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# Closing the gap

EVIDENCE FOR EFFECTIVE HUMAN RIGHTS  
DUE DILIGENCE FROM FIVE YEARS MEASURING  
COMPANY EFFORTS TO ADDRESS FORCED LABOUR

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# FOREWORD

Human rights and environmental due diligence for companies is a concept that has come of age in Europe. In 2021, we have new due diligence laws in place in Germany and Norway, which build on the existing French Duty of Vigilance Law. Due diligence laws are under consideration also in Austria, Netherlands, Belgium, Finland and Luxembourg. The European Commission's own Sustainable Corporate Governance directive is of immense importance in setting a Europe-wide legal framework for due diligence. The European Parliament has clearly stated the high level of ambition and the urgent need for bringing about sustainable business conduct for Europe and across the global value chains.

This report provides new evidence and analysis to underpin the design of **effective** due diligence. The report should demand extra attention as it assesses business's due diligence conduct in perhaps the most egregious cases of labour rights abuse: forced labour and human trafficking, focusing on three high-risk sectors: ICT, food and beverage, and apparel and footwear.

The lessons drawn from this data across nine benchmarks spanning over five years are of vital importance. They serve to highlight that sustainable corporate governance rules in themselves are not a panacea. Their effectiveness in promoting human rights and environmental regeneration in business operations and in companies' global value chains depends greatly on their design and on their implementation.

The report's findings on the current state of business due diligence are very telling: over a third of companies in these high-risk sectors do not show any evidence that they are **assessing human rights risk**; and four out of five provide no evidence they are **adopting responsible purchasing practices** to mitigate the risk of forced labour in their supply chains. The glacial progress over five years also highlights the need for governments and parliaments to insist on action through laws, regulations and business incentives. A systemic transition is not possible through voluntary guidance. But there is also good news: a small but growing group of leading companies demonstrate the determination and wit to increasingly address these risks, to prevent contributing to the misery and indignity of workers held in forced labour.

The report's recommendations underscore the need for rigour and determination in the design of new laws and regulations – whether due diligence or import controls. Lessons are drawn from corporate best practice, the labour movement's experience, alongside failed half-measures. These all emphasise the need for design that avoids the failed model of 'compliance' through administrative list-ticking by companies. Instead, we must insist that companies actively seek out and mitigate their salient social and environmental risks through effective engagement with key stakeholders such as workers and communities.



**Heidi Hautala**

Vice-President of the European Parliament

A handwritten signature in blue ink, appearing to read 'Heidi Hautala', written in a cursive style.

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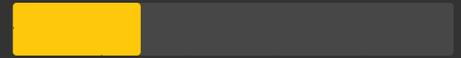
# EXECUTIVE SUMMARY

Momentum is growing for mandatory human rights and environmental due diligence (mHREDD), with companies and investors lining up alongside civil society, workers, governments and unions to call for effective laws to oversee rights protections. Delays to the EU's legislative proposal for mHREDD, which will signal a step-change for corporate human rights, must be used to ensure an ambitious standard is set with tangible impacts for workers. Regulatory developments on mHREDD, coupled with import bans on goods produced using forced labour, are on the rise globally.<sup>1</sup> Governments and regional bodies are increasingly recognising non-negotiable standards are a must.

Voluntary efforts to eliminate forced labour from global supply chains are failing. A decade after the introduction of the UN Guiding Principles on Business and Human Rights (UNGPs), most of the world's largest companies have yet to implement even baseline human rights due diligence. On average, even companies in high-risk sectors like information and communications technology (ICT), food and beverage, and apparel and footwear score a mere **29% for their human rights due diligence efforts** in KnowTheChain's latest benchmarks. Modern slavery acts and their forced labour reporting requirements have not brought the change they promised and have proven largely ineffective in addressing egregious labour abuses in global supply chains. In contrast, due diligence requirements linked to penalties, such as the US Customs and Border Protection's seizure of goods connected to forced labour, have brought rapid transformation in high-risk sectors and geographies.

This report provides new evidence of the urgent need for voluntary action to be strengthened with robust regulatory requirements for companies to identify human rights risks and prevent abuse. It also underlines the key elements of effective regulation to ensure due diligence does not become just another administrative 'box-ticking' exercise by companies.

29/100



average score for due diligence efforts among companies assessed by KnowTheChain



# Key findings

## Human rights due diligence – the state of play

KnowTheChain benchmarks how companies implement policies and practices to eliminate one of the most egregious human rights abuses: forced labour. Over the past five years, we have assessed the efforts of the largest companies in the highest-risk sectors to prevent forced labour in their supply chains against a methodology based on the UNGPs. This report brings together evidence from nine separate KnowTheChain benchmarks to provide a broad assessment of the current rigour and effectiveness of these companies' due diligence actions.

