

Edmund Bon Tai Soon
Andika Ab. Wahab
Umavathni Vathanaganthan

BUSINESS AND HUMAN RIGHTS IN SOUTHEAST ASIA #2

A GuideKit to Operationalise
Human Rights Due Diligence on Forced Labour



in association with



with the support of



BUSINESS AND HUMAN RIGHTS IN SOUTHEAST ASIA #2

A GuideKit to Operationalise
Human Rights Due Diligence on Forced Labour

**Edmund Bon Tai Soon
Andika Ab. Wahab
Umavathni Vathanagathan**



in association with



CALR
Collective of
Applied Law &
Legal Realism

with the support of



**FRIEDRICH NAUMANN
FOUNDATION** For Freedom.
Southeast and East Asia

Copyright © AmerBON, *Advocates* 2024

All rights reserved. You are free to share, use, quote, copy, redistribute and build on any part of this publication in any medium or format for non-commercial purposes only. Give appropriate credit to the authors and cite this publication when you share, use, quote, copy, redistribute and build on any part of this publication in any medium or format.

Preferred citation: Bon, E. T. S., Wahab, A. A., & Vathanaganthan, U. (2024). *Business and human rights in Southeast Asia #2: A GuideKit to operationalise human rights due diligence on forced labour*. AmerBON, *Advocates*.

**Business and Human Rights in Southeast Asia #2:
A GuideKit to Operationalise Human Rights Due Diligence on Forced Labour**

Published in Malaysia in 2024 by
AmerBON, *Advocates*
D3-5-1 Solaris Dutamas
No. 1 Jalan Dutamas 1
50480 Kuala Lumpur
w: amerbon.com
e: team@amerbon.com

Edited by
Chin Oy Sim
e: inksight.hub@gmail.com

Printed and bound in Malaysia by
JOJ Printhouse Sdn Bhd
No. 136 Jalan Tun Mamat 35/91
Seksyen 35 Alam Impian
40470 Shah Alam
Selangor

Design and layout in Malaysia by
Suzoo Studio
B-13-3A Tropics @ Tropicana City Mall
No. 3 Jalan SS20/27
47400 Petaling Jaya
Selangor

Perpustakaan Negara Malaysia
Cataloguing-in-Publication

ISBN 978-629-97123-2-9



*Business and Human Rights in Southeast Asia #2:
A GuideKit to Operationalise Human Rights Due Diligence on Forced Labour*

CONTENTS

iv	About the contributors
vi	Abbreviations
vii	Foreword
ix	The problem in Southeast Asia and why we wrote this GuideKit
1	Introduction
5	The “who, why, what, when, and how” of the GuideKit
11	Guide Identification and assessment of human and labour rights risks
31	Summary of assessment findings
32	Download the GuideKit
33	Resources

ABOUT THE CONTRIBUTORS



Andika Ab. Wahab

Andika holds a Doctor of Philosophy (Ph.D.) degree in Anthropology and International Relations from the National University of Malaysia (Universiti Kebangsaan Malaysia, UKM), and is currently the Head of the Centre for Asian Studies at the Institute of Malaysian and International Studies (IKMAS), UKM. His research cuts across the fields of transnational migration, human rights, and the politics of sustainability. He is a member of the Global Business and Human Rights Scholars Association (GBHRSA), an Executive Committee Member of Humana Child Aid Society (Sabah), and is accredited to the Fair Labor Association (FLA) to monitor labour standards compliance in supply chains.



Edmund Bon Tai Soon

Edmund is in his 26th year practising as an advocate and solicitor in Malaysia. He served as Malaysia's representative to the ASEAN Intergovernmental Commission on Human Rights (AICHR) in the years 2016, 2017 and 2018, and was reappointed in 2024. He co-founded two non-governmental organisations – the Malaysian Centre for Constitutionalism & Human Rights (MCCHR), and the Collective of Applied Law & Legal Realism (CALR) – and a legal blawg, *LoyarBurok*. He previously chaired the Malaysia National Working Group for an ASEAN Human Rights Mechanism. Edmund is a Chevening scholar and has a Master of Studies in International Human Rights Law degree from the University of Oxford. He is pursuing a doctorate in human rights and peace at the Institute of Human Rights and Peace Studies (IHRP), Mahidol University, Thailand.



**Umavathni
Vathanaganthan**

Umavathni is the Collective Operating Officer of the Collective of Applied Law and Legal Realism (CALR), a non-profit organisation working on business and human rights. She received a Bachelor of Social Science in International Studies degree from the University of Malaysia, Sarawak (UNIMAS) and a Master of Arts in Human Rights degree from the University of Manchester. She has professional experience with the ASEAN-Malaysia National Secretariat (AMNS), Ministry of Foreign Affairs Malaysia, and as a social worker with Women's Aid Organisation (WAO). Her interests are foreign policy and human rights in Southeast Asia, and she continues to work in these areas through the Working Group for an ASEAN Human Rights Mechanism (WGAHRM) and, presently, the ASEAN Intergovernmental Commission on Human Rights (AICHR-Malaysia).

ABBREVIATIONS

CSO	civil society organisation
ESG	environmental, social and governance
HRDD	human rights due diligence
ILO	International Labour Organization
IOM	International Organization for Migration
OECD	Organisation for Economic Co-operation and Development
SME	small- and medium- sized enterprise
PPE	personal protective equipment
UNGPs	United Nations Guiding Principles on Business and Human Rights
WBA	World Benchmarking Alliance

FOREWORD



Kewalin Sa-ngapet

*Regional Program Officer,
Southeast and East Asia*

*Friedrich Naumann
Foundation for Freedom
(FNF)*

The Sustainable Development Goals (SDGs) call for universal cooperation to end poverty, protect the environment, and ensure prosperity for all by 2030. Most of the goals strongly reflect international human rights and labour standards. Thus, the SDGs have intensified the implementation of business and human rights (BHR) practices globally. More states have established measures to urge businesses to conduct human rights and environmental due diligence. Only through due diligence can businesses identify and mitigate their adverse impact risks, as well as provide remediation.

However, most BHR measures are voluntary. Labour rights violations persist, leading some businesses to face criticism and, sometimes, sanctions from stakeholders. Some have been prosecuted, as violations often breach national laws. Recognising this issue, the focus has slowly shifted towards binding regulations, notably with the adoption of the Corporate Sustainability Due Diligence Directive by the European Union (EU) in May 2024. In the near future, it will become mandatory for large businesses in the EU to conduct human rights due diligence (HRDD) and audit their supply chains.

Given the EU's status as the world's third-largest economy with an extensive supply chain network, the new Directive will significantly affect global business practices, including in Southeast Asia (SEA). Over 75 million workers are engaged in the global supply chain in SEA. However, SEA falls under the Asia-Pacific region, where forced labour remains prevalent. Such reality poses a risk of SEA businesses being excluded from EU supply chains, harming both the businesses involved and the region's economic development.

