

Louvain School of Management

Mandatory European approaches to human rights due diligence in Southeast Asian supply chains: embedding human rights in procurement and risk management practices across regional contexts and industries.

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Abstract :

With Southeast Asia playing a key role in global value chains and the spotlight on human rights risks in the region, mandatory Human Rights Due Diligence (mHRDD) legislation is very likely to have substantial repercussions for the operations of EU companies and their suppliers in Southeast Asia. Existing research on HRDD for the region is less mature and has a narrow scope. Broader literature and the HRDD process itself points to the need for locally adapted approaches to HRDD.

This thesis examines how the various HRDD processes are organised and adapted in Southeast Asia, their advantages and limitations in improving outcomes for rightsowners, and procurement's key role in HRDD for local suppliers. The data was collected through semi structured interviews with HRDD process owners in 11 different companies sourcing or operating from Southeast Asian, and 7 HRDD-related practitioners based in Southeast Asia also involved in HRDD implementation for companies and local suppliers. The results highlighted four key obstacles: internal and external process silos, change communication, a lack of rightsholder input in the HRDD process and insufficient supplier development. Referencing other sustainability, management, procurement, cultural and historical studies, this thesis puts forth that instating HRDD process owners responsible for HRDD implementation in Southeast Asia, selecting local HRDD ecosystem actors, increasing investment in supplier development, formally integrating rightsholder consultation into HRDD process creation and building innovation into HRDD process owner job design may be the best ways to overcome these obstacles.

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List of Abbreviations

The following list clarifies the various abbreviations and acronyms used throughout the thesis.

ASEAN	Association of Southeast Asian Nations
BHR	Business and human rights
CSDDD	Corporate Sustainability Due Diligence Directive
CSR	Corporate Social Responsibility
CoC	Code of Conduct
EU	European Union
FTA	Free Trade Agreement
HRDD	Human Rights Due Diligence
HRIA	Human Rights Impact Assessment
HRRA	Human Rights Risk Assessment
mHRDD	mandatory Human Rights Due Diligence
SAQ	Self Assessment Questionnaire
UNGPs	United Nations Guiding Principles

Part 1: Introduction

1.1 Aims and academic relevancy of this thesis

The first aim of this thesis is to explore how human rights due diligence (HRDD) practices have been implemented by companies in their operations and suppliers in Southeast Asia. This includes showcasing how HRDD practices are modified and reformed from traditional, informal and customary practices of the region, or so-called local approaches to United Nations Guiding Principles (UNGPs) (Sato, 2019). The second aim of this thesis is to analyse the challenges and offer recommendations towards better embedding human rights in procurement processes and human rights risk management practices for the region. This third aim includes demarcating regional best practices (UNDP, 2022a) so as to encourage HRDD implementation by other companies and proposing recommendations whereby HRDD can be better applied to the local context (UNDP, 2022a).

Due to the recent nature of mandatory Human Rights Due Diligence (mHRDD) and limited uptake by companies in the region (see Section 3.1.2), academic studies on HRDD conducted specifically for Southeast Asian countries are few and far in between (see Section 3.1.1). However, local approaches are important for legitimacy and relevance of the HRDD process- for the process to have been shown to address the needs and experiences of local people and adapted to the regional contexts. Above all, HRDD must be locally informed for companies to avoid deepening or causing human rights impacts on local rightsholders (see Section 3.3.5). This thesis contributes by providing first-hand insight into the ownership and management of HRDD processes from the perspective of company representatives and HRDD practitioners based in Southeast Asia and so bridging a gap in literature.

1.2 Context

The importance of foreign direct investment and global value chains to Southeast Asian is well recognised. Historically, global value chains have played a large role in reducing Asia's poverty rate from 70% in 1981 to less than 10% in 2016 (Asian Development Bank, 2023). At the same time, labour-intensive global value chain segments in the region employ millions of low-wage workers, especially in labour-intensive industries such as textiles, apparel, and footwear. Today, Southeast Asia's role in global value chains remains significant for the region's development, with manufacturing jobs accounting for the largest share of global value chain employment (Asian Development Bank, 2023). Participation in global value chains is therefore an attractive development strategy (Asian Development Bank, 2023).

In recent years, the international spotlight on human rights risks across the region has grown tremendously. Armed political conflict (HRW, 2023), high degree of informality (ASEAN, 2022) and/ or migration (Migration Data Portal, 2023) (Testaverde et al., 2017), low education and skill development (ASEAN, 2022), gender inequality (HRW, 2023) retaliation against political and worker organisation (International Trade Union Confederation, 2019) and labour-intensive operations in certain industries or countries within Southeast Asia enhance the likelihood of human rights abuse. This can be seen in allegations around certain materials from the region and their impacts, such as nickel from Indonesia and forced evictions (AFP, 2023), sugar from Cambodia and child labour (Dickson, M. (2021) seafood and modern slavery (Human Rights at Sea, 2023) (Winrock International, 2022), palm oil and indigenous land grabs (Hicks, 2021) (Ahmed, 2021) (Irham et al., 2022), wages significantly lower than living wages in Cambodia, Laos, Vietnam, Indonesia (The Industry We Want, 2023) and human health (Kasztelan & Quashie-Idun, 2022) in the apparel sector. There has been intimidation and violence against human rights activism in Indonesia (Llewellyn, 2022), as well as legacy practices of noncompliance in labour and migrant worker recruitment laws (Sopheavotey, 2023) (Hunt, 2022) (Ananthalakshmi, 2021). The most common types of allegations identified in the 2022 Corporate Human Rights Benchmark for Southeast Asia include child labour, land rights including forced displacement, and the right to a safe, clean, healthy and sustainable environment (World Benchmarking Alliance, 2023). Exacerbating this, companies in Indonesia, Philippines and Vietnam still score poorly in corporate governance (Singapore Institute of Directors & Centre for Governance and Sustainability NUS Business School, 2021) (Asian Development Bank, 2021).

Economic integration of the region has resulted in new demands related to human rights (Nonthasoot, 2017). There is an increasing focus on labour standards in international trade agreements for the region driven by the European Union (EU). Labour provisions have appeared in all EU Free Trade Agreements (FTA), including the EU–Vietnam FTA in 2020, the EU–Singapore FTA in 2019, and the agreement between the Philippines and the European Free Trade Association States in 2018 (Asian Development Bank, 2023). The region has also been affected by forced labour import bans (Lee, 2021).

Most significant for this thesis, the EU Corporate Sustainability Due Diligence Directive (CSDDD) aims “to foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies’ operations and corporate governance” and requires companies to establish due diligence procedures to address adverse

impacts of their actions on human rights (HRDD) and the environment, including along their value chains worldwide (European Commission, 2022). The scope of corporate social responsibility is both upstream and downstream but excludes customers and consumers (CSR-in-Deutschland, 2023). The EU CSDDD covers three groups of EU companies (CSR-in-Deutschland, 2023):

- Companies with at least 500 workers and a global annual net turnover of 150 million euros,
- companies with at least 250 workers and a global annual minimum global turnover of 40 million euros provided that at least 20 million euros worth of their turnover is achieved in a risk sector. Risk sectors include the textile industry, agriculture and forestry, fishing, food, chemistry, exploitation of mineral resources (e.g. crude oil, natural gas, coal, metals and ores),
- companies from a third country if their annual net turnover is a) more than 150 million euros in the EU or b) 40 to 150 million euros in the EU and at least 20 million euros of their worldwide turnover is earned in a risk sector.

Association of Southeast Asian Nations (ASEAN) is the EU's third-largest external trading partner and EU is the biggest investor in ASEAN countries (European Council, 2023). In the EU CSDDD proposal, the various risk sectors such as the textile sector, agriculture and forestry sector, fishing sector, food sector, chemistry sector, and mineral resource sectors (e.g. crude oil, natural gas, coal, metals and ores) highly overlap with EU imports from ASEAN. The largest categories of EU imports from the region are manufactured goods (31.6%) and machinery and vehicles (46.5%), chemicals and raw materials (European Council, 2023). These industries are associated with numerous human rights risks, unsafe and exploitative conditions and company practices that negatively impact communities which depend on the resources used for production (World Benchmarking Alliance, 2023). The EU CSDDD and other mHRDD legislation is therefore very likely to have substantial repercussions for EU companies and their suppliers in Southeast Asia (Bon, 2023) (Uyen, 2023).

Part 2: Methodology

2.1 Overview and scope

Due to time constraints, the scope of this study excludes an analysis of contractual obligations, comparison of Code of Conducts and other company policies. A growing number

of guidelines on HRDD exist. While informed by certain guidelines, this study does not perform an analysis of all internationally available guidelines.

Selection process of interviewees for this study is detailed in Section 2.2 and its limitations discussed in Section 6.1. This study does not claim to generalise of all companies approach to HRDD for the region. As suppliers themselves were not interviewed, this paper should not be used to draw conclusions with respect to motivations and practices of supplier implementation of HRDD.

Empirical results are presented descriptively, beginning with a section on external ecosystem actors and their roles in the HRDD process, followed by contextual challenges that were identified by interviewees are pertinent to HRDD implementation process in the region. Before diving into company-related results, it was necessary to have a section to summarize data and opinions regarding the difference between HRDD and compliance approaches. Thereafter, results were organized into three themes; organisational structures, people and the various processes related to HRDD. Within each individual section, there exist “deep dives”, which provide in-depth descriptions of current company practices for Southeast Asia. While interesting and important, it is essential to clarify that these practices highlighted in the “deep dives” should not be taken as a generalisation of what all companies should implement for the region but showcase the diversity of innovative approaches.

Based on the results, four key challenges of HRDD implementation were chosen for further discussion. Recommendations proposed aim to holistically address these challenges as well as other limits raised in the various sections.

2.2 Working methods

The gathering of first-hand data was performed through qualitative interviews. The interview schedule and interview guides can be found in the Appendix. Semi-structured individual interviews were conducted with two groups of participants: the first group being people who worked or were highly familiar with HRDD, or related to HRDD, in companies sourcing or operating from Southeast Asian companies, and the second group being HRDD-related practitioners or experts, all except one was based in Southeast Asia. A majority of the interviewees were selected through the social networking platform LinkedIn, based on their known expertise, with the proxy being “HRDD” or “human rights” in their current job title or job description and the rest identified through the public list of companies consulted for the EU CSDDD proposal. Following this, desktop research was conducted to narrow the pool of

candidates to companies sourcing or operating from Southeast Asia, based on public information such as key supplier lists, news articles about factory openings, annual reports of key operating or manufacturing locations and number of employees. A small number of participants were also recruited through snowball sampling and referrals. More than one candidate was identified as part of the pool of company representatives consulted in the EU CSDDD proposal, which was available online. Requests were sent through a combination of short messages on LinkedIn and emails from my official UCLouvain account. All but three interviews were conducted remotely face-to-face via Teams, with the rest through voice call. As there were sensitivities due to the increasing legislation around HRDD, and to speak more candidly about company processes, interviewees were offered the option of being cited anonymously, and this was confirmed at the start and end of the interview and in email. When the writeup of the results of the interviews were finalised, all interviewees were sent a copy of Part 2, Part 4, and Chapter 5.1, to reaffirm their how they would be cited, review their contribution and adjust any misinformation if they so wished.

2.2.1 Interviewees

Group 1 interviewees included senior and junior HRDD process owners in companies operating and sourcing from Southeast Asia, and almost all have personal experience working in or with Southeast Asian supply chains, with a collective experience across Singapore, Malaysia, Philippines, Indonesia, Vietnam, Cambodia and Thailand. At least half of these HRDD process owners and managers have legal backgrounds, with the rest having studied business and communication, environment, EHS compliance, international relations, logistics and supply and political science. In addition to being HRDD process owners and managers, in their current roles, some informants also perform stakeholder engagement, legal monitoring, corporate relations or operations strategy. Most of the people interviewed had around 4 years of experience in their current role, with the minimum time spent in the role being around 1.5 years.

List of corporate representatives interviewed:

- director of corporate social responsibility and human rights for NXP,
- human rights specialist from Neste,
- human rights manager at L'Oréal,
- anonymous informant from Shell,
- president manufacturing and services global of Flex,
- anonymous employee working in HRDD from Nestlé,
- director of business and human rights of Ericsson,

- three anonymous human rights experts from three different technology companies,
- anonymous sustainability role in one of the above-named companies
- anonymous senior level compliance officer of one of the above-named companies
- anonymous informant working in retail

While there was no threshold set in the initial interview requests, all group one participants ultimately fulfilled one or both criteria 1) key suppliers operate from several Southeast Asian countries 2) key operations were located in several Southeast Asian countries. These participants self-identified as related to the supply chain for Southeast Asia as either a) working on topics related to specific raw materials sourced from the region, b) working directly with Southeast Asian suppliers c) working directly in Southeast Asian companies d) working with Southeast Asian colleagues. The interviews explored how HRDD was conducted in their company, their functions, career backgrounds, policies and governance structures related to HRDD, trainings, Southeast Asian-specific human rights risks, cultural and normative understanding of HRDD in Southeast Asia, and challenges and successes of HRDD in the region. The interviews were semi-structured in that they allowed interviewees to spend interview time on their unique approaches to certain HRDD aspects, which many companies had. Throughout the interview, participants were asked to give examples from Southeast Asia where possible. Reliability was improved by complementary data gathering from the public disclosure of their HRDD process in their modern slavery, vigilance plans and sustainability reports.

Willingness to participate could have selected the ones who have made the most progress in HRDD implementation, or so-called leaders in the sustainability space, and resulted in results that were highly unrepresentative of all companies implementing HRDD in Southeast Asia. To overcome this and capture opinions that were more representative, it was necessary to interview another group of participants about their experience in implementing HRDD for a broader range of companies.

Group 2 interviewees consisted of local service providers involved in research and data provision, supply chain mapping, worker dialogue and focus group discussion, auditing, training, consulting, grievance mechanism and corrective action plan design related to the upstream supply chain for European companies were also interviewed. These service providers are based in and have experience working with suppliers in Philippines, Malaysia, Indonesia, Thailand, Myanmar, Laos DPR, Singapore, Cambodia, and Vietnam, in various

industries including palm oil and seafood, electronics supply chains, apparel and footwear and fast-moving consumer goods.