KnowTheChain's data reveals companies are failing to introduce human rights due diligence processes to identify and prevent forced labour in global supply chains. Among the cohort of 129 global companies in the ICT, food and beverage, and apparel and footwear sectors benchmarked by KnowTheChain, we have recorded a tendency towards written policy which is not effectively implemented through practices such as engagement with workers and their legitimate representatives, responsible purchasing practices, or effective grievance mechanisms throughout supply chain tiers. Of particular note across these three high-risk sectors:

Over a third of benchmarked companies (36%), including US ICT companies **Analog Devices**, **Broadcom**, and **Lam Research**, are yet to provide evidence they are carrying out **human rights risk assessments** of their supply chains – an important component of an effective human rights due diligence process – and only 9% of companies report including workers in their assessment of risk.

The vast majority (81%) of benchmarked companies do not provide data evidencing the adoption of **responsible purchasing practices**, such as fair payment terms, or reasonable lead times for suppliers. Among them are European luxury brands **Capri Holdings** and **LVMH**.

Three in 10 (29%) benchmarked companies, including Asian food and beverage companies **Aeon**, **Seven & i** and **WH Group**, do not provide evidence a **grievance mechanism** is made available for suppliers' workers to report labour rights abuses and 93% do not disclose including workers in their design or operation to ensure they are trusted by workers and operate effectively.

Only two companies (**Adidas** and **Lululemon**) stand out as having advanced steps and implementing increasingly effective policy to eliminate forced labour. These companies demonstrate strong commitment and effort to eliminate forced labour, demonstrating this is both achievable and commercially viable.

## Limited progress

KnowTheChain data exposes the slow rate of progress on due diligence efforts by the world's largest companies operating in the highest-risk sectors for forced labour. Of the 56 companies we assessed three times over the course of five years,<sup>2</sup> a quarter (25%) still do not report carrying out the baseline step of conducting a **human rights risk assessment** of their supply chains. Nearly half (45%) of these companies have yet to disclose even **first-tier supplier lists**, and 64% still do not report **engaging with stakeholders on forced labour**, such as trade unions, local NGOs or policy-makers in countries where their suppliers operate.

The efforts of many companies benchmarked by KnowTheChain appear to be stagnant in areas which are critical for improving conditions: the adoption of responsible purchasing practices and ensuring respect for workers' right to organise. Sixty-eight percent of companies do not disclose even the crucial step of adopting **responsible purchasing practices**, including planning and forecasting.

Efforts to address forced labour provide a significant litmus test: if companies cannot identify and eliminate one of the most egregious forms of abuse, there is little chance for the broader human rights agenda. So far, companies are failing this test. Exploitation stubbornly persists in global supply chains, with an estimated 16 million people trapped in forced labour in the private sector and evidence suggesting higher levels of exploitation than ever before. The impacts of the COVID-19 pandemic have only exacerbated vulnerabilities and suffering.

Poor average company scores and sustained presence of abuse in supply chains highlight the need for regulation with both liability and penalty to enforce effective human rights due diligence, centred on meeting workers' needs. Such an approach must include meaningful and safe stakeholder engagement throughout. Human rights due diligence processes should include engagement with rightsholders, such as worker representatives, in the identification of actual and potential risk as well as in the remediation process, so that harm can be prevented and addressed. In engaging with workers, risks of retaliation should be considered, as should the implications of existing restrictions on workers' rights.

Change is coming, as indicated by global momentum towards greater regulation of companies' human rights efforts. Governments are stepping in where companies have failed to act and are requiring companies to initiate steps to protect workers, as evidenced by recent legislative developments in Canada, France, Germany, the Netherlands and Norway. The latest development in this trajectory is the EU's legislative mHREDD proposal, which has the potential to be a global game-changer. Policy-makers have a golden opportunity to shape corporate responses to forced labour and so initiate the change needed to bring greater equality to workers in global supply chains and transform the way companies and markets operate worldwide.

Using KnowTheChain's five years of evidence measuring company efforts to address forced labour, in this briefing we provide legislators and others seeking to drive change with a step-by-step guide on essential elements for an effective approach to corporate human rights due diligence; one which puts workers at the centre of a process designed to create genuine change.