To adapt to this trend, it is crucial for businesses in SEA to prepare by proactively conducting HRDD. Considering that binding regulations might eventually be introduced in the region, starting the HRDD process with a focus on labour rights will lay a solid foundation for business operations.

Employees are the cornerstone of any enterprise and deserve to be treated with respect and dignity. Fair recruitment and employment practices not only enhance employees' working and living conditions but also contribute to the sustainable interests of the business. With such solid internal human rights practices, businesses can extend due diligence to other areas, including auditing their supply chains.

This second edition of the GuideKit on BHR in Southeast Asia is designed to assist businesses, particularly small- and medium-sized enterprises, in initiating HRDD, with a focus on labour rights. By guiding businesses through the second step of the HRDD process, the GuideKit helps them identify any adverse impacts on labour. This will later enable them to establish appropriate measures and remediation.

The Friedrich Naumann Foundation for Freedom (FNF) advocates economic freedom, but also believes that the responsibility to respect and protect the dignity of workers cannot be compromised. We strongly recommend this GuideKit and hope that it will serve as a valuable tool for businesses in the region and for conducting HRDD.

We would like to thank Edmund, Andika, Uma, and all contributors for their efforts in creating this second GuideKit. Following the first GuideKit in 2022, FNF is privileged to once again be associated with this initiative.

THE PROBLEM IN SOUTHEAST ASIA AND WHY WE WROTE THIS GUIDEKIT

Since the publication of *Business and human rights in Southeast Asia: A practitioner's GuideKit for SMEs on human rights compliance regarding the environment and labour* (Bon et al., 2022), several things have happened in this region – some were expected, but some not.

As expected, compliance with the United Nations Guiding Principles on Business and Human Rights (UNGPs) by businesses remains low.

Despite the global trend to incorporate environmental, social and governance (ESG) sustainability concerns into corporate culture, employers have opposed efforts to make HRDD mandatory. They continue to assert that the conduct of HRDD should be at their discretion.

Unexpectedly, even governments are adopting a similar approach. There has been little positive movement in enacting regulations requiring companies to monitor their operations and supply chains in order to eliminate all forced labour.

Further, some governments view forced labour as merely an employment issue, and do not impose any penal sanction for offences. Unless a case attracts wide media publicity, law enforcement agencies are slow to classify it as an instance of trafficking.

The recent period has not been reassuring. Some have wondered if it is time to abandon the initial promise shown by ESG, and return to focusing entirely on “naming and shaming” companies, and initiating strategic litigation against them.

Even as we were developing this second GuideKit, Malaysia was being asked to respond to communications from United Nations Special Rapporteurs on allegations of migrant worker exploitation and abuse. Bangladeshi workers are said to be recruited through fraud and deception by criminal networks operating in Bangladesh. They are required to pay exorbitant recruitment fees and subsequently brought into Malaysia by companies that never intended to provide them with jobs. Many of these companies operate within a larger scheme of illegality to fleece the workers.

There have also been instances of migrant workers stranded without the jobs promised to them, and faced with inaction by law enforcement authorities. Advocates who speak up for them – such as civil society organisations (CSOs) and human rights defenders – are commonly sued for defamation. Known as SLAPPs (Strategic Lawsuits Against Public Participation), these cases filed by companies are aimed at intimidating and silencing workers and their support groups, and deterring them from taking on the employers.

The current state of affairs of low human rights compliance is prevalent in Southeast Asia. Despite a concerted push by bourses in some countries to impose mandatory sustainability training and reporting on labour practices, diversity, health and safety, data privacy and security, anti-corruption, environment, and supply chain management, there is still room for companies to under-report. Indicators are not sufficiently stringent, and are thus subject to manipulation.

We have seen [research](#) this year from the World Benchmarking Alliance (WBA) assessing core social indicators of 1,600 of the largest and most influential companies globally, which paints an even gloomier picture. These companies include players from multiple industry sectors such as telecommunications, banking, mining, retail, food, agriculture, oil and gas, and transport.

Extrapolating from the data and focusing on Southeast Asian companies, WBA found that the percentage of reports by companies that disclose processes to identify human rights risks and impacts is low: 17.6 per cent. Only 24 per cent of companies declared a commitment to respecting the human rights that the International Labour Organization (ILO) has declared to be part of fundamental rights at work. Also, only one of 85 companies disclosed the results of their human rights assessments.

While it is heartening that some strides have been made in reporting, it may well be unrealistic to expect more, since it is not mandatory, by law, to carry out HRDD. This substantial loophole allows companies to get away without, or be sloppy in, reporting. We have read many sustainability reports that pay scant attention to this complex area – either because companies do not conduct due diligence at all; or because they do, but ignore or refuse to undertake the additional step of reporting the results.

Businesses must do more. Much more.

There is a pressing need for a tool like this GuideKit, to help plug the gaps in companies' understanding of how to apply UNGPs to identify human and labour rights risks. Alas, while there has been much talk by companies about their commitment to respecting human rights in their policies and practices, many still ask basic questions such as:

- How is due diligence conducted?
- What is the benchmark to use when assessing whether there is forced labour?
- How are we expected to check on the recruitment of migrant workers in the countries of origin?
- Are we liable for the conduct of businesses in our supply or value chains that use child labour?
- Is a whistleblowing channel the same as a grievance mechanism?

- Are migrant domestic workers entitled to days off?
- Is it “slavery” if we hold back wages while waiting for workers to set up their bank accounts?
- What do we do if workers ask us to keep their passports for them?

There is no choice for the employer and governments. Employers must face up to reality – if they wish to tap into migrant workers’ abilities in order to make profit, they must step up their game in protecting workers’ rights. Migrant workers are a highly vulnerable population. Many of them come from low-income, rural backgrounds; and are illiterate. They are in our countries for the sole purpose of earning a livelihood to support themselves and their families.

Employers are in a dominant, stronger position – one of power. They must not be permitted to exploit those in a disadvantaged position. Say what you will about human rights, but the notion of human rights attempts to bridge this power gap.

We acknowledge the continued support of the Friedrich Naumann Foundation for Freedom in providing funding for this project. It may be idealistic of us – and perhaps silly – to continue the push for a higher degree of compliance by companies, but we are hopeful about seeing positive change within our lifetime.

Again, as with our first GuideKit, the tool in this publication is home-grown based on our work with a range of partners and clients. It may not be faultless, but it responds adequately to the questions in the minds of those embarking on the journey of doing right by workers; as well as those already well on their way, who seek to complement their existing initiatives.

Edmund Bon Tai Soon
Andika Ab. Wahab
Umavathni Vathanaganthan

6 June 2024

INTRODUCTION

The concept of HRDD has gained substantial currency over the last 15 years and is now a well-established concept, not merely a buzz phrase. The term “due diligence” has been widely known for decades, and refers to a process undertaken to identify and mitigate conventional business risks (e.g. financial loss, and supply chain disruption). Within an international human rights framework, and specifically in the business and human rights sphere, HRDD represents a standard of conduct that is applied to avoid causing adverse impacts on the human rights of others.