Local service providers interviewed:

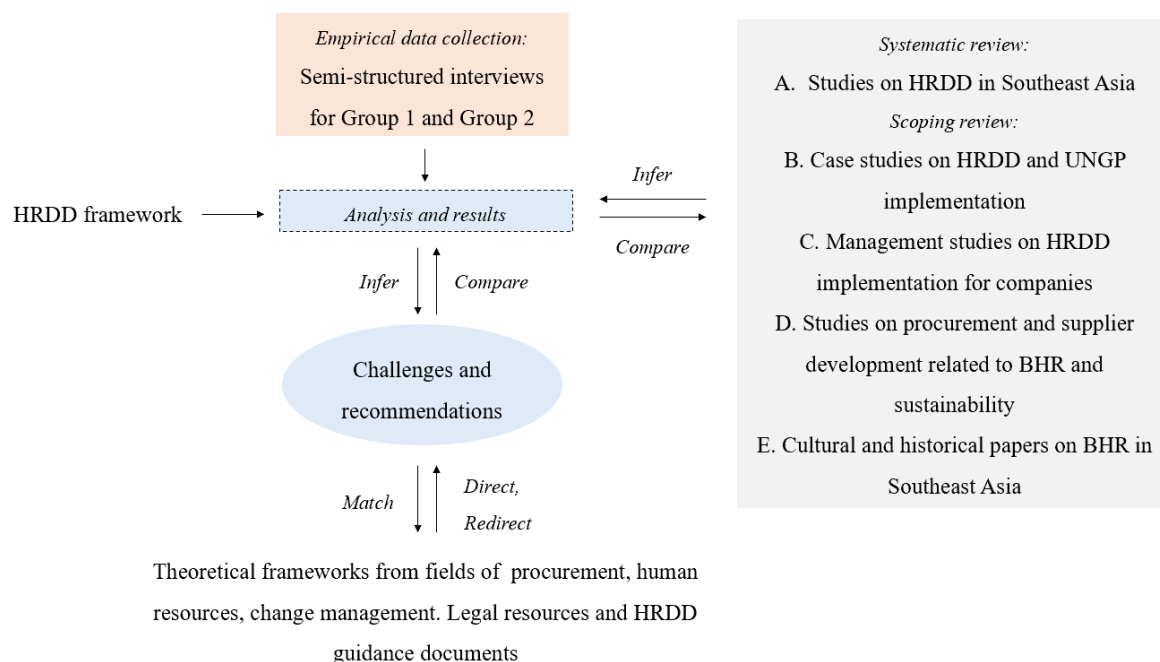
- senior director for operations of Verité Southeast Asia,
- chief executive officer of ASEAN CSR Network
- senior director for partnerships and content of Labor Solutions,
- HRDD expert working to promote the implementation of UNGPs,
- anonymous from an NGO promoting transparency by sharing data with international organisations,
- anonymous expert from a non-profit industry coalition,
- anonymous expert from an independent (regional) organization working on access to remedy
- sustainable procurement expert

Group 2 participants were asked their view on trends and triggers of HRDD for the region, impact of mHRDD approaches, best practices seen in the region, cultural and normative understanding of HRDD in Southeast Asia, and challenges and successes of HRDD in the region. Again, these interviews were semi structured to allow for the participants to explain any key approaches in how they work for European companies.

For two companies, there was an opportunity to benchmark the information received in the interview with the HRDD expert with another anonymous interview of an employee working in the region.

Secondary data collection consisted of desk-based analysis of academic literature. Since the number of papers were very few, a systematic review was conducted on literature relating to HRDD in Southeast Asia. There was also a need to supplement this with a broader scoping review which included different topics. These topics can be clearly seen in Figure 1: Working methods for this thesis.

Figure 1: Working methods for this thesis



Source: Figure is author's own work. *The concepts of matching, direction and redirection are adapted from Dubois & Gadde's paper on Systematic Combining. Dubois, A. Gadde, L. (2002). Systematic combining: an abductive approach to case research. *Journal of Business Research*, 55(7), 553-560. [https://doi.org/10.1016/S0148-2963\(00\)00195-8](https://doi.org/10.1016/S0148-2963(00)00195-8)

By the processes of inference and comparison between secondary existing studies and empirical data collection, the themes, structure and results of the research emerged during the data collection. In the analysis and compilation of the results, the scope was further narrowed based on relevance to the topic and availability of results across interviewees for comparison.

For the discussion, challenges and recommendations were selected based on a critical reflection of the results. Furthermore, an iterative second round of desktop research was conducted to test and provide a theoretical basis for the recommendations that surfaced (see Diagram 1). Due to the relatively small sample size and emergent nature of HRDD research, an iterative theoretical sampling was selected as an approach. This approach is similar to the concept of systematic combining whereby theoretical framework, empirical fieldwork, and case analysis evolve simultaneously, and it is particularly useful for development of new theories (Dubois & Gadde, 2002). There was an attempt to balance the search terms and criteria for the review between that which would be too broad or too narrow, by referring to the thesis question as well as the initial systematic review of studies already related to HRDD implementation in the region.

Part 3: Literature Review

3.1 Academic literature related to HRDD in Southeast Asia

This thesis will often use the words focal company to refer to international companies that manage their supply chain (or part thereof), design the end products and services offered, and maintain direct contact with customers, and local supplier to refer to Southeast Asian suppliers that provide goods to these focal companies.

3.1.1 Characteristics of academic literature related to HRDD in SEA

Regional academic literature on HRDD is in its early stages. Older academic literature related to the management of human rights risks is less mature, and until very recently, puts forth business cost and benefit as the primary reasons why companies should adopt HRDD. They may also contain misconceptions about the purpose of HRDD processes.

The majority of older literature relating to human rights risk management in Southeast Asia have a narrow scope, by and large only capturing practises related to one company and region. These studies concern individual human rights, such as health and safety in the context of Malaysia for an oil and gas company (Abdullah & Foo, 2019) or land grabs in Cambodia (Sato, 2019) or specific elements of the HRDD process such as the human rights risk assessment (Salcito & Wielga, 2018). However, the results of these studies may not provide a clear theoretical basis on which to build research on HRDD in the region. This is because where dedicated HRDD is undertaken, human rights risks are more likely to be detected than during non-specific human rights processes (Mccorquodale et al, 2017). In many of the previous studies that mention HRDD, HRDD is discussed as applied to project financing and investment (Sato, 2019) (Salcito & Wielga, 2018), or environmental protection (Chuyen, 2018) or the regions transition to renewable energy (Van Gelder et al., 2021), rather than a dedicated study of HRDD practices.

A defining feature of older academic literature is the focus on the benefits and costs of HRDD for companies. The potential benefit of business and human rights is argued as the respected workforce is more stable, predictable, and productive, all great for corporate bottom line (Nguyen et al., 2023). Costs of not managing human rights risk centre around financial costs, i.e. additional human and financial resources spent on managing protests, grievances, or the loss of social license to operate, disruptions or project delays, litigation, and tarnished reputation, with some mention of workplace safety and injuries (Abdullah & Foo, 2019). A key consideration in some of the papers is the reputational benefit of

conducting HRDD for maintaining and establishing long term business relationships with global value chains (Chuyen, 2018). In some papers, the conceptual differences between HRDD, and managing business risk to the company are not so clear, with authors putting forth that “time taken to operationalise due the risks results in cost inflation, restricted access to financing, value erosion and reputational damage can be identified and mitigated by using existing risk assessment tools such as HRDD” (Abdullah & Foo, 2019).

Local guidelines on HRDD specifically for Southeast Asian companies are few and far between. Where they exist, the guidance on HRDD processes themselves is limited to a broad overview- “monitoring plan”, “human rights statement” (FIHRRST, 2021), or “include human rights principles” (Chuyen, 2018) which may not be immediately actionable for businesses. These too, contain language that may be conceptually misleading or different to the UNGP framework. For example, “stakeholder engagement is carried out in the early stages of conducting human rights due diligence. It is a means of communication between a company and its stakeholders to explain the purpose of conducting human rights due diligence” (FIHRRST, 2021), whereas the UNGPs define stakeholder engagement as “an ongoing process of interaction and dialogue between a company and its stakeholders that enables the company to hear, understand and respond to their interests and concerns, including through collaborative approaches” (Shift & Mazars LLP, 2015), or recommendations that differ, such as “one of the ways pharmaceutical companies can use leverage is when they know that one of their supplier company has a potential negative impact or has had a negative impact on human rights, they can stop working with or stop buying products from them (FIHRRST, 2021) in contrast to “ among the factors that will enter into the determination of the appropriate action in such situations are the enterprise’s leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the impact, and whether terminating the relationship with the entity itself would have adverse human rights impacts (OECD, 2023).

In the last two years, a smattering of dedicated studies and guidance on HRDD in the region has emerged. Moving forward, most of the literature review will be based on these few studies, with related literature brought in to fill the gaps as necessary.

3.1.2 HRDD adoption and practices in the region

Academic literature related to HRDD for the region mostly focus on assessing the level of disclosure rather than adoption, as nearly all progress on implementing the UNGPs in Asia

has been made in the last five years (UNDP, 2022a). Even then, the level of disclosure of HRDD-related practices among local Southeast Asian companies is low. An assessment of human rights disclosure by the top 250 publicly listed companies in the region found that UNGP diagnostic disclosure scores for HRDD efforts and stakeholder engagement in HRDD were highest in Thailand at 34%, followed by Malaysia at 16%, Singapore at 12% and Philippines and Indonesia the lowest at 4%, all falling substantially short of the international norm set in the UNGPs both in terms of extent and quality (Mullen et al., 2019). A 2019 study of the top 100 publicly listed Indonesian companies indicated that most of the companies assessed did not have adequate systems and processes to implement the UNGPs (FIHRRST, 2021). Even with Indonesia's pharmaceutical industry being the largest market (MNC Sekuritas, 2021) in the ASEAN region, the four largest pharmaceutical companies in Indonesia did not have a human rights policy, let alone conducted HRDD (FIHRRST, 2021). Another assessment of the seafood industry, of which Southeast Asian countries constitute the world's majority supplier (Southeast Asian Fisheries Development Center, 2023) and have the most rigorous market-based interventions around human rights and social responsibility (Lout, 2023) for the region, including the region's only industry standard of HRDD (FIHRRST, 2021), found that more than three quarters (78 %) of the 1000 companies evaluated scored zero on indicators for HRDD (Lout, 2023). Even regional sustainability leaders (Thai Union, 2022) such as Thai Union Group PCL scored 14 out of 20 and did not meet criteria for disclosing results of human rights assessments or actions taken to address identified human rights issues (Lout, 2023). A study of Vietnamese companies shows that responsible business and human rights integration in Vietnamese enterprises is new and limited to mentions in its mission, goals or values (Nguyen et al., 2023).

Still, there seems to be an agreement within literature that business focus on HRDD is increasing for the region but this is tempered with concerns that HRDD is currently more about managing the impact of human rights on business enterprises rather than managing business enterprises' impact on human rights (UNDP, 2022a).

3.1.3 Key challenges for adoption of HRDD

3.1.3.1 Gaining political buy-in

The concept of HRDD has struggled with gaining buy-in from government and corporate leaders in the region (UNDP, 2022a). Parallels can be drawn with the creation of other human rights mechanisms in Southeast Asia, which were a long and challenging process including normative and political debates (Ciorciari, 2012). One source of these debates is that legal

and institutional frameworks for the region, such as the ASEAN Charter, treat human rights as norms to be reconciled with and sometimes balanced against norms of sovereignty and non-interference (Ciorciari, 2012). Moreover, other priorities such as stability and economic development are favoured over human rights concerns (Ciorciari, 2012). Another reason for the lack of buy-in is the lack of legal alignment for mHRDD, where corporate actors in Asia remain fixated on legal liability seen through the lens of domestic laws (UNDP, 2022a).

3.1.3.2 Local knowledge and technical capacity gaps

Literature also highlighted unfamiliarity with HRDD, citing business and human rights language and frameworks being new to the region (UNDP, 2022a).

Several studies discuss a lack of in-house understanding of HRDD for local companies. A case study on HRDD practices for local suppliers revealed that theoretical strategies, processes and tools to address human rights risks and impacts were not implemented effectively. Moreover, recommendations to sub suppliers about corrective actions, including those to be taken to remediate labour-related findings, were not always clearly communicated, or were communicated in ways that could be construed to contradict the suppliers' own internal practices (Verité, 2020). Another study highlighted that corporate informants were confused about the purpose of HRDD and how the corporate responsibility to respect human rights differs from other social responsibility and sustainability imperatives (UNDP, 2022a).

Where local companies and suppliers implement HRDD practices, they rely on expertise provided by third parties and foreign consultants (Harrison, 2023), leaving these companies without a sufficiently strong sense of ownership of or sufficient visibility into the objectives and implementation of the programs and initiatives in place (Verité, 2020), and contribute to the problem of a lack of in-house and regional technical capacity. Capacity to consult and support businesses in their HRDD implementation is increasingly built through leading international practitioners who increasingly work with and support local practitioners. However, such practices would not be able to keep pace with the scale of HRDD increases (Harrison, 2023).

3.1.3.3 Drawbacks of external consultants

A study which of consultants based in several regions including Asia identified three challenges associated external consultants and their work for companies (Harrison, 2023). Firstly, the study found uncertainty or differences of opinion between leading practitioners on

critical aspects of the HRDD process. This point was also corroborated in another report where the consistency of oversight and management of external consultants' work on labour and human rights issues varied, and the establishment of clear KPIs in regard to the performance of their external consultants was identified as a need within a local company (Verité, 2020). Secondly, as consultants are hired by companies, power dynamics between them and companies have the potential to undermine the capacity of HRDD processes to produce valuable results for rightsholders. Lastly, consultants often compete for HRDD with other providers and make concessions in terms of price or time, which create a 'race to the bottom' in terms of the robustness of HRDD processes (Harrison, 2023).

3.2 Wider academic literature on Southeast Asia

Wider academic literature on Southeast Asia may offer key insights about practical challenges of HRDD implementation in the region. Three themes were selected: cultural dilemmas, practical supplier development and stakeholder engagement.