## RECOMMENDATIONS TO GOVERNMENTS

As a minimum, it is essential that any mHREDD legislation requires:

| Transparency of companies' supply chains, including lower tiers.

| Meaningful and safe stakeholder engagement with rightsholders, including workers, in the design, implementation and evaluation of the due diligence process.

| Outcomes for workers which go beyond a "tick box" compliance approach, including mandatory requirements compelling companies to address irresponsible business models by implementing responsible purchasing practices and ensuring workers' rights to freedom of association and collective bargaining are protected.

| Human rights due diligence be carried out across companies' whole supply chains, focusing on identified salient risks.

| A strong civil liability regime to hold companies accountable and ensure access to remedy for workers.



# CONTEXT

Reporting measures to address forced labour risks, such as those in existence in California, the UK and Australia, have failed to address the root causes of worker exploitation. At the same time, they have generated a slew of company reporting focused on policy rather than the implementation of effective measures more likely to lead to improved conditions for workers. With its narrow focus on modern slavery, much compliance-based reporting has also resulted in a lack of focus on other commonly experienced labour abuses which can themselves lead to conditions of forced labour if left unchecked. Reporting measures have failed to provide adequate protection for workers, and abuses persist across sectors and regions, from Qatar's hotel sector to the Pacific tuna fishing industry. Mandatory due diligence measures can address the accountability gap left in the wake of reporting requirements by creating legally binding obligations on companies, along with robust liability provisions to ensure they are enforced.

Policy-makers must act to ensure the social audit industry, which has come under scrutiny for its role in perpetuating human rights abuses in supply chains, is not used as a “safe harbour” by companies to protect themselves from a failure to carry out effective due diligence. To this end, an effective mHREDD approach must require companies to surpass audit-focused measures and include a close examination of the impacts of companies' own practices.

The impacts of the COVID-19 pandemic have worsened conditions for many workers in global supply chains. During the pandemic, some companies employed harmful practices and used force majeure clauses to further avoid their responsibilities to suppliers and workers in their supply chains. The pandemic has further emphasised the need for legal requirements compelling companies to incorporate human rights due diligence into their procurement practices and act with responsibility.

## KnowTheChain: Evidence-based insights on human rights due diligence

KnowTheChain's data on companies operating in the sectors at highest risk of forced labour provides critical guidance for what is required to establish an effective mHREDD approach. As legislators in the EU and around the world are framing new laws on mHREDD, KnowTheChain evidence sets a baseline for what such laws should require of companies if forced labour is to be effectively addressed.

KnowTheChain has been tracking and benchmarking efforts by the world's largest companies to address forced labour risks in their supply chains for five years.<sup>3</sup> Most recently, in the 2020/2021 benchmark series, KnowTheChain assessed **129 companies**, measuring not only what due diligence processes companies have in place, but how those processes are being implemented in practice – and whether this translates into positive outcomes for workers.<sup>4</sup> Our data, which focuses on companies operating in sectors with a high risk of forced labour – ICT, food and beverage, and apparel and footwear – provides critical guidance for policy-makers, companies and investors alike on what is required to establish effective corporate human rights due diligence and end abuse in global supply chains.