HRDD is at the heart of UNGPs, an authoritative document unanimously endorsed by the UN Human Rights Council in 2011. UNGPs serve as a global standard for responsible business conduct, and set out guidelines for States and businesses around the world to prevent and address human rights abuses linked to business activity. It provides a framework that businesses can utilise to realise this vision.

Despite a widespread movement to ensure human rights are respected in the business context, the number of businesses being “named and shamed” in media outlets and other advocacy channels is increasing, especially on issues relating to labour exploitation, and human and labour rights violations. One rationale behind this trend is the public’s growing sense of urgency to hold businesses accountable for the risks their operations and supply chains pose to the human rights of workers, their families, and local communities, and any resultant harmful impacts.

The ILO (n.d.) estimated that nearly 28 million people worked under conditions of forced labour in 2022, and about 63 percent of them were in the private sector across five economic areas, namely services, manufacturing, construction, agriculture, and domestic work. Significantly, out of the 28 million, the Asia-Pacific region – including countries in Southeast Asia – has the highest number of people in forced labour, numbering 15.1 million (i.e. 54 per cent).

Businesses are now facing pressure to shift their attention to the human and labour rights risks embedded in their operations, policies and practices. This is in addition to other business risks they must focus on, including risks relating to ESG aspects. There is mounting recognition that all these types of risks – and the harms that ensue when such risks materialise – can, in many instances, affect business operations and lead to conventional business setbacks such

as financial loss, brand or reputational damage, and severance from supply chains. In contrast, businesses that are able to prevent and/or eliminate human and labour rights risks are more resilient in terms of their business operations, access to the global marketplace as well as overall business success.

The yardstick by which corporate responsibility to respect human and labour rights is measured is rapidly transitioning from voluntary and market-driven standards to stricter regulations that require compliance, and encompass the rising use of trade sanctions. This evolution is mostly driven by consumer nations in the global North, with significant implications for the way business operations are carried out in producer nations in the global South. Traceable supply chain actors in select economic sectors make this possible.

The amalgamation of multiple forces – voluntary, market-driven, and regulatory approaches – have led to scores of multinational corporations actively developing and implementing HRDD processes. These endeavours, however, amount to barely a drop in the ocean of the actions that are crucial. Similar initiatives are urgently needed by the 99 percent of businesses in Southeast Asia that are micro-, small-, and medium-sized enterprises, to ensure that no businesses, regardless of their size and location of operations, are left behind.

Overview of HRDD process

This GuideKit draws from *OECD Due Diligence Guidance for Responsible Business Conduct* published by the Organisation for Economic Co-operation and Development (OECD) in 2018, which sets out an extensive due diligence process for businesses, as shown in Figure 1.

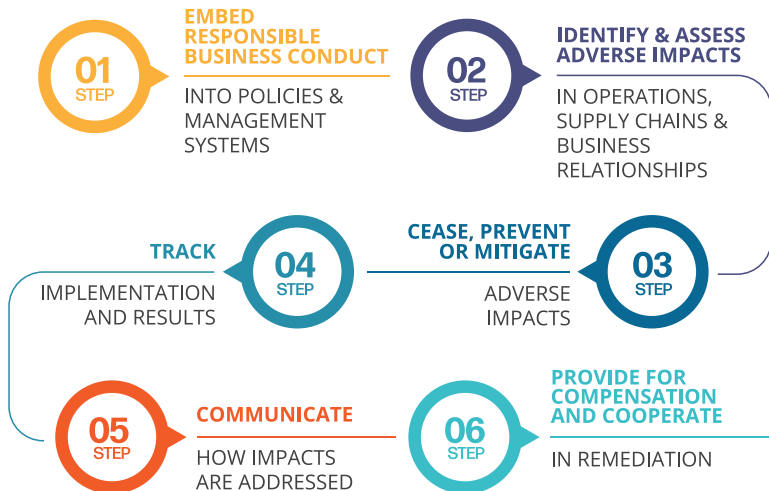


Figure 1 Due diligence process and supporting measures (adapted from OECD, 2018, p. 21)

The most crucial step – i.e. the second one in the due diligence cycle, which entails identifying and assessing adverse impacts in operations, supply chains and business relationships – is the phase that is too often disregarded when it comes to a business’s sustainability reporting.

According to WBA’s latest Social Transformation Assessment (2024), only 60 percent of companies that disclose a commitment to human rights are able to outline the processes for determining human and labour rights risks and impacts in specific locations or activities covering their own operations, which is a key element of the due diligence cycle.

The subsequent steps can only follow suit if there is a mechanism or procedure to initiate that second step in the due diligence cycle.

In addressing adverse human and labour rights impacts, businesses need to ascertain their relationship to each adverse impact, namely “whether it was caused or contributed to by the enterprise or whether it is directly linked by a business relationship” (OECD, 2018, p.72). By doing so, businesses will be able to pinpoint and/or explore what remedy or leverage they should apply. Figure 2 briefly captures how businesses should assess and address their involvement in the actual or potential adverse impacts.

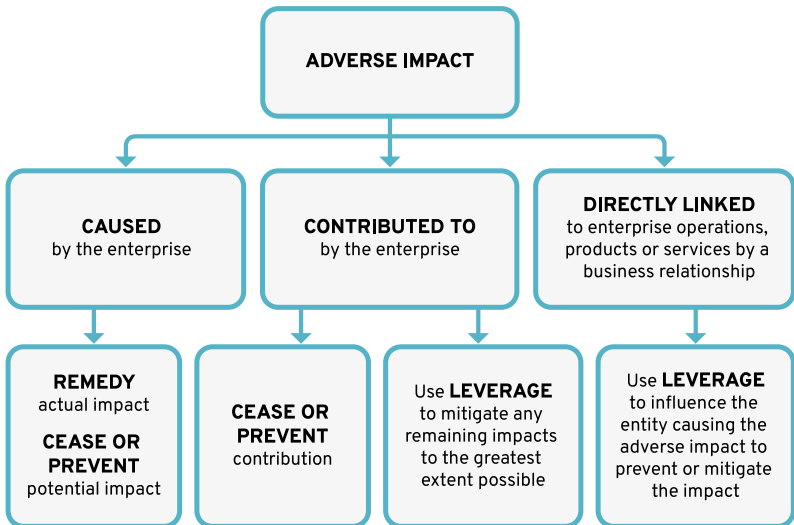


Figure 2 Addressing adverse impacts (OECD, 2018, p. 72)

In various training workshops and conversations we have held with businesses – including small- and medium-sized enterprises (SMEs) – on HRDD, business and human rights, and ESG, we have seen how business actors are deterred by their reservations, evident in questions such as “Where do we start?”,

“How do we start?”, and “There are too many resources available, so which ones should we refer to?” One suggestion that was frequently put forward was for an easy-to-use guide or “checklist” to be developed for businesses to use in kick-starting their compliance journey. This GuideKit, which is a follow-up to *Business and human rights in Southeast Asia: A practitioner’s GuideKit for SMEs on human rights compliance regarding the environment and labour* (Bon et al., 2022), aims to serve that purpose.