3.2.1 *Cultural dilemmas and debates*

As companies internationalise, they inevitably face difficulties navigating different cultures. Local employees of international companies can face a double-bind dilemma between conforming to the norms set by their employees or supplier Code of Conduct (CoC) by respecting locally upheld values, customs, practices and vice versa (Halff, 2010). This double-bind dilemma can also apply to legislation and can be illustrated in the case whereby some CoCs were found to require workers in specific fields to be aged 18 or older whereas the minimum legal working age in some countries such as Vietnam allows the employment of workers is full 15 years old (Thao, 2022). Considering that all workers sign supplier CoCs upon onboarding, in cases where supplier CoCs fail to address and resolve these contradictions, these double-bind dilemma encourage practices of non-compliance (Halff, 2010). According to Halff, where norms contradict, focal companies should give clear priority to one set of norms (local or corporate) and provide precise contexts and examples of how to apply the priority rule (Halff, 2010).

Beyond legal technicalities, cultural debates in the region around human rights may not be as easily resolved, one being a long-standing debate being that between "Asian" or "Western" values (ASEAN University Network–Human Rights Education & SHAPE-SEA, 2019). This concept of Asian values first emerged as early as 1977 in Singaporean records (Sim, 2021).

The key points of this debate are summarised by ASEAN University Network–Human Rights Education & SHAPE-SEA in the table 1 below.

Table 1: Asian vs Western values debate

Asian	Western
The meaning of human rights should be shaped by the particularities of each region/nation.	Human rights are universal. The principles anchoring these rights resonate across cultures and geographical borders.
The community of nations can raise questions about human rights violations in other countries.	The community of nations can raise questions about human rights violations in other countries.
More priority should be given to economic, social, and cultural rights.	More priority should be given to civil and political rights
Nations are built by communities of peoples. Therefore, collective rights are more important than individual liberties. People also hold duties towards their country	Individuals are rights holders. Therefore, the freedoms and liberties of individuals are sacrosanct.

Source: Table is adapted from ASEAN University Network–Human Rights Education. SHAPE-SEA. (2019). An introduction to Human Rights in Southeast Asia Volume 3, page 3.

In the past, various past politicians from Singapore and other countries in the region cautioned the population that the “Western” concept of human rights had negative consequences, such as subverting Asian countries political autonomy, culture, and social cohesion (ASEAN University Network–Human Rights Education & SHAPE-SEA, 2019), bringing instability and anarchy, and hindering economic and social progress. (Sim, 2021). This forms the argument that the poor in developing countries including Southeast Asia would invariably choose economic rights over political freedoms and democracy (ASEAN University Network–Human Rights Education & SHAPE-SEA, 2019). A key piece of the debate is not the rejection of international human rights, but the nationalistic determination of their own political and social model, including its own view on human rights and democracy (Brems, 2001).

However, in recent years there has been more talk of the concept being used as a distraction tactic by governments to disregard genuine concerns and stall action (Sim, 2021). There were

also leaders in the region who rejected the illiberal and anti-democratic elements of the Asian values concept (Sim, 2021), citing it as an excuse for autocratic practices and denial of basic human rights/civil liberties (ASEAN University Network–Human Rights Education & SHAPE-SEA, 2019). Moreover, when the diversity of beliefs between different countries in the region is taken into consideration, the West versus East debate is a false dichotomy (ASEAN University Network–Human Rights Education & SHAPE-SEA, 2019).

While there is a growing acknowledgement of the irrelevance of the debate in terms of the type of rights (Sim, 2021), the emphasis on local realisation remains. According to ASEAN Human Rights Declaration, principle 7 “all human rights are universal, indivisible, interdependent and interrelated. All human rights and fundamental freedoms in this Declaration must be treated in a fair and equal manner, on the same footing and with the same emphasis. At the same time, the realisation of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds” (ASEAN, 2012). Over and above this, differing levels of political will have continued to delay implementation of UNGPs and National Action Plans in Southeast Asia and wider Asia (UNDP, 2022b) (UNDP, 2023).

Such competing human rights claims or culture wars (King et al. 2022) can also be taken advantage of by companies to exploit the gap between buy-in and action and delay implementation. A pragmatic approach (Corporate Europe Observatory et al., 2021) in the face of “legal uncertainty” to cross-country regulatory differences between Europe and the laws of other countries (European Coalition for Corporate Justice, 2021) perpetuate the lack of consequences for the negligent management of human rights and environmental impacts in global value chains.

3.2.2 Supplier development in Southeast Asia

Primary business motives for international companies sourcing in Southeast Asia are cost advantages, where substantial lower labour costs in Southeast Asia compared with Europe were identified as the main cost savings. Sourcing from local suppliers also brought savings in terms of import duties and currency exchange, as well as reducing currency risk. Lastly, government regulations played an important role in the decision whether or not to source locally (Wouters et al., 2007).

In Vietnam and Thailand, the four main practices of supplier development that were found were frequent assessment and feedback that stimulated a process of learning by experience,

knowledge transfer through trainings and experts, financial investments, and focal company involvement in operations management (Wouters et al., 2007). Examples of development by knowledge transfer include the focal company operating training programs to demonstrate best practices to suppliers. When investing financial resources in local suppliers, focal companies invested in suppliers with criteria such as development capabilities, or which produced more than 50% of the focal companies' products. One focal company directly managed the assets and the production of the factory until the supplier gained sufficient experience to manage the operations themselves (Wouters et al., 2007).

Wouters et al also suggest that while local supplier development may involve considerable transaction costs due to uncertainty about potential improvements in relation to the investments needed and these investments were not transferable to alternative suppliers at low cost, such costs were not necessarily larger compared with suppliers in focal companies HQ countries, because these local companies were often ambitious to improve and to gain new and large customers. However, the process of supplier development could take longer (Wouters et al., 2007).

3.2.3 Practices of stakeholder and rightsholder engagement

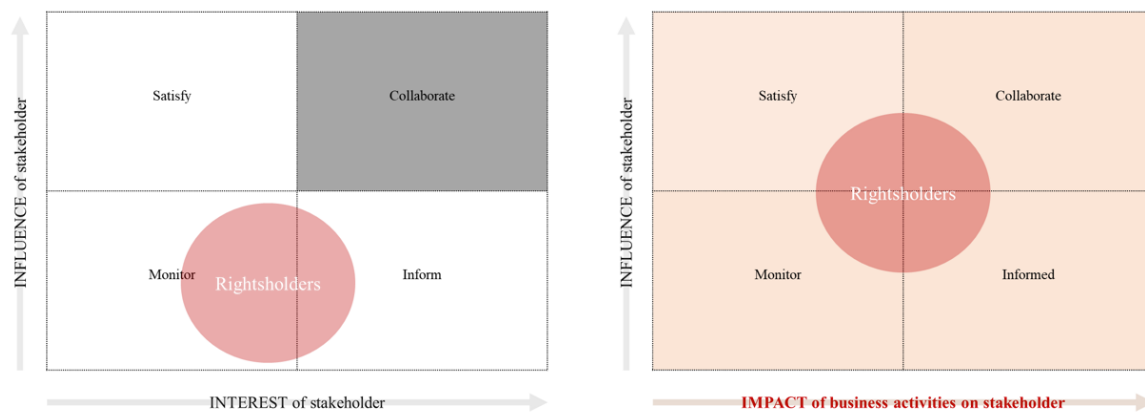
A typical method of stakeholder management used in a stakeholder analysis is to define the level of influence and interest in the activity project (Durham et al., 2014). This was used successfully in a project to classify stakeholders regarding the provisioning, regulating and cultural ecosystem services in wet rice agriculture in Southeast Asia (Spangenberg et al., 2018). A collaboration strategy typically focuses on the stakeholder group in the matrix on the left of Figure 2.

However, this typical stakeholder classification approach must be adapted for HRDD (Danish Institute for Human Rights, 2020). Stakeholder engagement in HRDD constitutes “an ongoing process of interaction and dialogue between an enterprise and its potentially affected stakeholders that enables the enterprise to hear, understand and respond to their interests and concerns, including through collaborative approaches.” Stakeholder engagement therefore focuses on what rightsholders- potentially affected stakeholders- want to discuss with the company in relation to the company's impacts. These rightsholders may be internal or external to the company, close or distant from the company's headquarters, and protected (for example, by a strong trade union or regulatory enforcement) or marginalized such as migrant workers or child laborers (Curphey & Cole, 2022). The Danish Institute for Human Rights

human rights impact assessment guidance and toolbox proposes a matrix with two axes: influence of the stakeholder on the business project or activities (influence/power axes), and impact of the business project or activities on the stakeholder (impact axes) (Danish Institute for Human Rights, 2020), which can be visualised as the matrix on the right of Figure 2.

With both matrices side by side, it can be more clearly seen that the HRDD stakeholder classification better captures rightsholder input, represented by the red circle in Figure 2.

Figure 2: Comparison between traditional stakeholder classification and HRDD stakeholder classification



Source: Figure is author's own work. *A. The concept of traditional approaches to stakeholder engagement are adapted from Spangenberg et al. (2018). *Doing what with whom? Stakeholder analysis in a large transdisciplinary research project in South-East Asia. Paddy and Water Environment*, 16, 327-337. <https://doi.org/10.1007/s10333-018-0634-2> as well as Durham et al. (2014). *The Bio-divERsA Stakeholder engagement handbook*. <https://www.biodiversa.eu/wp-content/uploads/2022/12/stakeholder-engagement-handbook.pdf>. B. The concepts of HRDD rightsholder engagement is adapted from Danish Institute for Human Rights. (2020). *Crosscutting: Stakeholder Engagement, Human Rights Impact Assessment Guidance and Toolbox*. Page 12. <https://www.humanrights-in-tourism.net/publication/crosscutting-stakeholder-engagement>

Businesses should view rights holders as partners, and key strategies in engaging rightsholders must also include collaboration, keeping rightsholders informed, monitoring their opinions, and satisfying them as seen in Figure 2.

Company practices of poor rightsholder engagement in HRDD for the region include not conducting the engagement in the locally dominant language (Salcito & Wielga, 2018), poor identification of legitimate representatives, and identification process lacking transparency and context sensitivity, as well as opinions from community members that they felt partially informed about the project (Hamm & Schlax, 2015). Dialogue with the local community was highly managed in such a way that company rhetoric of the situation did not match what was happening on the ground (Martha & Logahan, 2016), or in informing broader stakeholders,

companies used reports which focused on positive effects of the project, and failed to inform about the existential concerns of stakeholders and the disagreements and conflicts arising in communities through the presence of the project (Hamm & Schlax, 2015). Problems were also raised around the process of consultation and documentation (Hamm & Schlax, 2015).

This reflects broader academic literature, whereby similar hurdles to open and productive engagement on the ground were identified as power imbalances or geographic, language, social, or cultural barriers (Curphey & Cole, 2022).

Other practices linked to ineffective stakeholder engagement identified were a lack of record of evaluation of downstream impacts (Salcito & Wielga, 2018), as well as stakeholder fatigue (Martha & Logahan, 2016). Stakeholder fatigue can occur when participants are engaged in multiple duplicative and repetitive engagements or engaged in a way that has made them sceptical of the process and its aims. The failure to provide feedback on how stakeholder input has been used for impact is also a cause of stakeholder fatigue. This can make engagement more difficult in the future.

3.3 Academic studies related to implementation of HRDD

3.3.1 *Foundational understanding of HRDD*

3.3.1.1 *Concept*

Black's Law Dictionary defines due diligence as: "a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard but depending on the relative facts of the special case" (Black Law Dictionary, n.d.). In this way, HRDD should be approached with carefulness, and close and constant attention by a business.

However, HRDD differs from traditional due diligence in that the purpose of HRDD is to ensure, not the protection of the company's business interests, but instead, human rights. According to John Ruggie, HRDD is a "a comprehensive, proactive attempt to uncover human rights risks, actual and potential, over the entire life cycle of a project of business activity, with the aim of avoiding and mitigating risks" (Ruggie & Sherman, 2017).

According to the OECD Guidelines, paragraph 15, HRDD is the process that " through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems" (OECD, 2023).

The due diligence process set out in this Directive should cover the six steps defined by the OECD Due Diligence Guidance for Responsible Business Conduct, which include due diligence measures for companies to identify and address adverse human rights and environmental impacts. This encompasses the following steps: (1) integrating due diligence into policies and management systems, (2) identifying and assessing adverse human rights and environmental impacts, (3) preventing, ceasing or minimising actual and potential adverse human rights and environmental impacts, (4) verifying, monitoring and assessing the effectiveness of measures, (5) communicating, (6) providing remediation. Companies should take appropriate steps within their means to set up and carry out due diligence measures, with respect to their own operations, those of their subsidiaries, as well as their direct and indirect business relationships in their value chains in accordance with the provisions of this Directive (OECD, 2023).

3.3.1.2 Differences between compliance approaches to due diligence and HRDD

Lewis & Wagner have succinctly clarified the differences between compliance approaches and HRDD, see Table 2.

Table 2: Differences between compliances approaches to due diligence and HRDD

	Traditional and compliance approaches to due diligence	HRDD
Timing	Prior to a new transaction	(a) prior to a new activity or relationship, major decisions, or operational changes to the business (such as market entry, product launch, policy change, or mergers and acquisitions) or in response to or in anticipation of changes in the operating environment (e.g., rising social tensions); (b) at regular intervals; and (c) periodically throughout the life of an activity or relationship
Recurrence	Ad hoc	Ongoing, at regular intervals, throughout the life of an activity or relationship
Risk perspective	Business	Individuals or groups potentially affected
Risk factors	Legal, compliance, financial, environmental, operational, regulatory, etc	Human rights

Scope	Dependent on the nature of, and level of risk, associated with the transaction	Risk-based, commensurate to likelihood and severity of an adverse impact, proportionate to resources and industry sector
	Focused on target entities, products and operations in relation to the transaction	Across operations and products and throughout value chain and business networks

Source: Table adapted from Lewis, C. Wagner, C. (2023). A Guide to Human Rights Due Diligence for Lawyers. ABA Book Publishing.