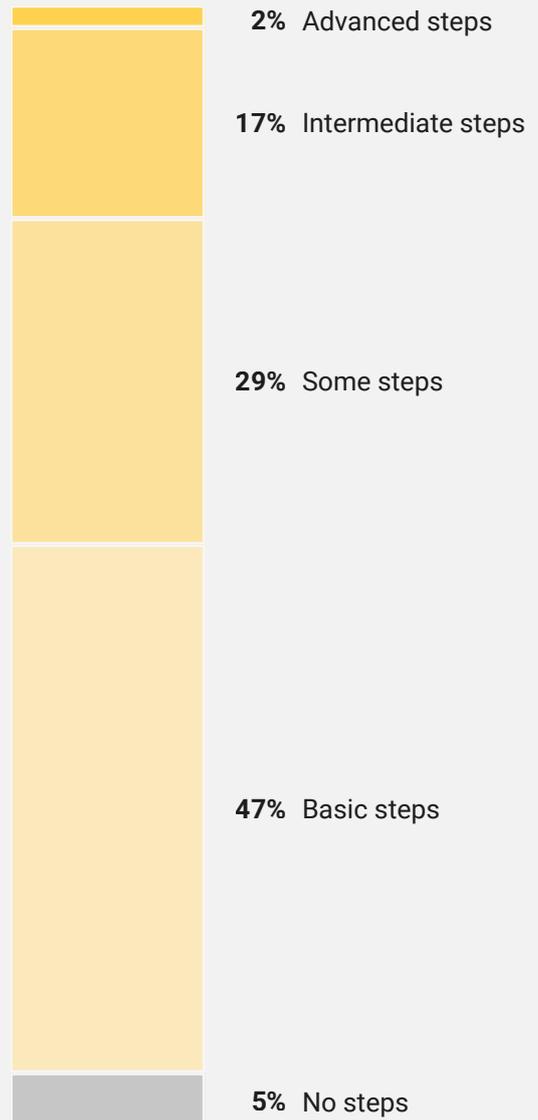
# DUE DILIGENCE PERFORMANCE: LESSONS FROM OUR DATA

Across the 129 companies assessed by KnowTheChain, the average score for due diligence efforts is a mere **29/100**.<sup>5</sup> Additionally, 52% of companies score below 25/100 on their due diligence efforts. Our data evidences slow progress in companies' human rights due diligence efforts and highlights a lack of preparedness for upcoming legislation. While the regulatory environment has been voluntary, most companies have simply failed to introduce effective human rights due diligence and, of those which have, year-on-year improvements have been too slow.

## Glacial rate of change in corporate due diligence efforts

The evidence reveals insufficient numbers of companies are taking action and introducing human rights due diligence. Even fewer are implementing human rights due diligence in an effective way that will bring about positive outcomes for workers. Only 15% of the companies we benchmark reported including workers in due diligence processes, whether in risk assessment, design or performance of grievance mechanisms, or monitoring. Over the last five years, companies' efforts to strengthen their approaches to human rights due diligence have been slow:

## 2020–2021 DUE DILIGENCE PERFORMANCE



Nearly half (45%) of companies assessed since 2016 have yet to disclose even **first-tier supplier lists**.

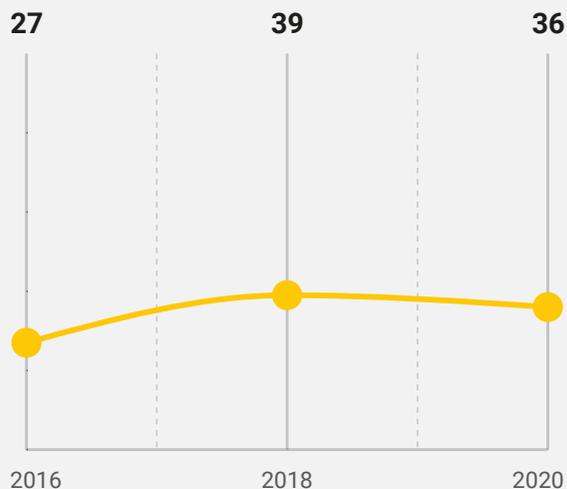
Two-thirds (64%) of companies assessed since 2016 still do not disclose **engaging with stakeholders on forced labour** – such as trade unions, local NGOs, or policy makers in countries in which their suppliers operate.

A quarter (25%) of companies assessed since 2016 still do not report carrying out the baseline step of conducting a **human rights risk assessment** of their supply chains as part of their broader HRDD process.

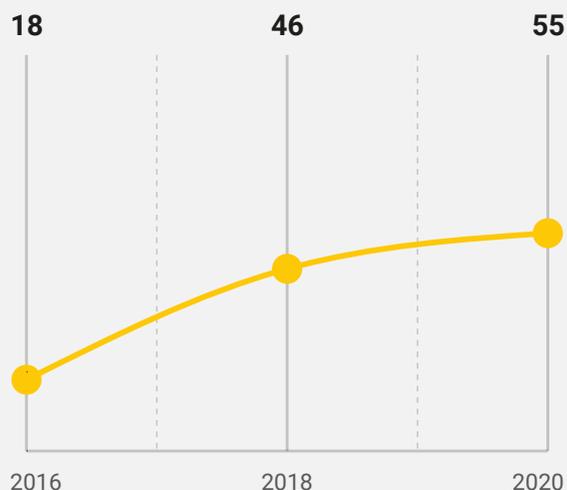
These steps are basic prerequisites for companies to develop a human rights due diligence approach to effectively identify and assess risks. It is concerning that, when assessing progress over the last five years, improvements either drop or taper off over time (as illustrated in the graphics to the right). It is equally troubling that the percentage of companies disclosing these baseline steps remains low overall. Regulation must introduce non-negotiable minimum standards to push companies beyond basic processes and compel effective due diligence.



### PERCENTAGE OF COMPANIES ENGAGING WITH STAKEHOLDERS ON FORCED LABOUR OVER TIME



### PERCENTAGE OF COMPANIES DISCLOSING A FIRST-TIER SUPPLIER LIST OVER TIME





# ESSENTIAL ELEMENTS OF AN EFFECTIVE MHREDD APPROACH

## Traceability and supply chain transparency

Stakeholders should be able to access “**truthful and complete**” information. This includes **transparency** on the full list of the countries from which a company sources, so they can connect companies to the abuses faced by workers in their supply chains. The role of law in mandating company action on due diligence is to level the playing field in company action regardless of sector. For example, mandatory reporting requirements for ICT companies’ sourcing of conflict minerals places them far ahead of other sectors in their disclosure of the information on **suppliers below the first tier**. Similar visibility should be required across the board in other sectors.