This GuideKit has been developed as a tool to aid businesses in detecting areas across their operations, policies and practices where human and labour rights risks to workers, especially migrant workers, are likely to be present, including throughout the recruitment process and during employment in the country of destination or operations. It will empower businesses to assess and expand their human and labour rights due diligence efforts. The risk assessment results will set the context for businesses to conduct more in-depth self-assessments and prioritise specific areas requiring further action, where needed.

This GuideKit has been specifically prepared for businesses to use in respect of their own operations, policies and practices; it does not cover supply chains.

THE “WHO, WHY, WHAT, WHEN, AND HOW” OF THE GUIDEKIT

Who is this GuideKit for?

This GuideKit is designed to be a ready-to-use tool for businesses of all sizes and in all sectors that operate across Southeast Asia.

It provides a non-exhaustive set of baseline questions for your company to use to identify and assess human and labour rights risks at the recruitment and employment stages, regardless of whether your company:

1. has conducted any form of due diligence or risk assessment of your recruitment practices and labour standards;
2. intends to adapt and incorporate it into your existing due diligence process and/or social compliance audits on practices concerning the recruitment and employment of workers; or
3. expects to hire new employees or intending to review the practices of your existing private recruitment agencies.

Why should you use this GuideKit?

This GuideKit assists businesses in starting their corporate responsibility journey towards fully respecting human and labour rights.

Conducting due diligence on a business’s human and labour rights risks should be considered as part of managing and mitigating business risks. It enables businesses to prevent unintended negative consequences to its operations and profitability, improve business relationships with rightsholders and stakeholders, and improve working and living conditions for workers.

Due diligence actions increase the transparency of a business’s conduct, and thus demonstrate the business’s leadership and commitment to dealing with common challenges relating to prohibiting and preventing unethical recruitment and employment practices, as well as severe violations of human and labour rights such as forced and trafficked labour in supply chains.

What should you do first?

Companies should follow five steps before conducting the assessment.

Step 1: Identify a person-in-charge to lead the assessment

Identify an individual in a mid- or senior-level position to lead the overall assessment process in your company. The individual should already have gained an adequate understanding of, and exposure to, matters concerning human rights, labour standards and practices, risk assessment, human resources, internal audit, certification and compliance, and procurement, among others. Upon designating the individual, a team that consists of individuals from various business divisions, departments or units, may be formed to support the conduct of the assessment.

Step 2: Identify data points and sources of information

Identify accurate, comprehensive and reliable data points and data sources to form the basis of the assessment across the entire company. “Data points” are the company’s divisions, departments, and business units. “Data sources” refers to data and information that can support the assessments, such as the number of workers and their profiles; risk assessment and/or internal audit reports; contracts; human resources records, including workers’ salaries; records of passport management; grievance logbooks; and records of meetings with rightsholders and stakeholders.

Step 3: Establish a time-bound work plan to perform the assessment

Establish a time-bound work plan that includes clear responsibilities for personnel involved in conducting the assessment; and a clear methodology that consists of data collection methods, document review processes, data analysis procedures, reporting systems, and communication strategies.

While there is no specific timeline or period for conducting and completing the assessment, in most cases the overall assessment takes between two and 12 weeks from initiation to completion, depending on the capacity and size of the business.

Step 4: Review recruitment and employment records

Before performing the assessment, it is recommended that companies gather and review existing internal documents governing their recruitment of workers and their employment practices. These include the list and profiles of the appointed private recruitment agencies, direct or indirect recruitment methods or practices, overall profiles of workers (including the number of local and migrant workers, categorised according to relevant demographic characteristics such as nationality and gender), and relevant contracts signed by the companies and their appointed private recruitment agencies.

Step 5: Determine methods of data collection

Various means can be combined and used to perform the assessment. Applicable methods are:

1. reviewing internal and external documents, where accessible;
2. conducting interviews with the company's managerial personnel; and other relevant stakeholders such as private recruitment agencies, contractors or business partners, and CSOs; and
3. conducting interviews with workers and worker representatives.

These approaches are briefly described below.

Method	Description
Review of documentation	<p>The review of documentation is conducted for several purposes, which include:</p> <ol style="list-style-type: none">1. identifying and assessing potential and actual risks of non-compliance with labour standards and practices;2. verifying the implementation of the company's policy commitments; and3. ensuring consistency in the information obtained across the various methods utilised, and samples obtained, during the data collection process. <p>The review process can be carried out at the operational level(s), or at the company's headquarters.</p> <p>Reasonable steps must be taken to ensure the workers' security and safety throughout the process.</p>
Interviews with company's managerial personnel; and stakeholders such as private recruitment agencies, contractors or business partners, and CSOs	<p>These interviews are undertaken to determine and verify potential and actual risks of labour exploitation and various other forms of human and labour rights violations.</p> <p>This process can be carried out at the company's operational level(s) or at its headquarters, and involves employees whose portfolios relate to human rights, labour standards and practices, risk assessment, human resources, internal audit, certification and compliance, and procurement, among others.</p>

Method	Description
<p>Interviews with workers and worker representatives</p>	<p>The interview process is carried out to obtain information directly from workers and worker representatives, which will be used to corroborate the findings from the review of documentation and the interviews with managerial personnel and stakeholders. Worker representatives may include members of existing unions; or members of other forms of worker communities or networks (formal or informal) at the workplace.</p> <p>It is important to note that these interviews should be conducted with sensitivity and care, to ensure that workers do not face retaliation or any other harmful consequences that would put their security and safety at risk. Additional aspects to bear in mind when conducting the interviews include:</p> <ol style="list-style-type: none"> 1. utilising a suitable location for the interview (i.e. a comfortable, safe and private room); and 2. exercising sufficient caution concerning the surroundings, and ensuring that workers can speak freely. <p>During the interviews, companies should bear in mind, at a minimum, the following considerations:</p> <ol style="list-style-type: none"> 1. Maintain neutrality and avoid any biases when conducting the interviews. 2. Use a language and terms that workers can easily understand. 3. Engage community mobilisers and/or skilled interpreters to put the workers at ease, and facilitate the flow and accuracy of communication. 4. Avoid providing cues or prompting workers on how they should respond to the interviewer's questions. 5. Be mindful of the workers' non-verbal cues and body language. 6. If the workers focus on specific issues, follow their lead and seek more detailed information. 7. Conduct the interviews in a manner that is considerate of the workers' backgrounds (e.g. whether female workers would be more comfortable being interviewed by female assessors).

Table 1 Summary of methods of data collection

When should we conduct the assessment?