Approaches to corporate social responsibility in Southeast Asia have long been characterised by philanthropic practices (Sciortino, 2017). However, business businesses' positive contributions through philanthropy, job creation, infrastructure development, creation of schools and hospitals, or other activities do not offset adverse human rights impacts on people and communities. These are not, as stated in UNGPs Principle 11, "a substitute for undertaking human rights due diligence."

3.3.1.3 Rightsholders

Affected stakeholders or rightsholders include (Shift & Mazars LLP, 2015) (University of Antwerp & Federal Institute for Sustainable Development, 2018):

- Staff (employees and contract workers) and communities directly affected by the organisation's operations;
- More physically remote stakeholders affected through by the organisation's operations in the supply chain;
- Customers or end-users of a particular product or service.

3.3.1.4 Tracking, learning and improvement

The decisive criteria of extent of efforts needed to update its HRDD processes is the company's ability to meet its responsibility to respect human rights (Lewis & Wagner, 2023). And so long as business operations and operating context evolve, additional assessments and action should also be initiated. Furthermore, to ensure that the company is indeed meeting its responsibility, quantitative and qualitative HRDD indicators to track a company's adverse impacts should be used. While lagging process indicators such as the "rate of recurring issues related to the identified adverse impacts" and the "percentage/ number of agreed action points implemented according to planned timelines" may be used, direct rightsholder feedback is crucial to HRDD (Lewis & Wagner, 2023). For example, such feedback is important for

understanding if a reduction in the number of reports on a certain risk is affected by the willingness to report violations due to intimidation or a loss of faith in the complaint system.

Direct rightsholder feedback can be incorporated into quantitative indicators by measuring (Lewis & Wagner, 2023):

- the percentage of impacted rightsholders engaged who feel adverse impacts have been adequately addressed;
- the percentage of impacted stakeholders who feel channels for raising grievances are accessible, equitable, and effective;

Qualitative indicators suggested include a review of a company's response and the extent to which it prevented the impact for, or a root cause analysis to determine how and why the impact occurred (Lewis & Wagner, 2023).

3.3.2 Practical case studies

3.3.2.1 Organisation

There exists a growing pool of recent and cross-industry case studies on the implementation of HRDD. According to Mccorquodale et al, the approach to HRDD is overwhelmingly similar across sectors and corporate structures (Mccorquodale et al, 2017).

In terms of organisational placement, HRDD is primarily driven by a person or function (or a small group). Often, the driving unit assumes a coordinating role, as part of which it engages further functions. (Accenture & TwentyFifty, 2021). While functional HRDD team can create a clearer identity for human rights, "mainstreaming" human rights responsibilities can enable the issues to be managed effectively and create awareness of how human rights can be applies at the relevant functional level, such as procurement. Rather than Corporate Social Responsibility (CSR) departments, they advocate for an appropriately trained multi-functional team consisting of compliance, operations and legal department members (Mccorquodale et al, 2017).

3.3.2.1 Types of processes

A range of processes have been shown to have been implemented.

Firstly, making clear policy commitments around human rights (Danish Institute for Human Rights, 2023) (UN Global compact n.d.), as well as the incorporation of human rights into pre-existing and already accepted policies (Accenture & TwentyFifty, 2021). There is

evidence of board engagement (WBCSD, 2023) and the creation of committees and advisory boards (TwentyFifty, 2021).

Secondly, companies are performing human rights risk identification and mapping (Danish Institute for Human Rights, 2023) (WBCSD, 2023) (UN Global compact n.d.), including digital monitoring (WBCSD, 2023) and due diligence tools (TwentyFifty, 2021), as well as the creation of human rights risk assessment tools for direct and indirect suppliers (Maplecroft, n.d.). The approaches can also be continuous and involve multiple risks assessments, or take place in-person (TwentyFifty, 2021).

Thirdly, companies are embedding human rights in existing processes such as sales processes and marketing, Know Your Customer checks, anti- corruption processes (Danish Institute for Human Rights, 2023) (WBCSD, 2023). One study spoke on empowering sales teams to make decisions on transactions in line with the company's human rights policy (Hogan & Reyes, 2023). Ensuring that products are designed responsibly was also a highlighted practice (Danish Institute for Human Rights, 2023) (Hogan & Reyes, 2023)

Fourthly, companies are engaging with both their clients and their customers to address human rights risks (Danish Institute for Human Rights, 2023) (WBCSD, 2023). Where engagement is limited, companies are exploring how to increase leverage, for example through design features, ongoing service contracts or collective action efforts; (Danish Institute for Human Rights, 2023) such as multi-stakeholder initiatives (WBCSD, 2023) or ethical trade membership organisations (UN Global compact n.d.).

Fifthly, companies are listening to rightsholders and affected stakeholders, including through local mediators (TwentyFifty, 2021), complaint and grievance mechanisms for rightsholders (WBCSD, 2023), and ensuring that ongoing risk management processes allow for escalation of risk, both by employees and external stakeholders Danish Institute for Human Rights, 2023).

3.3.3 Procurement

The procurement function includes the following actions: assessing which goods need to be procured internationally, determining the specifications of required quality and quantities of the goods, selecting the best possible supplier and developing procedures and routines to be able to do this, conducting negotiations with the suppliers in order to establish contracts, placing the order with the selected supplier using efficient purchase order and order follow-up routines, supplier monitoring and evaluation (Van Weele, 2018). As such the procurement

function is responsible for supplier selection, price setting, direct interaction with first tier and second tier suppliers, cascading of CoCs and other HRDD-related risk management processes and tools. Procurement is a key partner of HRDD as the selection and management of suppliers can drastically affect companies' internal HRDD results as well as lead to a positive impact across the whole value chain.

Exploitative purchasing practices have increasingly drawn attention in BHR literature. Contracts clauses, mistakes in technical specifications, last-minute changes to orders or cancelling bookings and projections, short lead times, delaying delivery and withholding payment, and prices and market power have all been shown to cause adverse human rights impacts for workers at the end of the global value chain and the economies. A study found that of these practices, low prices and exploitative practices such as pushing for drastic discounts after an order price has been confirmed, at times even after production has commenced acutely impacted the bottom line of suppliers, and worker wages and benefits. Supplier margins were also squeezed by the need to be cost-competitive versus competitors, even to the extent that the study found 39 per cent of the suppliers accepted orders whose price did not allow them to cover their production costs (ILO, 2017).

It has been established that poor purchasing practices of the focal company affect workers at the end of global value chains (affected rightsholders) in the following ways (Ethical Trading Initiative, 2017):

- Suppressed wages
- Poor health and safety measures
- Irregular working hours and excessive overtime
- Unrealistic performance targets
- Lack of breaks
- Lack of regular or permanent work
- Harassment and abuse from management
- Lack of investment in training and equipment

The wider impact on the community includes poor employment conditions including low wages and in-work poverty, unauthorised subcontracting, child and forced labour, and an

economy characterised by high worker turnover, unresolved industrial disputes and lack of grievance mechanisms, and leading to the continued exploitation of vulnerable workers and weak labour market (Ethical Trading Initiative, 2017).

Research has already shown that company actions can improve this. A survey of more than 1,400 suppliers, provides conclusive evidence that better purchasing practices improve wages, number of hours worked weekly, temporary workers used and outsourcing practices, which are associated with lower wages and worse working conditions, at the end of global supply chains (ILO, 2017). However, in another study of sustainability leaders from various industries, these procurement priorities and practices still persist. Cost savings were unquestionably the top priority, followed by quality improvement and on-time delivery. Social and environmental concerns were notably absent (Villena & Gioia, 2020).

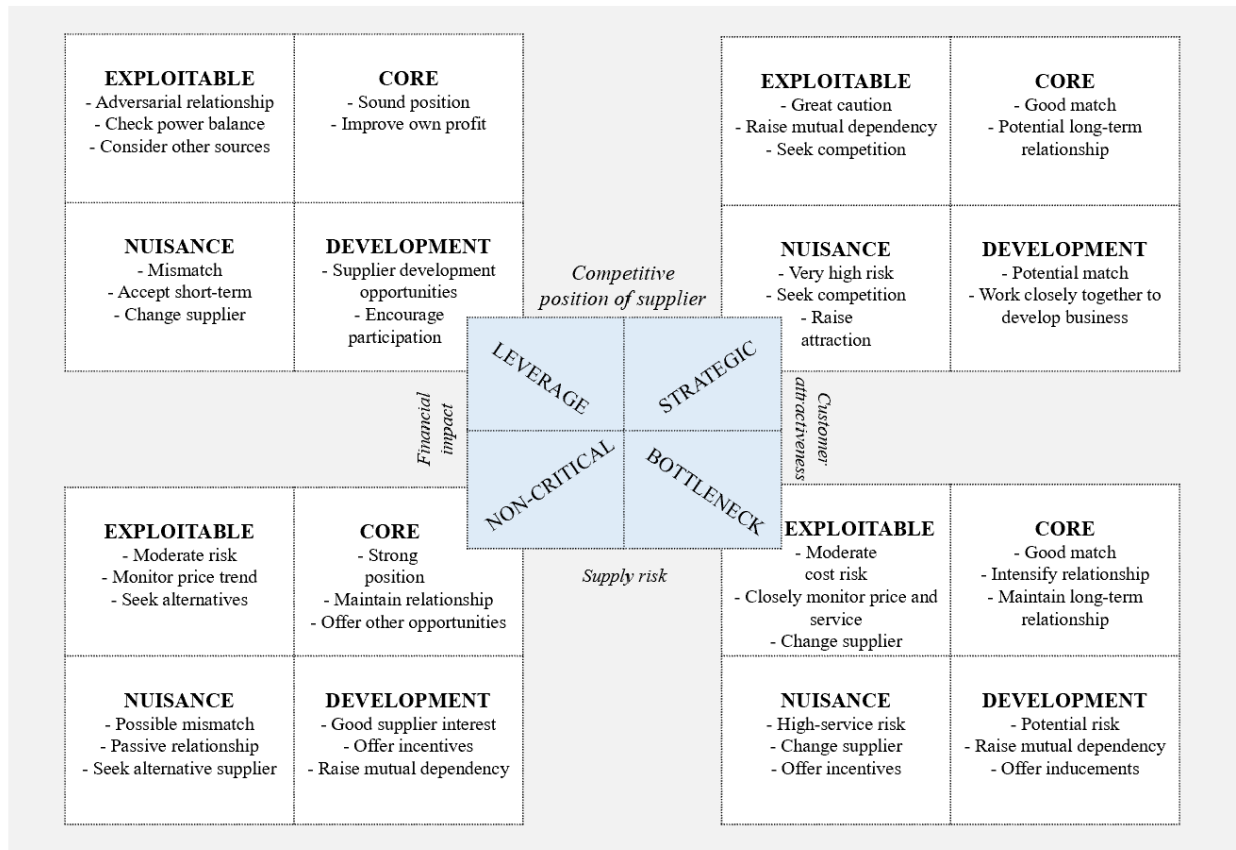
3.3.3.1 Buyer-supplier relationships

In procurement and category strategy management, a framework known as the Kraljic matrix is commonly used to determine supplier segmentation (Van Weele, 2018). Depending on the impact of the cost of the good to the company's profit, as well as the supply risk, the type of good sourced may be strategic, leverage, bottleneck, or non-critical. In some cases, the same good for one company could be strategic, while for another company, such a good could fall into the non-critical category. A company that sources strategic goods is more likely to have a long term relationship with their local suppliers. With suppliers of leverage products able and willing to add value towards a company's competitive advantage, companies could form a strategic partnerships. However, this forms only a small proportion of leverage suppliers, and in most cases companies leverage their purchasing power to negotiate favourable terms (Van Weele, 2018). For HRDD teams, these two groups of suppliers may show promise in terms of passing on requirements and expectations for HRDD to local suppliers. Importantly, if cost savings are the reason for international sourcing, or the type of good lies in the non-critical category, internally, procurement may not have the relationships nor incentive to monitor HRDD implementation. Moreover, for leverage goods, it is likely that procurement will leverage their purchasing power to obtain greater cost savings and margins.

However, it is also necessary to consider the local supplier's point of view as while a product is strategic in the buying firm's purchasing portfolio, it might not be of strategic relevance to the supplier (Van Weele, 2018). This can be done through an extended framework is known

as the “Dutch windmill” which combines Kraljic portfolio analysis, supplier account portfolio, supply risk and financial impact (Van Weele, 2018).

Figure 3: Dutch windmill showing buyer-seller relationships and strategies



Source: Adapted from Van Weele, A. J. (2018). *Purchasing and Supply Chain Management*. Cengage Learning

Suppliers take into account the attractiveness of the buying firm and the supplier's competitive position. More attractive and more important buying firms receive more attention and better treatment than others. Attractiveness is determined by the profit margin made on orders, the promise of future business, integrity, or payment behavior. The second criterion, the supplier's competitive position, refers to supplier power vis-à-vis buying firms. Power differences between suppliers and the buyer firm are also affected by annual volume purchased, a supplier's capacity utilization and growth, breakeven stability, product uniqueness and so on. Four main segments of buying firms can be identified within each category: exploitable, core, nuisance and development. Broadly, the **core** segment refers to strategies of building long-term and intimate supplier-buying firm relationships. As in the case of balanced supplier-buying firm power, both sides are willing to invest in building a successful relationship that reaps benefits such as innovations or supply chain efficiency and

continuous improvement. Therefore, it is in the supplier's own interest to satisfy and keep such firms. More important clients would be served by a dedicated account manager or account organization and other investments made to retain this relationship. In the **development** segment, the bargaining power of the buying firm outweighs supplier's power due to the presence of substitute components. From the supplier's perspective, their sales strategy is focused on providing higher quality, customer service or more variety than competitors and winning orders in order to nurture their relationship with the client. However, if the buyer-seller relationship falls in the **nuisance** segment due to low procurement volume, or the buying firm preferring short term contracts and lowest prices which causes the supplier to invest less in the relationship or even exit, then building long term and sustainable relationships is mutually unlikely (Van Weele, 2018).

3.3.4 Developing lower tier sustainability practices

3.3.4.1 Approaches

One key finding of the 2022 Corporate Human Rights Benchmark of 127 companies in the food and agriculture, ICT and automotive sectors is that companies are taking a hands-off approach to human rights in their supply chains, with only 11% working with suppliers on the human rights topics (World Benchmarking Alliance, 2023).