Effective due diligence requires companies to understand risk factors felt most acutely by workers facing abuses such as discrimination, recruitment fee payment, and restrictions on the rights to freedom of association and collective bargaining. It is vital for companies’ efforts to understand risks that they have an **overview of the workers** who make up their supply chain workforce. This would include information on gender and migrant ratios in the workforce, as well as the level of unionisation per supplier. Such information is necessary in order for companies to take appropriate action to address specific risks present in different contexts and among different groups of workers.

Our benchmark data reveals there are still significant gaps in companies’ visibility over their supply chains. This suggests many are not prepared to begin identifying the risks and labour rights abuses that may be present in their supply chains.

## Subcontracting:

In the apparel sector, there are significant risks associated with **unauthorised subcontracting**. The greater awareness companies have of their supply chains, the more these risks can be reduced. A better practice example is provided by US-headquartered apparel company **VF**, which discloses the names and addresses of its first-tier suppliers and their subcontractors, as well as some data on its third- and fourth-tier suppliers and its sourcing countries for rubber, wool and cotton. However, 81% of benchmarked companies do not disclose a detailed second-tier supplier list. Considering the inherent risks of the subcontracting model on which the apparel sector is based, it is concerning that only 14% of benchmarked companies include subcontractors in their supplier lists. This visibility gap creates distance between the abuses faced by workers and the accountability of companies for creating conditions in which labour abuses thrive. This makes it difficult for worker groups and civil society organisations to identify and hold companies accountable for harm.



## BASELINE REQUIREMENTS FOR MHREDD LEGISLATION

- Disclose supplier lists including for the lower tiers of their supply chains;
- Disclose the sourcing countries of high-risk commodities or raw materials to demonstrate that they can “know and show” where their raw materials come from and are aware of associated risks;
- Disclose data on composition of supply chain workforce which demonstrates that companies know who is making their products and understand the risks they face.

## GAPS IN PERFORMANCE OF COMPANIES ASSESSED BY KTC

- 62%** do not disclose **first-tier supplier lists** with names and addresses of suppliers
- 51%** do not disclose **countries of suppliers** below the first tier
- 44%** do not disclose **sourcing countries of raw materials** (at least three raw materials)
- 69%** do not disclose data on **the demographics of their supply chain workforce**

## Risk assessment and stakeholder engagement

The evaluation of **potential risks to workers**, as well as **actual impacts**, through human rights risk assessments should consider the spectrum of risk factors and abuses leading to forced labour. Risk assessment processes should also include engagement with local stakeholders, labour rights experts and, crucially, workers themselves if risks are to be effectively identified. Processes may entail assessing risks associated with specific raw materials, regions, or groups of workers, such as migrant workers. They should also focus on identifying restrictions to workers' right to organise in production locations which impact workers' ability to raise grievances and bargain for better conditions. Power inequalities at play between companies and workers cannot be addressed without first ensuring worker engagement and the inclusion of grassroots and **worker-led approaches** in risk assessment processes to enable the exercise of workers' collective power.

Our assessment of company efforts across our three benchmarked sectors reveals companies are more likely to disclose they carry out human rights risk assessments than disclose the actual risks present, particularly when it comes to risks in lower tiers.

Our data reveals a notable lack of engagement with local stakeholders in sourcing countries, particularly with local worker rights organisations or unions. This is a significant red flag: lack of engagement indicates companies are not adequately incorporating the interests of workers into vital processes which affect them.

## BASELINE REQUIREMENTS FOR MHREDD LEGISLATION

- Conduct a thorough human rights risk assessment throughout all tiers of their supply chains;
- Undertake meaningful stakeholder engagement throughout the entire process of risk assessment;
- Demonstrate the positive impact and outcomes of their engagement.