Businesses are encouraged to conduct a human and labour rights risk assessment at least once every two consecutive years, or following any significant policy amendments, organisational changes, or modifications to their recruitment partners, processes or regulations.

How do we report the assessment outcome?

Report your assessment outcome using the appropriate columns for Indicators 1 to 5 on pages 11 to 30 in this GuideKit. The following factors should be taken into account when reporting your findings:

1. Indicate sources or evidence – whether potential or actual – when responding to each question in this GuideKit. Guidance notes for each sub-indicator are provided for the assessor's reference.
2. Be objective, and ensure accuracy in your assessment and response for each sub-indicator when you report whether it has been fully achieved, partially achieved, or not achieved; or is not applicable.
3. Attach supporting evidence such as photos and documents that do not compromise the security and safety of the workers concerned.
4. Conduct an internal peer review process to validate your findings.

You can record your assessment findings by using the summary table on page 31 of this GuideKit, which will provide an overview of the outcome of the assessment.

Guiding principles when conducting the assessment

Any individual involved, directly or indirectly, in conducting the assessment should comply with the following guiding principles:

1. Ensure no harm is caused to any workers, including causing injury, both through acts of commission (e.g. posing insensitive or inappropriate questions to workers) or omission (e.g. neglecting to provide adequate information to workers regarding the assessment process).
2. Obtain informed consent from the workers prior to commencing data collection. The purpose of the assessment and the intended use of data collected must be clearly explained.
3. Preserve confidentiality of information, including the workers' personal data.
4. Ensure privacy in how the assessment is conducted, including selecting a comfortable, safe and private location for the interview.

5. Be aware of power dynamics and exercise empathy, including avoiding asking questions that could result in retaliation due to actual or perceived power dynamics between the workers and prospective perpetrator(s).
6. Maintain neutrality and avoid any biases throughout the assessment, which includes taking the necessary steps to avoid imposing personal opinions or prejudices.
7. Ensure that the workers are informed that they are free to withdraw from the data collection process, and that they may do so at any point.
8. Avoid gender bias throughout the data collection process, and take appropriate measures if the workers disclose that they have experienced gender-based violence.

Additional resources

A list of the resources referred to in the development of this GuideKit appears on page 33. These materials contain additional guidance to aid businesses in conducting more in-depth and enhanced risk assessment exercises.

Disclaimer

The GuideKit does not provide an exhaustive set of questions for businesses to rely on in their effort to identify and assess preliminary human and labour rights risks at the recruitment, placement and employment phases. Please note that only indicators for the major and most pressing forced labour issues are addressed by the questions in this GuideKit. Moreover, certain questions may not apply to all businesses.

The GuideKit should instead be used as a general guide that may be tailored to suit the needs and context of each business.

GUIDE | IDENTIFICATION AND ASSESSMENT OF HUMAN AND LABOUR RIGHTS RISKS

(Refer to page 32 for information on downloading this assessment guide.)

Details Company and Assessment			
Company's name		Date of completion of assessment	
Company's address		Date of follow-up assessment	
Assessor's name			
Assessor's position and department			

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
Indicator 1. Establishment of human and labour rights risk assessment process							
1.1	Does your company have a process for conducting human and labour rights risk assessments on your business operations ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		A human and labour rights due diligence process should be established to identify and assess human and labour rights risks arising from your business operations, in order to address them by taking corrective actions (such as mitigation and remediation measures) to prevent harm from occurring or recurring.
1.2	Does your company have a process for conducting human and labour rights risk assessments on your private recruitment agencies ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		The human and labour rights due diligence process should also be applied to your existing and potential private recruitment agencies.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
1.3	Does your company engage with rightsholders as part of your human and labour rights risk assessment process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Rightsholders are individuals or groups whose rights, whether individually or collectively, are or could potentially be directly and adversely impacted by business activities, services, or products. Examples of rightsholders are workers and worker representatives.
1.4	Does your company engage with external and/or independent stakeholders as part of your human and labour rights risk assessment process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>External and/or independent stakeholders are individuals or groups who have the expertise, knowledge or awareness relevant to the subject.</p> <p>Examples of external and/or independent stakeholders are human and labour rights experts, and civil society organisations (CSOs).</p>
1.5	Does your company have a process for implementing corrective actions for any human and labour rights risks identified during an assessment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>The process of taking corrective action should pay attention to the following aspects:</p> <ul style="list-style-type: none"> • Take action on all issues found. • Ensure that all corrective actions address the root causes of the issues found. • Set time limits for corrective actions, and realistic deadlines for remediation activities. • Specify clear and concrete actions the company will take.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
							(Sub-indicator 1.5, continued) <ul style="list-style-type: none"> Plan additional actions needed for the company to monitor and verify remediation activities.
1.6	Does your company provide training and capacity-building programmes to equip your internal staff to perform human and labour rights risk assessments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Training and capacity building relating to human and labour rights should be part of an on-boarding programme for internal staff.</p> <p>Advanced training and capacity-building programmes should target internal staff whose responsibilities pertain specifically to the recruitment of workers and monitoring of workplace standards. Refresher training (re-training) should be organised regularly.</p>
1.7	Does your company communicate your human and labour rights risk assessment process to your private recruitment agencies (in the country of origin, as well as the country of destination or operations)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Adequate information should be given to all private recruitment agencies, including in relation to your company's process of conducting risk assessments, and their active involvement. Ideally, this should be done prior to signing contracts or agreements with the private recruitment agencies.</p> <p>Regular briefings should also be carried out to ensure the private recruitment agencies are updated about any policy changes.</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
1.8	Does your company have a process for conducting human and labour rights risk assessments that is triggered when your company expands its business operations to a new country or develops new business relationships?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		A human and labour rights risk assessment should be conducted when your company expands its business operations to a new country or engages new business partners. This will enable your company to become aware of human and labour rights risks, which should form the basis for business decisions.
Indicator 2. Assessment of human and labour rights risks (general)							
2.1	Has your company conducted any human and labour rights risk assessment on your business operations in the past two years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Risk assessments are generally conducted on a regular basis, which is commonly annually or at least every two years or, where applicable, as and when required by national laws and regulations.
2.2	Has your company conducted any human and labour rights risk assessment on your private recruitment agencies in the past two years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		It is recommended that the same frequency be applied to human and labour rights risk assessments.
2.3	Did your company engage with rightsholders during any previous human and labour rights risk assessment conducted by your company?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Rightsholders are individuals or groups whose rights, whether individually or collectively, are or could potentially be directly and adversely impacted by business activities, services, or products. Examples of rightsholders are workers and worker representatives.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
2.4	Did your company engage with external and/or independent stakeholders during any previous human and labour rights risk assessment conducted by your company?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>External and/or independent stakeholders are individuals or groups who have the expertise, knowledge or awareness relevant to the subject matter.</p> <p>Examples of external and/or independent stakeholders are human and labour rights experts, and CSOs.</p>
2.5	Does your company publicly disclose the results of your human and labour rights risk assessments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>The United Nations Guiding Principles on Business and Human Rights (UNGPs) highlight that businesses should be prepared to communicate the risks they face and how these are addressed. Disclosure of the results of human and labour rights risk assessments can be made in various ways, including in dialogues, consultations with the affected rightsholders and stakeholders, and formal public reports.</p>
Indicator 3. Adherence to international standards, and national laws and regulations							
3.1	Are your company's employment contracts in line with human and labour rights recognised by international standards, and applicable national laws and regulations, where available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>An employment contract describes the relationship between an employer and a worker. It provides security and protection for employers and employees. All workers should be provided with their contract of employment in their native language or a language they understand. Contracts should clearly indicate workers' rights and responsibilities; and the conditions of employment, including wages, benefits, working hours, location(s) of work, transportation, living</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
							(Sub-indicator 3.1, continued) conditions (including accommodation), and work-related hazards.
3.2	Does your company define “recruitment fees” and “related costs” in accordance with international standards and applicable national laws and regulations, where available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>According to the International Labour Organization (ILO), “recruitment fees” or “related costs” are “any fees or costs incurred in the recruitment process for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.”¹</p> <p>Specifically, “recruitment fees” include the following:</p> <ul style="list-style-type: none"> • Payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment • Payments made in the case of recruitment of workers, who will be employed to perform work for a third party • Payments made in the case of direct recruitment by the employer • Payments required to recover recruitment fees from workers <p>“Related costs” include expenses essential to recruitment and placement within or across national borders, such as the costs of medical check-ups, insurance, training, equipment, travel and lodging.</p>