While not directly on HRDD, the role of the focal company in sustainable supply chain management is well studied (Pohlmann et al., 2020). Seuring and Müller's paper on a conceptual framework for sustainable supply chain management defines the concept in terms of material, information and capital flows as well as cooperation along the supply chain while considering economic, environmental and social goals (Seuring, 2008).

According to Villena & Gioia, there are four strategies in developing lower tier sustainable practices. The first is a direct approach, for example a strong commitment to supplier diversity, or surveying their first-tier suppliers on the sustainability performance of their lower tier suppliers, or working with their major suppliers to map supply chains and deploy customized risk-mitigation programs where needed. The second approach is an indirect approach whereby elements of lower-tier-supplier sustainability management are delegated to their first-tier supplier, or the creation of preferred-supplier programs aimed at fostering peer learning about sustainability. Supplier sustainability awards, long-term contracts, and preferred status are also examples of an indirect approach. Companies can also deploy a collective approach, collaborating with their competitors and major suppliers in industry

associations. The fourth approach is a global approach whereby companies collaborated with international organizations and NGOs that share their goals (Villena & Gioia, 2020).

3.3.4.2 Obstacles

A study of supply networks in Mexico, China, Taiwan, and the United States of three different sustainability leaders found that engineering and procurement units often preapprove lower-tier suppliers, but their vetting criteria do not include social and environmental considerations (Villena & Gioia, 2020).

Moreover, this study identified challenges with cascading sustainability related requirements down the value chain. One key discovery was that first-tier suppliers were struggling with sustainability non-compliance themselves, such as working hour limits, and did not try to enforce practices to their own suppliers. Another obstacle to supplier action was that most lower-tier suppliers received little attention and pressure from the media, NGOs, and other stakeholders and did not feel need to address the issues involved. They tend to act only when focal companies actively intervene (Villena & Gioia, 2020). Even when companies intervene or put effort towards supplier development, they have little direct contact with their first-tier suppliers' procurement personnel (Shift, 2023).

In the same vein, NGO Shift found a lack of positive incentives or innovative strategies to encourage suppliers to tackle issues related to human rights among suppliers in a cross-industry study of suppliers in Bangladesh, Kenya, Tanzania, and Thailand. Instead, EU companies seemed to focus on punishment for non-compliance with different human rights and environmental expectations. According to Shift, disengagement clauses and contractual terms incentivize suppliers to obscure any human rights or environmental impacts in their operations. They also implicitly incentivize these companies to pass the same approach on to their own local business partners in turn (Shift, 2023).

Commercial dynamics influence the performance of HRDD processes in suppliers. Local suppliers can be reluctant to conduct their own identification of human rights impacts as they fear that the results might not match focal company expectations regarding the most salient impacts. In circumstances where the discovery of an impact can create cause for contract termination, many suppliers see affected stakeholders and their testimonies as a potential business risk, instead of building relationships with them (Shift, 2023).

A lack of guidance and responsibility on the part of European companies was identified. Suppliers felt that European companies overlooked their actual capacity to comply with

human rights expectations and standards and assume that they will manage. The study highlighted the perception in suppliers of the HRDD process being framed as their responsibility. However, Shift points out that suppliers were actively interested in receiving guidance and tools to help them identify and prevent human rights impacts (Shift, 2023).

In the management and improvement of the HRDD process, focal companies asked suppliers to focus on tracking quantitative data, which Shift asserts is insufficient evidence of the effectiveness of measures to address human rights impacts (Shift, 2023).

3.3.5 Call for local adaptations and approaches to HRDD

In academic literature, it has been well established that information required for an effective due diligence analysis is difficult to gather and requires extensive cooperation with nonmarket partners (Lundan & Muchlinski, 2012) as well as the need for HRDD process, in particular stakeholder engagement, to overcome geographic, language, social, or cultural barriers (Curphey & Cole, 2022). Trust is also deeply rooted in culture, and companies should ensure that their representatives, if they are not local, understand basic etiquette, along with local history, food, music, and norms (Curphey & Cole, 2022).

Sato argues that HRDD should not only be accountable to due process, but also based on traditional, informal and customary practices. Even if such practices seem incompatible with human rights and democratic principles, they should not be dismissed at once, but rather modified and reformed from these viewpoints (Sato, 2019). This argument is supported by a body of literature around making human rights more locally relevant (Ezer, 2022) (Sabchev et al., 2021) (De Feyter et al., 2011).

According to De Feyter et al, localisation implies taking human rights needs as formulated by local people (in response to the impact of economic globalisation in their lives) as the starting point for both the further interpretation and elaboration of human rights norms, and for the development of human rights action, at all levels, ranging from domestic to global. Therefore, building on the experiences of local communities who act to defend their rights, and – most importantly – examining the impact of these actions on the human rights framework, are critical elements in the process of localising human rights from the bottom up (De Feyter et al., 2011). If localisation is not performed, there may be serious consequences. A case study of a mine in the Philippines demonstrates that where companies did not consider the economic and political context in the project area, the corporation deepened the conflicts (Hamm & Schlax, 2015).

Nonetheless, an empirical study has found that suppliers have little capacity to adjust the objectives and tools being used to mandate and measure their performance. Suppliers also feel that there is little space for dialogue with focal companies (Shift, 2023).

A paper theorising an Afrocentric approach to the localisation of UNGPs may offer insight into how such adjustments can be made. This process of localisation was important to enhance the prospect of the “corporate responsibility to product” norm of gaining legitimacy and influence over corporate conduct in Africa. Ogunranti focuses on the hypothesis that local audiences will be likely to accept a global norm if it culturally fits into their pre-existing local norm. This happens in four stages. Firstly, pre-localisation whereby local actors resist new external norms because of doubts about their application and utility and the fear that the norm may undermine existing local identity, beliefs and practices. Secondly, entrepreneurship and framing occurs when local actors re-interpret a foreign external norm in a manner that brings out its value to the local audience. Thirdly, grafting and pruning occurs when both norms, local and foreign, are adjusted and reconstructed to accommodate each other, synergistically operating on a common ground for the benefit of the local audience. And fourthly, amplification and ‘universalization’ occurs when new instruments and practices are established from the synergistic and mutual normative framework between local and foreign norms in which local influence remains dominant and visible (Ogunranti, 2023)

Part 4: Results

4.1 Ecosystem I: HRDD actors in Southeast Asia

4.1.1 *Governments*

Most interviewees touched upon the government as a significant actor. Beyond their obligation to set and enforce national policies around human and labour rights (see Section 4.2.1), governments determine foreign companies license to operate. Companies point to the importance of being cautious and respect political sensitivities (see Section 4.2.2) of the local government in stakeholder engagement or sharing information publicly. Several informants expressed the endorsement of the government was important for HRDD practices to take off among local companies, as state plays a large role and state-owned companies form a large part in local economies. Companies were less able to have leverage over state-owned companies.

4.1.2 Trade unions and civil society

For several companies, dialogue with local trade unions and civil society is an important part of stakeholder engagement, assessment of local human rights risks and accountability. One informant cited the theoretical basis of union-management cooperation, whereby both companies and workers benefit (Ostrowsky, 2005). While acknowledging theoretical necessity and benefits of trade union and civil society involvement in HRDD, process owners and service providers alike identified their presence as weak in the region (See Political and cultural sensitivities). Companies often did not know how to get in touch with local organizations and networks, or service providers could not find civil society organisations for certain human rights issues.

However, local informants pointed limitations such as engagement on gender issues due to their masculine culture. Moreover, local civil society organisations are limited in that they focus on issues related to domestic laws, which could differ greatly from country to country. For example, Southeast Asian country overtime limits far exceed European standards of not working more than 48 hours per week on average including overtime (Your Europe, 2023), such as Thailand which permits up to 84 hours per week including overtime (Rueangkul & Treephetchara, 2022).

4.1.3 Local consultants and service providers

Local service providers engage in a wide variety of HRDD-related services from auditing, training, consulting, tool-development, to grievance mechanism and corrective action plan design related to the upstream supply chain for European companies.

These local actors play an intermediary role in easing the tensions surrounding local HRDD implementation. As a familiar face, local consultants are well placed in terms of trust building, comfort and communication. Service providers work as change agents, by firstly, communicating change (see Section 4.2.2.1) as well as overcome local supplier resistance to HRDD practices by identifying leverage points based on local labour law: by encouraging and sensitising local suppliers to the fact that they already have some of these management elements in the way they address local labour law (rather than communicate international standards), suppliers will be more open to meeting EU HRDD expectations, and lastly pushing past and reframing the compliance approach of the focal company to better address local challenges and meet rightsholder needs.

Deep dive: RBA

Cited by many interviewees as one of their key partnerships, the Responsible Business Alliance (RBA) is a nonprofit comprised of electronics, retail, auto and toy companies who commit and are held accountable to a common CoC and utilize a range of RBA training and assessment tools. Companies such as Flex turn to RBA's Responsible Recruitment Programme to find trustworthy local recruitment agencies in countries where their operations are too small to have their own responsible sourcing team. Several HRDD process owners use the RBA-managed Validated Assessment Program to audit their factories and share results with customers. Furthermore, companies can increase their joint leverage on a risky supplier at a supply chain level or beyond the electronic industry, while navigating transparency challenges- the Benefit of Assessment Cooperation Program allows members to collaboratively nominate suppliers to complete a single assessment which results are shared with multiple customers. For one HRDD process owner, the current high demand and low capacity in the tech industry, tools such as the Factory Engagement Program (Responsible Business Alliance, n.d.) focusing on providing guidance and support to those factories not yet ready to be audited and give suppliers a chance to improve without focusing only on penalties.

However, several informants spoke about RBA's weaknesses. Foremost, while RBA's value add is its common CoC, all but one company interviewed has established their own CoC for more rigour. There were many companies using RBA as a safe harbour. RBA's tools are increasingly not aligned with their HRDD approach with the reliance on self-assessment questionnaires (SAQs), penalties for audit findings and closure timelines, and its usefulness is limited in addressing key problems of member companies' lack of investment in supplier capacity building, supplier transparency. Most importantly, RBA falls short of prioritising outcomes for rightsholders such as workers and local stakeholders. On the basis of anonymity, an informant revealed that RBA does not design their tools to integrate unique perspectives of the region or involve local stakeholders such as local suppliers or migrant workers in the design of their tools and products. Their tools may even have exclusionary effects. A HRDD process owner mentioned one of the benefits of working with RBA audits was that it avoided "back and forth between the trade union and the company".

Ultimately, the mandate of service providers, as well as their ability to bring impact beyond issuing a report is also highly dependent on the capacity, resources and motivation of their client, the focal companies or of the local suppliers. For example, corporate pushback or

alternate agendas, or the implementation of processes that address audit results and corrective action plans. The ability of service providers to build capacity and provide strategic consulting is also affected by whether they have access to the right internal stakeholder, corporate organisational challenges such as silos (see Section 5.1.1) and strategic alignment (see Section 4.6.4).

4.1.3.1 Local data providers

Local data providers are involved in field research and data gathering, supply chain mapping, worker dialogue and focus group discussion. Compared to many international 3rd party risk data providers, local data providers are better placed to offer such services. Their lived experience of the context and challenges that factories and suppliers face, as well as data that comes from their own audits and assessments, give them a better chance at understanding the root causes and poverty incidence. Their language skills and relationships with suppliers and local trade unions ensure more meaningful engagement. On the ground, they can provide clarification and reassure workers that any negative feedback would not have repercussions on their employment.

Despite such benefits, some service providers spoke of difficulties in receptivity and gaining corporate clients, related to fears that such external data versus those from company collection channels could be used to undermine these companies.

4.2 Ecosystem II: Contextual challenges Southeast Asia

4.2.1 Lack of enabling environment

The region's low labour costs are promoted by governments interested in FDI policies as development strategies. Informants spoke about the prioritisation of attracting FDI, an example being the Omnibus Law in Indonesia (Investment Policy Hub, 2020), over workers' rights which are perceived as a nice to have.

Although all ASEAN countries have declarations related to human rights in their constitution, and the concept of having a Responsibility to Protect was adopted by all Southeast Asian countries (ASEAN University Network–Human Rights Education & SHAPE-SEA, 2019), a gap between issuance of laws and enforcement exists and differs from country to country, depending on the different political structures and degree of corruption. The lack of regulatory policing also retains legacy attitudes towards compliance such as “hiding and cheating” with local labour regulations in some industries and may allow for practices of cosmetic compliance to HRDD expectations among suppliers. Compliance to the weaker

local labour regulation as opposed to HRDD expectations is often used by local suppliers to condone existing status quo and affects leverage of the service provider.

Companies in the region lacked capacity in terms of staff and resources, knowledge on human rights and awareness of mHRDD.

4.2.2 Political and cultural sensitivities

According to Southeast Asian informants, it is important to understand the region's political history of business and human rights as it has a lasting impact on the uptake of effective HRDD in the region. As a key actor and element of the HRDD process, the limited presence and rights of trade unions in the region was cited one such example.

Deep dive: History of trade unionism in Singapore

In Singapore, under the Societies Ordinance 1889, collective organisation was associated with gang and secret society activity (Cheng, 1972) and illegal until 1939 when the first trade union legislation was introduced into the Straits Settlements by colonial powers (National Trades Union Congress, 2019). Colonial labour policies attempted to encourage apolitical union movement, one that would continue to serve British commercial and political interests (Guha, 1978) in the region. However, in 1946, opposition groups made use of trade unions to challenge the colonial system on political grounds (Han & Lim, 2014), and in June 1948, acts of lawlessness and violence instigated by trade unions (Chia, 2017) resulted in a state of emergency was declared in Singapore. In the months preceding the 1959 general election, the People's Action Party outlined a labour policy "industrial peace with justice" (Han & Lim, 2014), whereby the government's priority was ensuring stability in industrial relations, essential for the expansion of industry and with it the creation of jobs for the increasing numbers of young people seeking employment. Two labour legislations were later introduced to make Singapore more attractive to foreign investors: the Industrial Relations (Amendment) Act, which prohibited trade unions from making demands in areas such as workforce deployment, promotions and dismissal and the Employment Act, which reduced employers' costs by limiting employee benefits such as bonuses and retrenchment benefits.