## GAPS IN PERFORMANCE OF COMPANIES ASSESSED BY KTC

- 36%** do not disclose conducting **human rights risk assessments** as part of their overall HRDD approach
- 55%** do not disclose **forced labour risks** identified
- 72%** do not disclose an example of **engaging with stakeholders** such as policy makers, worker rights organisations, or local NGOs on forced labour in local sourcing contexts
- 63%** do not disclose ensuring relevant **stakeholders engage with and educate supply chain workers** on their labour rights
- 94%** do not disclose **evidence of the positive impact** of worker engagement<sup>6</sup>
- 89%** do not disclose **worker engagement initiatives**

## 2020–2021 COMPANY RISK ASSESSEMENT ON SUPPLY CHAINS

Companies which state carrying out risk assessment



64%

Companies which include workers in risk assessment



9%

### What about worker involvement?

Overall, across sectors, the level at which companies say they are carrying out human rights risk assessments stands in stark contrast to the number of companies which **include workers in the risk assessment process**. While 64% of companies disclose conducting a human rights risk assessment of their supply chains, the vast majority (91%) do not include workers in their risk assessment process – indicating a significant absence of worker voices and perspectives in identifying the conditions faced by workers themselves.

### Worker-driven monitoring

An alternative to the model of social auditing is worker-driven monitoring. This approach is based on worker participation and ensuring workers are fully engaged in monitoring processes. It recognises workers themselves have the best knowledge of potential risks and impacts on the ground. As such, workers should play an essential role in assessing risks, monitoring supplier performance and designing grievance mechanisms. The [Worker-Driven Social Responsibility Model](#) demonstrates the positive impact of programmes where workers and worker organisations are the driving force (as creators, monitors and enforcers) on wages and working conditions. However, across the high-risk sectors we assess, there is a stark absence of worker-led due diligence processes:

In the ICT sector, no companies are disclosing efforts to provide for worker-driven monitoring in their supply chains;

Two companies in the food and beverage sector have disclosed the use of worker-driven monitoring;

One company in the apparel and footwear sector, **H&M**, discloses it is part of a global framework agreement through which it has set up national monitoring committees in multiple sourcing countries. These committees include union representatives and aim to enable workers to raise issues in areas such as wage revision, discrimination and harassment, freedom of association and collective bargaining, and working hours.

# Responsible purchasing practices and freedom of association

**Responsible purchasing practices** like prompt payment, accurate forecasting and reasonable lead times are a baseline necessity for responsible business. Without such practices, companies are at risk of creating conditions which **make it difficult or impossible for suppliers to comply** with supply chain policies on human rights and working conditions.

For companies' due diligence processes to be effective, they should address risks identified in their assessment processes by making requisite changes to their own practices to ensure workers' rights can be respected going forward.

**HP** provides a notable example, disclosing that it supported its suppliers to improve their forecasting ability and to track working hours more accurately. It stated that by increasing lead times with one final assembly supplier and improving communication, workers are now assigned eight-hour shifts instead of 12-hour shifts.

It is necessary for companies to implement and disclose data on responsible purchasing practices. Such practices would include planning and forecasting, and fair payment terms to ensure workers are being paid and to make it possible for suppliers to achieve a living wage for workers.

## BASELINE REQUIREMENTS FOR MHREDD LEGISLATION

Adopt responsible purchasing practices (such as prompt payment, accurate forecasting and reasonable lead times), so as to ensure they are not contributing to harm in their supply chains;

Engage with local or global trade unions to support freedom of association and collective bargaining in supply chains;

Join enforceable labour rights agreements with unions which apply to their supply chains.

## GAPS IN PERFORMANCE OF COMPANIES ASSESSED BY KTC

**68%** do not disclose adopting responsible purchasing practices in the first tier of their supply chains, including **planning and forecasting**

**81%** do not disclose any evidence demonstrating that they have **responsible purchasing practices**

**90%** do not disclose that they are party to a global framework agreement or **enforceable supply chain labour rights agreement** covering their supply chains

**79%** do not disclose that they **work with independent local or global trade unions** to support freedom of association in their supply chains

**89%** do not disclose any examples of how they improved **freedom of association and collective bargaining** for their suppliers' workers

Similarly, freedom of association and collective bargaining are enabling rights for supply chain workers which better position workers to achieve their demands collectively. Further, the presence of ample evidence that voluntary efforts to respect and facilitate collective bargaining fail workers is indicative of the need for binding and enforceable agreements between unions, suppliers and companies to ensure workers' needs become a primary touchpoint of the way companies do business.

Freedom of association and collective bargaining are **fundamental enabling rights** which allow workers to challenge abusive conditions and bargain for better wages. Formal agreements between companies and trade unions are also an important step in companies' due diligence processes, creating legally binding obligations to ensure they act on risks to workers' rights.

While many companies demonstrate some awareness of the impact their purchasing practices may have on working conditions in their supply chains, only a small minority are integrating and acting on this impact by making changes to their purchasing practices. Moreover, efforts to support freedom of association in companies' supply chains continue to lag. Regulation must compel companies to progress in these key areas where KnowTheChain benchmark data reveals persistently limited change.