¹ ILO (2019). *General principles and operational guidelines for fair recruitment & Definition of recruitment fees and related costs.*

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
3.3	Do all private recruitment agencies your company engages in the country of origin possess a valid licence and the required authorisation to recruit workers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should only engage private recruitment agencies in the country of origin and the country of destination or operations that possess a valid licence and other forms of authorisation to recruit and source workers at all stages.
3.4	Do all private recruitment agencies your company engages in the country of destination or operations possess a valid licence and the required authorisation to recruit workers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.5	Are all private recruitment agencies that your company engages in the country of origin free from court decisions/orders or administrative sanctions against them due to unethical recruitment practices?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.6	Are all private recruitment agencies that your company engages in the country of destination or operations free from court decisions/orders or administrative sanctions against them due to unethical recruitment practices?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		This is a precautionary measure and a risk management strategy to ensure that the company only engages private recruitment agencies with a good track record.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
3.7	Do all private recruitment agencies that your company engages in the country of origin, as well as the country of destination or operations, only appoint intermediaries, brokers, and individuals with valid licences and who are authorised to recruit and supply workers at all levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all private recruitment agencies they engage only source recruitment services from intermediaries, brokers, and individuals with valid licences and authorisations.</p> <p>Companies should also ensure that these private recruitment agencies regularly provide an updated list of their business partners (if any), including intermediaries, brokers and individuals appointed at the local level.</p>
3.8	Does your company inform all workers of the company's data protection policy?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>(If your company does not have a data protection policy, please explain why.)</p>	<p>If your company seeks personal data from the workers, there should be a process in place to:</p> <ul style="list-style-type: none"> inform workers upfront about the company's data protection policy; receive written informed consent from workers; and maintain a record of all instances of disclosures and workers' written consent. <p>Companies should also ensure that any disclosure of workers' personal data should be on a need-to-know basis and limited to the specific purpose of the disclosure.</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
Indicator 4. Assessment of human and labour rights risks (during recruitment, in country of origin)							
4.1	Are all workers exempt from being charged any recruitment fees and related costs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Refer to the definition of “recruitment fees” and “related costs” in sub-indicator 3.2 on page 16. Companies should ensure that all private recruitment agencies they engage comply with the companies’ policy commitment to prohibit the charging of recruitment fees and related costs.
4.2	Do all private recruitment agencies your company engages have a remediation process or procedure in place to address situations where workers are found to have paid any recruitment fees or related costs during recruitment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		All the private recruitment agencies should have a process or procedure in place to provide a remedy in situations where workers are found to have paid any recruitment fees or related costs throughout their recruitment. This requirement should be clearly stated in the contracts between companies and private recruitment agencies.
4.3	Have all workers signed a contract of employment before departing to the country of destination or operations, or being deployed to your company (in cases of in-country recruitment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should ensure that all workers have signed employment contracts during the recruitment process. An employment contract should be in the workers’ native tongue or a language the workers understand, and it should clearly indicate the workers’ rights and responsibilities; and the conditions of employment, including wages, benefits, working hours, location(s) of work, transportation, living conditions (including accommodation), and work-related hazards.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
4.4	Do all private recruitment agencies your company engages avoid withholding or confiscating workers' passports or other identity documents during the recruitment process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all workers enjoy the freedom of movement throughout the recruitment process, and that private recruitment agencies do not use coercive means to restrict such freedom.</p> <p>All the private recruitment agencies should not withhold or confiscate workers' passports or other identity documents, except for the sole purpose of providing such documents to the relevant authorities for processing.</p> <p>In the event that the private recruitment agencies need to withhold such documents due to legal requirements, the private recruitment agencies should:</p> <ul style="list-style-type: none"> • develop written policies and procedures to prevent any abuse; • provide workers with a copy of the passports or other identity documents that have been taken from them; • assign a person responsible for ensuring workers have unhindered access to their documents upon demand; and • inform workers of these policies and procedures.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
4.5	Do all private recruitment agencies your company engages avoid withholding or confiscating workers' bank books or bank cards, deeds to personal property and other valuable personal belongings throughout the recruitment process?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should ensure that all private recruitment agencies they engage do not withhold or confiscate workers' bank books or bank cards, deeds to personal property and other valuable personal belongings (such as telephones and other digital devices, jewellery or heirlooms) for any reason, throughout the recruitment process.
Indicator 5. Assessment of human and labour rights risks (during employment, in country of destination or country of operations)							
5.1	Have all workers attended a comprehensive post-arrival orientation, or other similar programmes, in the country of destination or operations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all workers are provided with a comprehensive post-arrival orientation that should, at a minimum, cover the following topics:</p> <ul style="list-style-type: none"> • Laws, regulations and processes relating to immigration and employment in the country of destination or operations • Workplace policy and workers' responsibilities • Labour standards and rights of workers • Living conditions • Occupational safety and health • Basic financial management and remittance procedures • Internal and external complaint and grievance mechanisms <p>The post-arrival orientation should be carried out within</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
							<i>(Sub-indicator 5.1, continued)</i> a reasonable time from the date of the workers' arrival in the country of destination or operations.
5.2	Are all workers aged 15 years and above, or beyond the age for completion of compulsory education, whichever is higher?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should comply with all national laws and regulations governing the prohibition of child labour. In particular, companies should ensure that all workers they hire, directly or indirectly, are not under the age of 15 or under the age for completion of compulsory education, whichever is higher.</p> <p>This is in accordance with the ILO Minimum Age Convention, 1973 (No. 138). Note: In most countries, only persons aged 18 and above are allowed to work as migrant workers abroad.</p>
5.3	Do workers have valid travel documents and work permits?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all workers, and migrant workers in particular, possess valid travel documents and work permits. It is the responsibility of companies to ensure that workers' travel documents and work permits are regularly checked and renewed according to applicable national laws and regulations.</p> <p>Any costs to renew workers' travel documents and work permit should be borne by the companies, and not the workers. Refer to the definition of "recruitment fees" and "related costs" in sub-indicator 3.2 on page 16.</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.4	Does your company verify that no workers are charged recruitment fees or related costs throughout their recruitment and employment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should take proactive action to verify that no workers are charged recruitment fees or related costs throughout their recruitment and employment. If workers are found to have paid recruitment fees or related costs, companies should have a process for monitoring, calculating and reimbursing such fees and costs.
5.5	In situations where workers are found to have paid recruitment fees or related costs, does your company have a process for monitoring, calculating and reimbursing such fees and costs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Refer to the definition of “recruitment fees” and “related costs” in sub-indicator 3.2 on page 16.
5.6	Is there a written employment contract detailing the employment terms and conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Employment contracts essentially describe the relationship between an employer and a worker. Employment contracts are important, for workers to know what is expected of them. They also provide security and protection for both employers and employees.
5.7	Is the employment contract written in a language they understand?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Employment contracts should be in line with all applicable laws and regulations, and should not violate workers’ rights recognised in international standards.
5.8	Are workers provided with a signed copy of their employment contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should ensure that workers are given a clear and complete explanation of the terms and conditions of their employment contract, and have an opportunity