Not only does the history of trade unions contribute to local perception that trade unions disrupt "industrial peace" but also presents moments whereby Western colonisers attempt to impose its culture to the colonized, in order to reap economic benefits. Language, too, can be seen as defined and constructed through the ideology and values of the colonizer. Informants were asked about their usage of the term "human rights", which was perceived as a western

term. While HRDD process owners based in European countries were assertive in their stance in using the term, interviewees based Southeast Asia were more divisive. The first group of informants believed the term still too sensitive in relation to the region's history with foreign political interference and did not use the term at all. A second group of informants spoke about "not softening the language" and setting the human rights language as a standard for dialogue. A final and largest group of informants felt that while using human rights language was possible and that the concept understood by local suppliers, suppliers were unreceptive, and the usage of such language was not constructive. Among local suppliers asked by European companies to implement HRDD processes, the term was conflated with issues such as imposition, resentment or inequality and how local companies "tend to be fixated on the fact that this is coming from the UN."

4.2.2.1 Change communication and translation

Due to the lack of an enabling environment and political and cultural sensitivities, local service providers and HRDD process owners interacting directly with local suppliers find it necessary to communicate HRDD and "human rights" in different terms in order to achieve cooperation and "save face". Among the service providers interviewed, such translation approaches were not standardised and are aimed at finding leverage. These local service providers substitute human rights impacts for words such as "labour issues" and health and safety terms which key leverage points. They also find and use theories of labour management productivity to justify "worker wellbeing", jokes to introduce unfamiliar issues such as gender discrimination, and by and large employ familiar elements such as penal code, civil code, and even "the political environment and local movements" to make "warnings". Informants agree that such translation is a big part of their success to local adoption of HRDD process elements and that European companies that have been doing this for a longer time are aware of this practice.

4.2.3 Systemic poverty

The most identified challenge for implementing HRDD in the region was the systemic challenge of poverty. The three most identified complex risks by company HRDD process owners were forced labour, overtime working hours and corruption. Firstly, one company found forced labour situations in almost 40 supply chain audits in Malaysia. Secondly, according to several corporate informants, working hours is the most complex issue in some SPZs, with factories that running 24/7, staffed by internal migrants who moved from rural areas and "determined to work as much as possible". If a company denies workers overtime

hours, they risk a staff shortage, as the workers leave for a company that permits it. Lastly, corruption and bribery by companies in order to exceed migrant worker employment quotas feed kickbacks in the sending country, exploitative and/ or illegal recruitment practices, and cause job mismatch on the part of employers and employees. At the core of these three risks is the complex relationship between the region's systemic poverty, the ongoing practice of low wage work and abundance of low-skilled workers. They cannot be solved by one company changing their policies.

4.2.4 Role in global value chains and cost burden

Due to the cost-competitive environment, local suppliers have little ability and incentive to bear the cost of HRDD practices in an environment already under pressure to be cost competitive. Local suppliers are pressured to implement and bear the cost of HRDD practices such as the repayment of recruitment fees. Foreign companies operating in Southeast Asia, they have outsourced the riskiest aspects of their business and they are now outsourcing the job of complying with human rights laws. According to one service provider, recruitment fees can be around 4,000 US dollars to work in Malaysian palm oil. Local suppliers also do not see any corresponding return on their investment as they may be working with multiple other big brands from multiple countries, therefore adopting a "wait and see" attitude before investing in building any HRDD capacity.

4.3 Foundational understanding: mHRDD versus compliance approaches

4.3.1 Rightsholder at the centre

Fears that most focal companies would not accept responsibility to work with their suppliers to improve impacts on rightsholders, but instead remain focused on strict compliance and risk to profits or reputation were raised frequently. Within companies, the increasing expectations around mHRDD legislation, reporting duties, and liabilities may become the focus of discussions and limit process owners' ability to improve disclosure or systemic problems.

Certain interviewees described mHRDD legislation as "moralistic" or "coming from Europe", questioning the consultation of voices and consideration for the global south or manufacturing countries such as those in Southeast Asia when designing the legislation. There were two issues brought up about compliance approaches. While all HRDD process owners interviewed had a clear understanding that the HRDD approach should be built around business impacts to rights holders, should other HRDD process owners or process managers blind "tick the boxes", they could be rewarded with greatest compliance results

when they switch away from “riskiest” suppliers or “red flag” countries, as opposed to engaging with these suppliers to help them address human rights violations at their root or systemic cause. This includes causing unintended negative consequences for the region, such as the loss of jobs. Secondly such approaches ignore local suppliers’ willingness to learn, improve and meet company expectations. Not recognising that all suppliers who operate in that context are affected by that issue, companies may waste resources changing suppliers, instead of spending those resources on supplier development.

HRDD process owners also mentioned difficulties moving away from small projects to approaches for the full supply chain, highlighting a trade-off between scale and tailoring to rightsholder needs, for example, a grievance mechanism designed to be culturally sensitive to people in this region but may lose its cultural relevance upon scaling out and replicating for other contexts.

4.3.2 Learning and improvement

While external allegations play a role in the development of HRDD systems, crucially, approaches to improvement of the various processes based on proactive local ecosystem, rightsholder input and affected rightsholder input, were not well-referred to. Some HRDD process owners implied that data from their audit findings informed more thorough risk assessment and mitigation efforts. There was little mention of how data from their grievance systems shaped their HRDD process, inclusion of new risks or an extension of the supplier based to be subjected to more assessments or audits, at best, such data seemed to be used to supplement results from risk assessments.

In most cases where service providers were approached, interest seemed to be limited to low hanging fruit and compliance approaches, such as creating CoCs, grievance or whistleblower mechanisms, instead of better incorporating stakeholder input into existing processes.

When asked methods to improve HRDD processes, interviewed companies mostly named their engagement with external experts and working groups such as RBA, BSR, “advisors who have been involved in in the in the writing of the UNGPs”, World Business Council for Sustainable Development, Danish institute of human rights, Global Business Initiative on Human Rights. However, these experts do not constitute the perspective of potential and affected rightsholders (refer to Section 3.3.1.3).

Company representatives also referred to their compliance scorecards as a tool for improvement of their HRDD process. However, bearing in mind the elements of these

compliance scorecards (see Section 4.9.2) and the lack of inclusion of indicators measuring outcomes for rightsholders, these tools do not necessarily constitute an improvement of their HRDD for rightsholders. Additionally, these scorecards do not fit the purpose of identifying changes in human rights risk in supplier operations or revealing if a HRDD process has become insufficient in addressing human rights harms due to changes in the external context and operations (refer to Section 3.3.1.4).

Instead, recent improvement focal companies' HRDD practices was largely focused on adjustment such as finding the right balance between HRDD procedural rigour and organisational efficiency where they monitor data trends for improvement, or best practices in line with competitors, which was also given as a reason for the development of their HRDD program, or reorganisation of staff based on upcoming mHRDD legislation or for better governance, visibility or communication. This includes moving the function from ethics department into supply chain or CSR departments, as in the case of L'Oréal group, and as well as the creation of key roles for visibility and governance, such as Chief Sustainability Officer role for NXP, or human right strategy and implementation manager role in Shell, or regional roles on a needs basis, such as increasing HRDD- related collaborations and workload.

4.4 Organisational structures

4.4.1 Governance

The relatively short chain of command between Chief Sustainability Officer and the Board or executive committee for all the companies interviewed reflect the high prioritisation of human rights within the business. This was mentioned as an important factor in securing resources and the speed and scale at which HRDD process owners were able to drive the development of HRDD processes within the company.

Across companies, there was evidence of cross functional leadership of their HRDD program in governance structures such as committees, boards and working groups. Functions include finance, strategy, technology, human resources, compliance, operations and legal heads. Shell's internal Human Rights Working Group has representatives from all focus areas, various experts from across the organisation, and includes Business for Social Responsibility as an external advisor.

4.4.2 Organisational placement of HRDD teams

On the one hand, functional structures, such as those in NXP, Neste, L'Oréal have larger sustainability teams of which the HRDD teams are a subunit of. The largest human rights team consisted of over 25 people. On their other hand, companies may choose to allocate human rights specialists as divisional resources in matrix structures, supporting functional teams at global level, such as corporate relations, strategy, social performance or project teams in countries with challenging operating contexts. Interview results revealed that organisational silos were still a challenge for HRDD teams, regardless of the placement (see Section 5.1.1).

4.4.3 Process ownership versus process management

This study has used the terms *HRDD process owner* and *process manager*. A HRDD process owner is accountable for designing an effective and efficient process, using the resources to run the process and delivering quality outcomes as required within the organisation. While process managers may identify improvement activities based on performance against set indicators, it is the job of the process owner to plan and manage process improvement opportunities.

In companies such as Shell, Neste and Ericsson, HRDD technical specialists responsible for HRDD process design and performance or *process owners* coordinate with other functional subunits or teams for on-the-ground implementation of HRDD, or *HRDD process managers*. In another company, the HRDD process ownership was shared by two subunits; human rights specialists that works on key aspects of the HRDD, and another team of human rights specialists for analysing gaps and communicating legal and benchmark expectations around human rights. However, there were cases whereby the HRDD process owner and manager roles were performed by the same person, such as in NXP's director of corporate social responsibility. Of the companies interviewed, the number of HRDD process owners dedicated to major elements of the process varied from one to 10, which were related to the complexity of their HRDD process or general organisation as well as to strategic importance.

4.4.4 Geographical devolution of governance, ownership

There was no strategic devolution of HRDD governance, with all HRDD teams working at group level and process owners' direct reports based in headquarter countries. However, considering geographically devolved process ownership of HRDD, there were differences among companies. For some companies, the decision to hire and/ or base HRDD process

owners in Southeast Asia was influenced by the business significance of their operations or sourcing. Neste's supply chain for their renewable raw materials in South East Asia is significant and likely to expand further. Since 90% of NXP's suppliers come from Asia, both members of NXP's Corporate Social Responsibility and Human Rights team are Southeast Asian and based in the region. Around a third of the human rights team of another technology company interviewed were also work in the region due the location of their production bases. For some companies, however, this was not a factor. The HRDD process owner of a company with over 25000 direct employees in the region and India, sits at group level with no support for process ownership and just two process managers. This was also observed in another technology company interviewed with significant operations across Malaysia, Philippines, Thailand and Singapore.

Nonetheless, practices of process management of elements of HRDD are well established in the region. Most of the HRDD process owners at group level work hand-in-hand with the regional process managers in their supply chains. Four companies interviewed delegate country level monitoring of human rights risk to local operational staff called "sustainability champions" who report both to their locally and to the HRDD process owners. For example, NXP's site champions are from the local steering committee for corporate social responsibility and human rights but also report to the HRDD process owners on data and progress in implementation plans. L'Oréal's human rights experts oversee "human rights correspondents" each of their markets- including one for L'Oréal Indonesia and one for their subsidiary L'Oréal Malaysia and one in Singapore. Shell has community liaison officers on working with stakeholders on the ground.

Having a person in the region and on the ground was cited as essential to effective HRDD in Southeast Asia. However, there was a distinction between having a permanent geographical devolution of process ownership and sending human rights specialists from HQ to local operations on a project basis for monitoring for potential human rights impacts. A local informant believed that people sent from headquarters rarely engaged went onsite but "usually stayed in the air-conditioned conference room". A true understanding of local realities, the situation or problem at hand and engagement is not easily achieved when someone from HQ is "helicopter-dropped" into the local operations. Moreover, consistent engagement with local projects, NGOs, local industry and business groups should be in place for companies to reap the full benefits of collaborative action as a reason, as well as to build trust between local supply teams and the steps of the HRDD process.

4.4.5 Internal communication: translation

Interviews revealed internal practices of framing and “translation” by HRDD process owners. The translation of the concept of human rights risks to rights holders into human rights risk to businesses, such as the usage of “newspaper test” or other arguments from financial or legal point of view based on the internal stakeholder was necessary. Reflecting about this practice of translation, more than one interviewee expressed that it does not matter if other people see it through the lens of risks to business or risk to people, as long as HRDD process owners were given the resources which they could continue to use for processes that ultimately take to consideration the risk of business to people. This practice of translation was mentioned as less necessary when there was a “corporate learning” of commercial teams who had encountered previous issues with human rights impact.

4.5 People

4.5.1 Leadership endorsement of HRDD

Human rights as high on the leadership’s values and agenda was most cited as the factor in the internal environment that enabled the development of HRDD processes. Leadership was mentioned in connection to resource allocation, company culture and corporate mission, which were also key enablers. Interviewing the president manufacturing and services global of Flex about why they pay all workers a living income and fully reimburse all recruitment fees, he pointed to company culture, saying “no one even asks (this question) anymore” and the payment of recruitment fees is “automatic”. In Neste whereby “sustainability is core” to the business and part of the product identity, this allows the human rights team to unlock resources. Where sustainability is more material to the business model, and if companies prefer longer term relationships with suppliers for quality reasons, companies invest more in educating the suppliers and provide more resources.

4.5.2 Personal conviction of HRDD process owners and managers

A very large majority of the HRDD process owners interviewed were themselves highly passionate about human rights and rightsholder impact. Their personal conviction played an instrumental role in initiating, adapting HRDD processes and securing the resources to do so such as the creation of new risk assessment approaches (see Section 4.7.3). One HRDD process owner explained that the initial job scope and accountability targets for his role were much narrower 5 years ago, but it was his personal conviction in HRDD that drove him to build transparency and more rigorous risk identification into the program.

Still, in anonymous interviews with HRDD process managers in the region revealed that these attitudes were not necessarily shared on the ground. For one company that had invested heavily and proactively into their HRDD process, the local informant described their job as a “tick the box” exercise. In another company, when asked about adapting certain HRDD approaches to the local contexts and rightsholders, the process manager firmly explained how the “company are not activists”.

There were two different responses to this by process owners. In order to overcome such attitudes of process managers, one process owner believed in “processes over people”- building even stronger compliance processes, guidance and rigorous socialising of company expectations in order to still have due diligence that is conducted to a high degree and well-documented. In another approach, process owners selected specifically for similar mind-sets and values in local process managers (see Section 4.5.3).