## Worker-oriented grievance mechanisms

Grievance mechanisms that are available to, trusted and used by supply chain workers and their legitimate representatives play a central role in the identification of risk and are, as the UNGPs make clear, a necessary instrument to ensure workers have **access to remedy**. To show that workers are aware of, know how to use, and trust a grievance mechanism, companies must demonstrate their effectiveness by disclosing data on their usage, in both the first tier and lower tiers of their supply chains. Companies should engage workers in the design, implementation and monitoring of grievance mechanisms to ensure they have a trusted mechanism, and as an important aspect of the Worker-driven Social Responsibility model.

While many companies now make grievance mechanisms available to workers in their supply chains, far fewer can demonstrate mechanisms are used or trusted by workers.



## BASELINE REQUIREMENTS FOR MHREDD LEGISLATION

- Establish effective grievance mechanisms for supply chain workers and their legitimate representatives, in both the first-tier and lower tiers of supply chains;
- Disclose quality data on the use of grievance mechanisms;
- Ensure that workers or their legitimate representatives are involved in the design, implementation and operation of grievance mechanisms.

## GAPS IN PERFORMANCE OF COMPANIES ASSESSED BY KTC

- 29%** do not disclose having a **grievance mechanism** that is available to suppliers' workers
- 77%** do not provide **evidence of the practical operation** of the mechanism
- 54%** do not disclose steps to ensure the existence of the mechanism is **communicated to its suppliers' workers**
- 88%** do not have evidence that grievance mechanisms are **available to, and used by, workers below the first tier**

## 2020–2021 COMPANY GRIEVANCE MECHANISMS

Do not disclose having a grievance mechanism available to suppliers' workers

29%

Do not provide evidence of the practical operation of the mechanism

77%

Do not have evidence that grievance mechanisms are available to workers below the first tier

88%

### Including workers in the design or performance of grievance mechanisms

Workers should play an integral part in assessing risks in companies' supply chains, including being **involved in the design and operation of grievance mechanisms** to help ensure resulting mechanisms are trusted by intended users. Only **8/129 companies** across the three sectors we assess disclose taking steps to ensure suppliers' workers or their legitimate representatives are involved in the design or performance of the mechanism.

As a notable example, **Walmart** is a member of the Fair Food Program, which provides farm workers with access to a complaint mechanism under which complaints are investigated and resolved. Under this mechanism, whenever possible, complaint resolutions include an educational component, consisting of meetings with relevant supervisors and crews, so that all workers on the farm can see complaints are heard and resolved without retaliation.



# CONCLUSIONS

Drawing on KnowTheChain data, it is evident 'business as usual' is no longer an option if we are to eliminate forced labour. Progress on forced labour amongst the majority of KnowTheChain benchmarked companies is occurring at a glacial rate. If the world's largest companies are not acting to address forced labour, then regulators must act to insist companies and their suppliers introduce measures to protect workers worldwide.

The limitations of transparency legislation as a tool for addressing forced labour in global supply chains are now apparent and a more exacting approach is required to insist on effective action to prevent abuse: mHREDD. Companies must go beyond cosmetic measures and over-reliance on social auditing. They must address their own purchasing practices, support freedom of association in their supply chains and fully consult with stakeholders, including expert local organisations and workers. Workers should be central to companies' due diligence processes if these are to be effective.

With growing legislative calls around the world for greater regulation of companies' approaches to human rights, it is time for policy-makers to act decisively with compelling new laws. Those companies failing to strengthen their approaches and adopt worker-orientated processes will soon find themselves on the wrong side of history legally as well as morally.

New laws mandating human rights due diligence must, at a minimum, embody the following principles to ensure corporate approaches to due diligence are adequately framed:

**Traceability and supply chain transparency:** Companies must be required to disclose supplier lists including lower tiers of their supply chains to ensure they can "know and show" their supply chains.

**Risk assessment and stakeholder engagement:** Companies must be required to take a risk-based approach, as opposed to a compliance or audit-based approach, to understanding their salient human rights risks and take decisive action to mitigate or eliminate them. A risk-based approach should take into account a company's whole supply chain, as some of the most severe forced labour risks may exist in the **lower tiers** of global supply chains. Effective due diligence should be **worker-centric**, i.e. based on worker engagement and participation. Such an approach presents the most reliable information on conditions faced by workers so that companies can assess and make changes to their practices.

**Responsible purchasing practices and freedom of association:** Legislation should ensure companies address their own contribution to harm, including examining whether their own purchasing practices are contributing to harm in their supply chains, as well as providing evidence of the adoption of responsible purchasing practices and ensuring workers' rights to freedom of association and collective bargaining are protected.