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.9	Have workers entered into the employment contract with free, full and informed consent, and without any use of deception or fraud?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>(Sub-indicators 5.6-5.10, continued)</p> <p>to ask questions relating to their employment.</p> <p>Companies should ensure that all signed employment contracts should clearly indicate, at a minimum, the following details:</p> <ul style="list-style-type: none"> • Work position and description, and specific workplace • Name and address of the employer • Commencement date of contract, and duration • Details of accommodation • Freedom of association and collective bargaining • Wage, pay frequency and overtime rate • Hours of work, rest days, vacations and other leave entitlements • Lawful deductions • Description of the recruitment, deployment and return processes • Insurance and other forms of social security • Conditions of termination in accordance with applicable national laws and regulations <p>Companies should not substitute the employment contract signed by workers during the recruitment process with one that contains less favourable terms and conditions.</p>
5.10	Does any substituted employment contract signed by workers in the destination country have employment terms and conditions that are consistent with, or more favourable than, those in the employment contract signed during recruitment or in the country of origin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.11	Does your company avoid withholding or confiscating workers' passports or other identity documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all workers enjoy the freedom of movement at all stages of recruitment and employment. The presence of security personnel or other security measures in the workplace, or employer-sponsored hostels or housing, should not be used as means to restrict the workers' freedom of movement.</p> <p>Companies should ensure that no coercive means are used to restrict the workers' freedom of movement, including confiscation of their personal documents, imposition of security deposits for any unreasonable purpose, or use of deception in wage payment and deductions.</p> <p>In the event that workers' passports or other identity documents are withheld due to legal requirements, companies should:</p> <ul style="list-style-type: none"> • develop written policies and procedures to prevent any abuse; • provide workers with a copy of the passports or other identity documents that have been taken from them; • assign a person responsible for ensuring workers have unhindered access to their documents upon demand; and • inform workers of these policies and procedures.
5.12	Does your company ensure that all workers enjoy the freedom of movement at all stages of recruitment and employment, including no restrictions through security measures, no imposition of security deposits for any unreasonable purpose, and no use of deception in wage payment and deductions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5.13	Are workers provided with individual, secured, and unrestricted storage facilities to keep their personal documents and other valuables in?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.14	Are your company's workers free from deliberately imposed isolation, which includes working in a remote location with no means of transportation, no methods of communication, and no contact with the outside world?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should not deliberately keep workers isolated, especially in remote areas where they have no means of transportation available, are deprived of methods of communication such as the use of their mobile phones, and are prohibited from having contact with their families and the outside world.
5.15	Are all workers paid at least a minimum wage or other appropriate prevailing wage, whichever is higher, consistent with applicable national laws and regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should ensure that they comply with applicable national laws and regulations governing the payment of a minimum wage or other appropriate prevailing wage, whichever is higher, to all workers. All workers should be paid directly and in full within legally defined time limits.
5.16	Are all workers paid directly and in full, within the legally defined time limits?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Where time limits are not clearly defined by national laws or regulations, payment of wages should be made at least once a month.
5.17	Are all workers provided with a pay slip or pay statement in a language they understand?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		A pay slip or pay statement that contains adequate information should clearly indicate the following items:
5.18	Are all workers provided with a pay slip or pay statement that contains adequate information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<ul style="list-style-type: none"> • Amount of basic wages earned • Number of hours of regular and overtime work • How wage was calculated • Bonuses and incentives (if any) • All statutory and voluntary deductions • Final total wage

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.19	Does your company ensure that workers' wages are not deducted without legal authorisation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>(Sub-indicators 5.15-5.20, continued)</p> <p>Workers' wages should not be deducted without legal authorisation. Such deductions can arise from wage advances, or loans for various purposes such as transportation costs or daily living expenses.</p> <p>Companies should ensure that all workers are paid a premium rate for overtime work (e.g. during rest days and public holidays). In cases where the premium rate is not legally defined, companies should apply the prevailing industry premium rate, or a higher rate.</p>
5.20	Do all workers receive payment at a premium rate or prevailing industry premium rate, where applicable, for the overtime hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5.21	Are all workers provided with suitable personal protective equipment (PPE) where relevant, at no cost to the workers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that, where relevant, all workers are provided with suitable PPE such as gloves, eye and ear protection, or respiratory protection, free of charge.</p> <p>Companies should also ensure that all workers are trained on how to use and maintain such PPE. Companies should ensure PPE is used at the workplace, and monitor such use regularly.</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.22	If your company provides workers with accommodation, do the accommodation facilities comply with all applicable legislation relating to health and safety, including fire safety, sanitation, and structural safety?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that accommodation facilities comply with all applicable national laws and regulations relating to, in particular, health and safety, including fire safety, sanitation, and structural safety.</p> <p>All facilities should be structurally safe and sound, in good condition and well-maintained, and located separately from the workplace.</p>
5.23	Do all your workers have free access to adequate, clean and safe workplace facilities (e.g. canteens, rest areas, kitchens, health facilities and clinics) as well as sanitation facilities (e.g. sinks and toilets)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all facilities at the workplace (e.g. canteens, rest areas, kitchens, health facilities, clinics, sinks and toilets) are adequate, kept clean and safe, and freely accessible by workers.</p>
5.24	Do all your workers have free access to adequate amounts of safe and clean drinking water at all times?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should ensure that all workers have free access to adequate amounts of safe and clean drinking water at all times, and within reasonable distance of the workplace or workers' housing.</p> <p>Companies should not place any undue restrictions on the drinking water, in terms of both time and frequency of accessing drinking water.</p>