4.5.3 Hiring practices of local HRDD staff

Among the interviewees, the large majority of Southeast Asian HRDD-related staff appear to be existing employees insourced from other functions. In hiring local members for the human rights teams, at least three companies prioritised insourcing locals with existing knowledge of suppliers, compliance or other sustainability topics. For roles that performed some level of HRDD management in addition to their existing job duties, some companies prioritised an existing link to the data, such as worker welfare data. For example, the factory or site level “sustainability champions” were mostly from the human resource department which structure worker management dialogues and focused group discussions.

On the other hand, at least two company process owners detailed practices whereby local informants were insourced from many other functions, such as in HR, operations, procurement, communication, legal.

Deep dive insourcing: L’Oréal’s approach to finding the right local person for the job

To select the local human rights correspondents, the human rights team at L’Oréal prioritised the following factors: part of the local management committee or high level of seniority and a common alignment with the human rights team’s desire to understand root causes of human rights impacts and work with the supplier and not against them. The human rights team wrote this up into a job description and sent it to each managing director of the subsidiary, which then nominate someone from the local management. The advantages of this practice were threefold. Firstly, the decentralisation of the nomination process to the local CEO increased

local buy-in to the HRDD process. Secondly, the seniority or the position of the correspondent in the local management committee gave the sufficient influence locally to have an impact around human rights related actions. Thirdly, the human rights team was able to recruit people with similar personal values.

4.6 Procurement

Companies interviewed largely have centralised procurement functions where major suppliers are managed at group level. In some cases, local procurement teams may source for services such as catering, security and IT. A general approach to HRDD in the supplier onboarding process followed an identification of high-risk suppliers through risk assessment tools such as SAQs and risk matrices developed by HRDD process owners, such suppliers pass through a control assessment or audit, and then findings management including the development of corrective action plans.

4.6.1 Procurement as independent from the HRDD processes

All companies commonly delegated the responsibility of the signing of supplier compliance to human rights related standards such as the CoC or contractual agreements and the distribution of the SAQ. This represented the lowest degree of involvement of the procurement function in the HRDD process.

In Neste, procurement managers for renewable raw materials facilitate supplier handover to the supply chain sustainability team via Neste's online "supplier sustainability portal" in which suppliers must complete a compulsory onboarding self-assessment survey, followed by interviews with HRDD process managers on the supply chain sustainability team. Based on the results, HRDD process owners provide expert-input for further verification interviews or recommendations for prioritising certain suppliers for on the ground audits based on assessed human rights risks. Another company developed a consolidated onboarding process whereby any agreements made by procurement, manufacturing and business groups all include a waiver in case red flags are identified by the HRDD risk assessment process. This waiver holds supplier validation completion of onboarding until the HRDD process owner obtains a commitment to corrective action plans and audits and approval given at the highest level.

4.6.2 Procurement as a process manager in HRDD processes

An intermediate degree of involvement was seen in other companies. In Ericsson, process managers of the risk assessment process are a unit called responsible sourcing, which is

placed within the procurement function but report to the HRDD process owner. In another company, category managers from procurement also manage their social audits.

4.6.3 Procurement as a process owner in HRDD processes

The highest degree of involvement of the procurement function was seen in NXP, whereby the procurement function itself owns the risk assessment process and has a dedicated team that oversees HRDD-related audits.

Deep dive: NXP's procurement-owned integrated risk assessment formula

Launched in 2013, NXP's human rights risk assessment process was developed by and is owned by the purchasing department. Human rights are embedded into the traditional supplier risk assessment framework through an overall supplier risk score that considers human rights in two out of three equally important risk criteria: country and product risk.

To calculate country risk of the supplier, a weighted average is taken from various Maplecroft indices such as Labour rights & protection (60%), Corporate governance (20%), Legal & regulatory environment (10%), Climate change vulnerability (10%). These indices have been selected based on elements of the Supplier CoC covered. NXP considers the use of migrant workers to be a critical element when it comes to labour risk. To account for this, the calculated country risk score may be increased by one level after a review by the HRDD process owners.

To calculate the product risk of the supplier, NXP assigns risk scores based on the product category supply risk as well as using human rights data on the product category from years of auditing, third-party guidance, and benchmarking. This means that the product category “external manufacturing suppliers (foundry and subcontractor)” is assigned a score of 10, “direct material suppliers” or “recruitment agencies” a score of 7, while “office services” (telecommunications, office products) are the lowest at a score of 1. Regarding onsite service providers, NXP assigns facility services such as cleaning, canteen, waste, security staff, employee transport hires, temporary operators and warehouse services the highest score of 10.

The two criteria are combined with a third- annual spend, to obtain an overall risk score.

$$\text{Risk score} = ([\text{Country} \times \text{Product or Service} \times \text{Spend}] \times 100) / 1000$$

Suppliers with a risk score of 50% and above may be required to complete an SAQ and/or participate in an audit.

According to the HRDD process owner, procurement team needs to work “in lockstep” with the HRDD function as it knows the supply chain better and is in charge of the relationship with suppliers. By procurement function themselves building human rights risk into the traditional purchasing risk criteria, procurement fully considers how human rights-related criteria affects sourcing at every step of the onboarding and relationship and is empowered to work to ensure supplier improvement.

As these processes are an enlargement of the traditional role of procurement, it is necessary to maintain regular communication channels between functions and rigorous training to avoid decoupling. In NXP, the HRDD process owner has monthly review meetings with procurement to discuss the outcomes and challenges that they see from suppliers as well as communicate if any action is needed on the part of procurement.

4.6.4 Procurement goals and priorities

However, traditional priorities of procurement can impede effective HRDD, with some informants of the opinion that this could not be overcome. Depending on the time to market or certain products and business strategy, procurement lead times may be much shorter than the time needed for the meaningful engagement of suppliers on their risk management. The diversity of categories and goods and the workload of procurement can also be a challenge for capacity building. Moreover, if business strategies and materials change, HRDD processes must be socialised once more among the new group of suppliers.

4.7 Risk assessment

4.7.1 First-party data

Besides a SAQ, which all companies had in place, companies also conducted human rights risk assessments on salient human rights risks for a certain proportion of their suppliers. In many of the companies, the risk assessment was owned by the HRDD teams rather than the procurement function. However, a typical dilemma that was brought up during the interviews was that it was not rational for suppliers to be fully transparent during the SAQs as they had a commercial disincentive to declaring risks.

Several companies supplement this data with ad-hoc in-depth human rights impact assessments about a particular component or market, but this was cited as resource intensive (see Section 4.7.3) while also justifying the need for third-party data. Moreover, the triggers for these assessments were often external allegations rather than based on saliency of human rights impacts.

4.7.2 Third-party data

Many companies rely on third-party data providers in the risk assessment process, to identify risks specific to the geographical areas in which the enterprise operates. This was true for all the companies interviewed, with many using data from Ecovadis and Verisk Maplecroft. Such data is typically very high level, and it can be challenging to understand its relevance to the company, especially if the company lacks in-house country-based expertise. Certain corporate representatives and informants from the region also raised concerns if such datasets are informed by regional stakeholder perspectives or local contexts, questioning risk ratings from Maplecroft or Elevate, and if the low risks ratings of countries like Singapore reflected the local realities of high working hours and reliance on migrant labour.

Corporate representatives rarely cited the usage of local data sources or data providers.

Nonetheless, two innovative approaches to capturing country-specific risks were seen among the companies interviewed.

4.7.3 Capturing country-specific risks

L'Oréal, together with Shift, developed a risk assessment process that enabled the company to prioritise risks at a global that encompassed many of the salient local risks.

Deep dive: L'Oréal's bottom-up approach to first-party country risk assessment

The process was aligned to the UNGP reporting framework. For each of their 60+ markets or hubs, L'Oréal's local human rights correspondent formed a local working group of different functions. The working groups were first trained on the UNGPs, after which they collectively identified their salient rights risk across the value chain and prioritized them based on severity, scale, remediability and likelihood of its impacts for people. This meant that each market of L'Oréal has a salient human rights risk heat map that is adapted to their local issues and action plans were built according to each market. Through this process, not only did each member of the working group learn about human rights risks for their market but this process also legitimised and established the role of human rights correspondent within the market. Importantly, at global level HRDD process owners gained an overall overview of the human rights risks across all markets and could set a priority list that encompassed many local risks.

In another approach, Nestlé very recently started implementing an issue-based approach to enhance the company's due diligence along its value chain. This approach focuses on those human rights at risk of the most severe negative impact on people, identified through HRIAs and strengthened audit, monitoring and grievance processes.

Deep dive: Nestlé issue-based approach to integrating country-specific data

Nestlé's new framework is based on detailed action plans for their 10 salient human rights issues, supported by five enablers: governance and incentives, policies and control systems, engagement and advocacy, strategic partnerships, and transparency and reporting. Within these human rights issues, Nestlé defines geographical priorities, such as Indonesia for living income, Indonesia, Malaysia, Philippines, Thailand, and Vietnam for safety and health or global operations for gender equality. Nestlé will generate country or location specific data through the following channels: rapid appraisal research and regional stakeholder consultations, including rights holders and their representatives, grievance and landscape information, and for certain human rights risks such as WASH or child labour, explore community-based monitoring, reporting and verification. They will use this data to make decisions about where and what action to take at national, subnational, landscape or site levels within priority countries (Nestlé, 2023) for priority rightsholders. Starting 2025, Nestlé will report on process for each of these ten action plans.

4.8 Audits

4.8.1 Third-party auditors

At least three of companies had third-parties such as RBA conducting the audits. A comparison between interviews revealed that the one company that relied on third-parties to conduct audits were likely to have gaps in oversight. An interviewee for one company implied that there were no issues in the region despite the risks and incidents identified by other interviewees for the same regional supply chain. Where companies used third-party auditors, or had other internal teams managing the audit process, HRDD process owners were less able to identify where their strategic first tier suppliers were in the region, what type of suppliers these were or the kind of spend on these suppliers, since only the HRDD process managers were responsible for interacting with suppliers on the findings for that third-party audit.

4.8.2 Dual auditing

In acknowledgement of the potential for gaps in oversight and learning related to third-party auditors, several companies advocated for dual audits, with at least one audit being performed by an internal audit team. The internal audit was cited as important to identify where local suppliers might need support and training input, such as how to change or update their management systems, modernize their technologies, to understand what the workers go through and ensure audit protocols are followed, which makes a great difference compared to

receiving a report. Some companies also had controls to ensure local participation in their audit, such as interviews with site directors.

4.8.3 Limitations of audits

Firstly, considering legacy industry practices (see Section 4.2.1), supplier intentions to preserve the commercial relationship (see Section 4.7.1) and that there are many ways that audits can be deceived, companies needed to be on the ground during audits. Secondly, audits are often top-down approaches, where priorities are already defined by HRDD process owners. Thirdly, regional challenges with capacity building (see Section 4.2.1) cannot be sufficiently addressed with the timeline provided to close the audit findings. Informants emphasise that capacity building and discussion with the supplier must take place before or alongside such audits. Companies must also consider the time needed to define appropriate corrective action plans and improvement KPIs in relation to the time to the procurement process (see Section 4.6.4). Lastly, the frequency of which suppliers are subjected to audit is a key limitation of their use in the HRDD process. While some companies performed additional audits upon onboarding, or had commitments to audit all their suppliers, most audited a sample of high-risk local suppliers only annually. Audit results reflect a snapshot of practices at a point in time and do not give the full picture across stakeholder groups. At best, audits should only be used as baseline data gathering, and there is a need for independent rightsholder input.

4.8.4 Workers voice approaches

Moreover, there is still need for independent stakeholder input such as workers voice.

Several companies tried to include confidential interviews of a representative sample of all workers. In 2022, to reach more workers, one company launched the use of a worker voice tool in their supply chain. Available in any language, workers answer audio prompts with questions related to inequality, living wages, recruitment fees and children's access to education anonymously on a mobile phone by selecting visual cues such as happy or sad faces.

4.9 Data and documentation systems

4.9.1 Types of systems

In some cases, data such as SAQ results are retrieved from data platforms owned by the procurement function. In one company, the HRDD process owner had to retrieve information

on suppliers from the different data systems belonging to various functions, which was done only when necessary and on a case-by-case basis.

Several companies did have consolidated platforms for oversight of the HRDD process. These ranged from easily integrate able software products such as Power BI to company developed digital platforms with different distributed data entry depending on use case or centrality of the platform in their HRDD process. In NXP, as process owners collect supplier audit findings and worker testimonials or complaints, data is treated as confidential and data entry restricted to HRDD process owners. In Neste, however, internal data management platform used by the broader sustainability team for more than performance monitoring, and the procurement, compliance, risk team are granted access.

Deep dive: Neste's Supplier Sustainability Portal

Neste's Supplier Sustainability Portal is central to their HRDD's risk-based approach and supplier engagement. Suppliers are requested by the regional division of the supply chain sustainability team to create profiles on the portal to answer and upload evidence related to the HRDD SAQ, such as policy documents. Several suppliers such as Neste's palm oil suppliers have more rigorous requirements to document the exact coordinates of farms. The accuracy of the entered information is verified manually by the team, as well as during the audit on the ground, with a proactive approach taken to engaging with the supplier if the level of disclosure does not meet expectations. Suppliers provide information related to the structure of sub-suppliers relevant to Neste and a certain percentage of their sub-suppliers must also create profiles on the portal. Suppliers are not able access other suppliers information on this portal. The portal is used to "pinpoint their risk-based approach" on riskiest suppliers and make data driven decisions on who to audit.

4.9.2 Process and supplier improvement

All HRDD process owners expressed need to harness data for trend analysis of issues and continuous improvement. Besides using their data and documentation systems, integrated scorecards were used by at least three of the interviewed companies.

Deep dive: Integrated scorecards for supplier improvement

Scorecards were used as a two-way feedback tool, to local suppliers and as well as to category managers and ultimately to leaders. Socialisation of the scorecards were performed by HRDD or Ethics team or the procurement team. As supplier relationship managers and

price negotiators, procurement has an advantage of being able to send consistent messaging to suppliers of the importance of human rights related criteria alongside prices.