**Worker-oriented grievance mechanisms:** Companies must be required to have effective grievance mechanisms in place, both as a means to identify human rights abuses taking place in their supply chains and to ensure workers have access to remedy. Companies should include worker representatives in the design and operation of such mechanisms and disclose data to demonstrate usage by supply chain workers.



# RECOMMENDATIONS

## For governments

- Introduce robust and effective mHREDD that requires:
  - Transparency** of companies' supply chains, including lower tiers.
  - Meaningful and safe stakeholder engagement**, including with workers. This engagement should inform all stages of the due diligence process and should address retaliation risks for rightsholders.
  - Outcomes for workers**, going beyond a "tick box" compliance approach: including mandatory requirements compelling companies to address irresponsible business models, by implementing responsible purchasing practices and ensuring that workers' rights to freedom of association and collective bargaining are protected.
  - Human rights due diligence to be carried out across companies' whole supply chains.
  - A strong **civil liability** regime to hold companies accountable and ensure **access to remedy** for workers.
- Facilitate an approach whereby companies collaborate across industries and regions to investigate and remediate human rights abuses in their shared suppliers and global supply chains.
- Employ bans on the import of goods linked to suspected use of forced labour, until importers can demonstrate they are free from abuse.
- Undertake capacity-building and awareness-raising, such as by publishing comprehensive human rights due diligence guidance for companies operating in high-risk contexts.
- Publish annually-updated lists of goods which are at high risk of being produced using forced labour.
- Ensure public contracts are awarded only to companies which are able to demonstrate effective human rights due diligence and remediation processes.

## For companies

Conduct robust worker-centric human rights due diligence with strong stakeholder engagement, involving workers in risk assessment processes, the design and operation of grievance mechanisms, and worker-driven monitoring.

Disclose supplier lists beyond the first tier.

Use human rights due diligence findings to inform and develop responsible purchasing practices to mitigate human rights risks. This should ensure the rights to freedom of association and collective bargaining of supply chain workers are protected, and achieve decent work and a living wage for workers.

Use their influence and resources to support mHREDD legislative processes and other efforts by policy-makers to level the playing field in business.

## For investors

When deciding to invest in individual companies, assess whether potential investee companies have in place appropriate human rights policy commitments, due diligence processes which include addressing forced labour risks, and grievance mechanisms.

Review portfolio companies' human rights due diligence processes to inform their view on the effectiveness of managing forced labour risks.

Engage with companies on how they are ensuring workers are effectively consulted throughout their human rights due diligence processes, such as in the assessment and monitoring of forced labour risks, and the involvement of workers in the design or performance of grievance mechanisms.

Engage with workers and their representatives and directly engage portfolio companies regarding allegations of forced labour and other labour rights abuses.

Support human rights due diligence resolutions and/or vote (at annual general meetings) against management of companies that consistently fail to demonstrate respect for human rights in supply chains.

# ENDNOTES

- 1 Import bans on goods produced using forced labour have been in place in the US since 2016, Canada since 2020, and are under consideration at a regional level in the EU. The Australian Senate has also passed a bill banning imports made using forced labour. Further, the UK government announced steps including monetary sanctions against companies failing to ensure that they do not source products made using forced labour.
- 2 This refers to 56 companies benchmarked in 2016, 2018, and 2020/2021.
- 3 Companies are assessed against a methodology based on the UN Guiding Principles for Business and Human Rights and broadly cover the principles' three pillars: policy commitments, due diligence, and remedy.
- 4 This included 49 ICT companies, 43 food and beverage companies, and 37 apparel and footwear companies. A further 50 companies were assessed against a subset of indicators only, rather than against the full benchmark methodology, meaning that the total number of companies assessed in 2020/2021 was 179. For the purposes of this analysis, KnowTheChain will focus only on the 129 fully benchmarked companies. The full list of companies assessed by KnowTheChain can be found on our website.
- 5 Based on company scores on themes 2-6 of the benchmark methodology.
- 6 E.g., by taking action where suppliers impede workers' rights to freedom of association and/or collective bargaining or by engaging policy makers to improve respect for such rights.



KnowTheChain is a resource for businesses and investors who need to understand and address forced labour abuses within their supply chains. It benchmarks current corporate practices, develops insights, and provides practical resources that inform investor decisions and enable companies to comply with growing legal obligations while operating more transparently and responsibly.



Business & Human Rights Resource Centre is an international NGO that tracks the human rights impacts (positive and negative) of over 10,000 companies in over 180 countries making information available on its digital action platform in 10 languages. We seek responses from companies when concerns are raised by civil society and have made over 6,000 approaches to companies asking them to respond to specific human rights allegations. Our global response rate is 55-60%.