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.25	Do all your workers work within the legally defined limits of hours of work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should ensure that all workers work within the legally defined limits of hours of work, for both regular and overtime hours (e.g. during rest days and public holidays). Companies should not require or permit workers to work more than the regular hours of work without the workers' consent. All overtime work should be consensual.
5.26	Are all your workers entitled to a day of rest in every seven-day period?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should ensure that all workers are provided with at least a day of rest (i.e. 24 consecutive hours of rest) in every seven-day period. If workers are asked to work on a rest day, an alternative day of rest should be provided within the seven-day period or within the immediate period.
5.27	Are all your workers, including migrant workers and seasonal workers, allowed to establish and to join union(s) of their choosing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Companies should comply with all national laws and regulations concerning freedom of association and collective bargaining. All workers – without distinction, including as to status or nationality – should have the right to establish and to join union(s) of their choosing, subject to applicable national laws and regulations. In an ideal situation, the right to freedom of association and collective bargaining should be enjoyed by all workers from the time they seek employment, and during employment and return.

Sub-indicator	Assessment question	Assessment finding				Source or evidence (potential or actual)	Guidance note
		Fully achieved	Partially achieved	Not achieved	Not Applicable		
5.28	Does your company avoid using monetary fines and penalties, or any form of coercive measures (such as threats, physical or sexual violence, harassment or intimidation) as means to maintain worker discipline, or for any other reason?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<p>Companies should comply with all national laws and regulations concerning disciplinary measures, violence and harassment.</p> <p>Companies should not use any form of threats, physical violence (such as slapping, pushing, or other forms of physical force), sexual violence, harassment or intimidation as means to maintain worker discipline, or for any other reason.</p> <p>If any of these occur at the workplace, companies should ensure that the affected workers are given adequate protection.</p>

SUMMARY OF ASSESSMENT FINDINGS

Indicators	Number of sub-indicators per assessment finding				Number of sub-indicators
	Fully achieved	Partially achieved	Not achieved	Not applicable	
Indicator 1: Establishment of human and labour rights risk assessment process	()	()	()	()	8
Indicator 2: Assessment of human and labour rights risks (general)	()	()	()	()	5
Indicator 3: Adherence to international standards, and national laws and regulations	()	()	()	()	8
Indicator 4: Assessment of human and labour rights risks (during recruitment, in country of origin)	()	()	()	()	5
Indicator 5: Assessment of human and labour rights risks (during employment, in country of destination or country of operations)	()	()	()	()	28
Total number of sub-indicators per assessment finding	()	()	()	()	54

DOWNLOAD THE GUIDEKIT



Scan the QR code to download:

1. The complete GuideKit
2. The assessment guide and summary table on pages 11 to 31 of the GuideKit

amerbon.com/bhr-guidekit-2

RESOURCES

Businesses are encouraged to refer to the following online resources relating to HRDD, labour standards and labour practices.

1. Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (UN, 2011)
 - Available at bit.ly/UNGP-BHR
2. UN Guiding Principles Reporting Framework (UN, n.d.)
 - Available at bit.ly/UNGP-reporting
3. OECD Due Diligence Guidance for Responsible Business Conduct (OECD, 2018)
 - Available at bit.ly/OECD-DDG
4. General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs (ILO, 2019)
 - Available at bit.ly/ILO-recruitment
5. Forced Labour, Modern Slavery and Trafficking in Persons (ILO, n.d.)
 - Available at bit.ly/ILO-forced-labour
6. Guidance Note: Recruitment Fees and Related Costs (IOM, 2022)
 - Available at bit.ly/IOM-recruitment
7. Labour Migration Process Mapping Guide: Understanding and Assessing Human and Labour Rights Risks to Migrant Workers During Recruitment, Employment and Return (IOM, 2023)
 - Available at bit.ly/IOM-mapping-guide
8. Guidance on the Repayment of Worker-paid Recruitment Fees and Other Related Costs (The Consumer Goods Forum Human Rights Coalition – Working to End Forced Labour and AIM-Progress, 2022)
 - Available at bit.ly/CGF-repayment
9. 2023 Corporate Human Rights Benchmark Insights Report (WBA, 2023)
 - Available at bit.ly/CHRB-insights2023
10. Corporate Human Rights Benchmark Core UNGP Indicators (WBA, 2021)
Available at bit.ly/CHRB-UNGP-indicators
11. The Methodology for the 2022-2023 Corporate Human Rights Benchmark (WBA, 2021)
 - Available at bit.ly/CHRB-methodology
12. Core Social Indicator Assessments of 2,000 of the Largest and Most Influential Companies Globally (WBA, 2024)
 - Available at bit.ly/WBA-CSI-assess
13. Business and Human Rights in Southeast Asia: A Practitioner’s GuideKit for SMEs on Human Rights Compliance regarding the Environment and Labour (Bon et al., 2022)
 - Available at bit.ly/BHR-guidekit-1

Today, businesses face increasing pressure to eliminate – or at least reduce – human rights risks in their operations. There is mounting evidence that such perils might affect business continuity, cause financial losses, and damage reputations.

Various approaches are currently used to gauge corporate responsibility towards human rights. Many prominent companies and industry associations have devised and implemented their own processes for conducting human rights due diligence (HRDD). However, a noticeable shift is occurring, whereby voluntary initiatives and market-driven standards are being gradually complemented by stricter regulatory requirements, including the growing utilisation of trade sanctions.

In our interactions with businesses – spanning not only large corporations, but also small- and medium-sized enterprises – regarding HRDD, we have detected a common hesitation. Business actors often express uncertainty and insecurity, posing questions such as “Where

should we begin?” or “How do we initiate this process?”, and voice their confusion about which of the plentiful resources to implement.

A recurring suggestion has centred on the development of an accessible guide or checklist to assist businesses in embarking on their compliance journey.

This publication – *Business and Human Rights in Southeast Asia #2: A GuideKit to Operationalise Human Rights Due Diligence on Forced Labour* – serves precisely that purpose.

It is a tool designed to help businesses identify potential human rights risks within their operations and practices, particularly where migrant workers are concerned. This GuideKit will facilitate the implementation and assessment of HRDD efforts across various stages, including during the recruitment and employment of workers. The insights gained will enable businesses to conduct more comprehensive self-evaluations and prioritise areas requiring immediate action.

AmerBON
ADVOCATES



CALR
Collective of
Applied Law &
Legal Realism



**FRIEDRICH NAUMANN
FOUNDATION** For Freedom,
Southeast and East Asia