor changes in procedures and practices.

Manual checking of tarocco oranges in the carriage of a modern production line
Marco Ossino • Shutterstock

Conclusion

A worker in a textile factory in Xinjiang Province, China
Epel • Shutterstock

This Toolkit highlights the critical role of effective human rights due diligence in mitigating the risk of modern slavery in supply chains and responding to incidents of modern slavery. Sustained engagement with workers and suppliers is a critical component of effective human rights due diligence. We have provided many good practice examples which include implementing worker engagement programs and engaging with suppliers on a sustained basis. Yet, the work doesn't stop there. While there has been progress in some areas, more collaboration, transparency, and ongoing improvements are needed to collectively work towards the eradication of modern slavery in all business operations and supply chains.

Several key observations inform our understanding of best practices and areas for further improvement.

- **A robust and systematic approach to human rights due diligence is essential.** Worker engagement is a key part of this, allowing businesses to gain reliable and up-to-date insights into working conditions. It is crucial to create open lines of communication, promote worker-led grievance mechanisms, leverage technology for monitoring and reporting, and engage with credible multi-stakeholder initiatives to assess and uphold human rights standards.
- **Supplier engagement serves as a critical element in combating modern slavery.** Collaborating and partnering with suppliers rather than simply policing them is key. Rewarding practices that respect human rights, and promoting information sharing and transparency are also good practice. There is a significant opportunity for businesses to improve by prioritising such suppliers, conducting due diligence pre-screening, implementing rigorous tendering processes, promoting clear communication of modern slavery policies, and engaging with suppliers on a sustained basis.

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20 YEARS OF Business & Human Rights Resource Centre

About us: This report is the fourth publication issued as part a multi-year collaborative research project by academics and civil society organisations aimed at improving responses to modern slavery and access to remedy for affected workers.

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Cover image: Malaysian builder under blue sky by Jay Ee • Unsplash.

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