Elements of the integrated scorecards included:

- social audit results
- ethics hotline reports
- workplace culture survey results
- supplier HRDD governance management capacity such as a corporate policy assessment by Ecovadis,
- capacity to propose responsible products and services,
- integration of projects such as Solidarity Sourcing within their operations
- transparency

These scorecards were cited as a method for companies to monitor progress, trends and issues supplier improvement by category, by country, by function or by site. Endorsement of the scorecard by leadership also sends a strong “tone at the top” messaging which drives a culture of respecting human rights within the company. However, it must be said that company representatives should be cautious in expressing what type of improvement this constitutes as the above listed elements scorecards do not include measuring an improvement in outcomes for rightsholders - see also Section 4.3.2 and Section 4.11.1.

4.10 Capacity building and training

4.10.1 For employees

Mandatory human rights trainings for all employees, where company had them, were cited as a key factor in embedding the respect for human rights throughout the company. Some companies had specific commitments to employee-level training on human rights in the region. For example, L’Oréal addresses human rights in its regular meetings as well regional meetings, where human rights correspondents hear from the global human rights team about updates, human rights news and their importance, and what actions they can take to respect human rights as well as sharing local best practices. However, where one company claimed that their human rights training mandatory for related functions, an interview revealed that a senior compliance employee based in the region had not yet attended any such training at the time of interview, despite the importance of that compliance function to their HRDD process.

4.10.2 For procurement

All process owners interviewed mentioned some form of global human rights training to increase knowledge related to human rights and understanding company HRDD processes..

Several companies expressed the importance of mandatory training for procurement to increase their familiarity with HRDD processes. Companies trained the procurement function on different topics in relation to human rights and HRDD. In cases where a human rights function owned the screening and risk assessment, the focus was on standard setting and quality; besides training procurement on supplier CoC conduct compliance and best practices to document supplier compliance, procurement received training on the HRDD screening and supplier approval process, as well as the calculation of the risk score of suppliers. Other companies focused on embedding human rights considerations into procurement practices and mindset, such as training suppliers on supplier CoC guides with human rights as the first principle, as workshops spanning 3-4 days of the new buyer onboarding process, using mandatory RBA trainings as well as trainings on the potential human rights impacts of the company.

Flex is piloting their migrant worker procedure guide for hiring managers in Malaysia, which provide helpful processes in areas such as assessing agencies and making sure that contracts are provided in native languages .

4.10.3 For local suppliers

All companies made trainings related to CoC standards available to suppliers globally, designed to ensure workers understand their rights and that there were management systems in place. There was a spectrum of participation required. While some companies made such trainings or eLearning modules available for free on websites and did not monitor participation, other companies adopted strategies such as the compulsory onboarding at least a representative of major suppliers on training platforms, or mandated the trainings for all suppliers. To conduct trainings for a large number of suppliers globally, online methods were commonly used. One method was a sophisticated digital platform integrating training with customised sustainability assessments, and customised progress tracking. Another method was conducting virtual workshops for every region, conducted by regional specialists trained by the HRDD process owner.

Particular to the region, companies proactively conducted targeted trainings for a section of their suppliers on three topics; palm oil, ethical migrant worker recruitment practices and forced labour with a focus on increasing traceability. On a whole, these were done in-person, with NGOs and some even held collectively with industry peers. These trainings served to build supplier understanding of the human rights risks and impacts, communicate

expectations on industry standards and legislation and in cases, teach suppliers how to build remediation plans. One company developed and onboarded suppliers on a performance measurement tool, while another company offered one-on-one consultations.

In the procurement process, there is an inevitable focus on most competitive local supplier selected according to various sub criteria such as technology, reputation, quality. Companies are not likely to select the supplier within a market that most needs supplier development, as considering financial investments, companies should train those with highest potential to improve. Furthermore, for the companies interviewed, suppliers selected for development and capacity building were largely their more strategic suppliers for the three topics. To negate the effect of this dilemma and make best use of limited resources, one service provider employed a supplier segmentation process to identify local suppliers with the least understanding and ability to comply with the focal company's HRDD expectations. This is done through questionnaires to the local suppliers about their policies, procedures, personnel and the extent to which they already embed a HRDD system in their supply chain in terms of socialisation of the CoC and risk assessment of sub suppliers. Typically, these suppliers have low leverage and control of their sub suppliers, are hiring a large proportion of foreign and temporary workers, have little visibility into their labour supply chain risks, and have red flags in on labour compliance in their own system. For these suppliers, training and capacity building may entail deepening the suppliers understanding of what certain human rights mean, or a workshop finding the root causes of non-compliance.

Company representatives highlighted the importance of their attitude to supplier development. It was important to acknowledge that some of these HRDD practices were new to their suppliers and that suppliers could have difficulties in meeting expectations. Capacity building would be to work collaboratively with the supplier, not against them, and to understand the true cause of the risk, even if the risk was caused by the company's purchasing practices or low prices. At the end of the training, suppliers needed to understand two things; why it was important to respect human rights, and how to do it in practice. One company allows suppliers a minimum of 6 months to a year for corrective action plans to show results, considering the type of issues, cultural and behaviour change, order volumes and costs incurred by supplier.

Deep dive: NXP's two-step implementation

When NXP implemented their HRDD program in 2011, their focus was to make sure that their own operations were compliant with their policies, and they started with building capacity and conducting audits of their own facility teams. Only in April 2013, they extended their program along the supply chain, because then they could tell their suppliers that they had implemented these systems successfully in their own operations, lead by example, and show suppliers that it was possible to align to their expectations.

Deep dive: Hands on approach to supplier development

A practical approach to supplier development was seen in certain companies. More than one company invited certain suppliers to their own facilities or migrant worker accommodations to learn from their teams and practices. One company puts suppliers facing issues in their foreign worker recruitment program in contact with their local sustainability champion with related expertise, as well as referred their own agencies. Another company sends its human rights experts to support local supplier sustainability teams build management capacity around conducting stakeholder engagement, with the human rights expert supporting the team on working with trade unions, different experts and NGOs to discuss issues and prepare corrective action plans for the supplier.

Local service providers called attention to the language and content of company CoCs and trainings as being too theoretical or using non-local terms. Companies need to focus on clarifying policies and guidelines in more operational terms for local suppliers, based on procedures that are already existing on the ground. For example, clarifying blanket statements such as “no passport retention” for cases where the passport needs to be temporarily held for administrative purposes, or how working hours are logged for transport logistics personnel, who may face long waiting times pre-transit and delivery. If companies issue their own guidance and communicate clear expectations in terms of best practices, local suppliers are better supported in their adoption of new practices. For example, companies such as Neste have begun to issue guidance for suppliers on best practices to comply with their CoC. This guide includes clear expectations from Neste, such as “you regularly train all your employees on how to detect signs on forced labour and how to act in case such signs are detected” or “Employees are provided with a written labour contract or employment letter in a language they understand that accurately reflects the terms of employment” or “You have established a procedure on how to respond in case harmful child labour is detected and ensure that such procedures are the best interest of the child” .

4.11 Stakeholder engagement

4.11.1 *Low involvement of local rightsholders*

A company's engagement with external experts (see Section 4.3.2), while important, do not constitute the target stakeholder of the HRDD process: affected rightsholders and rightsholders with the potential to be affected. In the scope of this thesis, this group of rightsholder constitutes local employees and workers in their local supply chains. As such, within the processes, the main vehicle for feedback was the audit, where HRDD managers, onsite sustainability champions, external and internal audit teams, worker representatives and worker voice approaches were the channels for engagement. The main vehicle for affected stakeholder feedback was the grievance mechanism channels.

However, other HRDD processes such as training, risk assessment, supplier onboarding, did not show evidence of rightsholder input in their design and implementation. There was little evidence of companies actively seeking rightsholder feedback, opinions and suggestions, or how this feedback was incorporated.

Instead, companies' efforts to consult the local community and rightsholders appeared to be more ad hoc or one-off, several HRDD process owners engaged local civil society organisations "whenever we have an opportunity to be in the country and if time permits" or performed country HRIAs with experts when they "first designed their audit program".

4.11.2 *Elements for meaningful dialogue creation*

A stakeholder engagement expert interviewed raised the following elements as essential to meaningful dialogue and engagement around HRDD in Southeast Asia.

- Willingness to engage: Be sensitive, listen, and do not come in with negative preconceived ideas of the situation. Do not judge the situation by other country's standards or norms. Prepare a list of good practices that suppliers already have in place that you can build upon.
- Collaborative attitude: There could be aggression on the ground because they feel that the focal company is coming to judge them. It is important to let them know that they will be treated as an equal partner and that end result is a collective and local solution for HRDD implementation
- Trust: Beyond having a HRDD process owner and managers, local contact points and relationships are essential for the rightsholder to feel comfortable. Some practices include hiring specific stakeholder managers from the local community to act as a

bridge between companies and suppliers. Trust is also necessary for support and full transparency from internal operations on the ground.

- Time: For local suppliers to not feel that the HRDD process is imposed on them, and for them to understand why human rights is important, patience and a long runway is needed.

4.11.3 Limitations

Deep dive: Community feedback processes

Shell has several processes which involve rights holder input. Feedback mechanisms for employees go through Shell Helpline which is also for contractors and worker in supply chain to use. They expect their contractors to also have their own grievance mechanisms for workers. They also have community feedback mechanisms implemented in major operations and projects where their online tool provides staff working within communities with real-time information around issues for a quick resolution, and the feedback is delivered and resolved directly within the related business lines. Another process is their impact assessments in their design process of new projects and running operations. They also adapt processes such as incident reporting procedures according to local regulation.

Due to their industry, Shell's community feedback mechanisms are more highly embedded within business lines and functions than other companies interviewed. However, these more mature stakeholder processes have their own limits. Besides requiring significant resources and time on the part of the company, quality of data and reporting is dependent on country teams and community liaison officers. Rightsholders may encounter stakeholder fatigue, especially if there are multiple cycles or other businesses also consulting communities. There are also limits to how much country teams can push according to local labour practices and laws.

Part 5: Discussion

5.1 Major challenges

5.1.1 Silos

Operating in silos and decoupling was one of the biggest challenges of effective HRDD in companies interviewed. Silos can be formed among HRDD process owners and HRDD process managers, between third-party services and internal teams, between HRDD processes owners and procurement, as well as other departments necessary to coordinate HRDD processes and corrective actions. Even with cross functional working groups and a high

prioritisation of human rights in the companies, interviews revealed silos in many companies. More than one HRDD process owner or manager used phrases such as “ I do not know because it is not my mandate” of certain aspects of the HRDD process beyond their direct job scope.

Arguably, the most dangerous barrier to HRDD is that formed between HRDD teams and procurement teams, as procurement practices have a high potential to contribute to business impacts to local workers and communities, their role in maintaining the direct relationship between the company and its suppliers (see Section 3.3.3), and the obstacles to HRDD implementation in first-tier suppliers and beyond (see Section 3.3.4). This was widely highlighted by group 2 informants, as opposed to company representatives. Service providers and experts provided accounts such as CSR team using a fixed list of suppliers to monitor its migrant worker recruitment practices, when unbeknownst to them, procurement teams were using alternative suppliers to fill supply shortages. Decoupling between these teams are likely to occur because of highly technical knowledge and separated decision-making processes, thereby leading each team to perceive the other as not adding value to the specific process. However, if procurement teams move forward with category planning and supplier selection without consideration of HRDD teams risk assessment process, this weakens the overall HRDD. Unfortunately, this was seen to some degree in the interviews. For one of the company representatives who identified as highly familiar with their HRDD processes, whereby procurement was key, could not identify details related to procurement despite Southeast Asia being a critical region for raw material sourcing, nor did could interviewee describe the implementation of HRDD program among local suppliers. Meanwhile a group 2 interviewee had conducted sustainable procurement training for the very same company 10 years ago and confirmed that these gaps were addressed at that time.

The other strong silo found was between the HRDD function and key business process staff. In a company with a mature HRDD program with human rights specialists placed across different functions, only one human rights expert in that company had an overarching view of things and doubted their own visibility and outreach. These silos are worsened by geographical distance. A director of compliance located in Southeast Asia of a company of which HRDD approaches were in place for more than 10 years claimed that “I don’t think we have a management system specifically for human rights, I think there needs to be an approach or strategy that’s driven at group”.

Such silos impede and block the flows of knowledge needed for HRDD, as well as create costs from duplication of effort, inconsistencies, and inefficiencies (Serrat, 2010).

5.1.2 Lack of integration of rightsholder input

As seen from the interviews, company practices by and large only track indicators of supplier non-compliance, audit results, and feedback from grievance mechanisms in order to determine the effectiveness of HRDD implementation. Their compliance scorecards, cited as a method of improvement, do not track an improvement in outcomes for rightsholders (see Section 3.3.1.4, Section 4.9.2). Company representatives should exercise prudence in claiming that these tools improve the HRDD process. Within the top-down audit processes, rightsholder input can at best be described as procedural, with little benefit for participating rightsholders but rather driven by the need to abide by processes. In current grievance mechanisms, engagement is the end goal, rather than the foundation for an ongoing dialogue or mutually beneficial relationship. Grievances do not constitute all of worker opinions- just the concerns. Additionally, indicators such as those used to evaluate grievance mechanisms can undermine the very thing they set out to measure- if a reduction in grievances becomes a target for a local supplier, people typically start to perform to the target rather than focusing on the original purpose of the grievance mechanism, or a culture may develop of discouraging people from raising grievances in order to meet the target (Shift, 2019). Companies need therefore to pay attention to the proper structuring of grievance mechanisms and other worker complaint mechanisms, and these must be supplemented by other sources of worker feedback such as trade unions (Khan, 2021).

While informed by the HRDD process owner's technical expertise in the subject, these indicators and process design are not often centred on the real experience of local workers or potentially affected stakeholders. This was also seen in well-used tools developed by service providers such as the RBA, while some local data providers with worker-driven data faced their own difficulties in gaining visibility and corporate clients. HRDD process owners also mentioned the difficulty of scaling out small-scale programs that have been adapted to rightsholder input, while at the same time, local informants say such programs have little impact on systemic problems. Moreover, some HRDD process owners mentioned the difficulty of building relationships with local rights holders.

5.1.3 Translation and change communication practices

Interviews have shown translation practices to be happening within the local ecosystem (see Section 4.2.2.1) as well as within companies (see Section 4.4.5). While this issue was conflated with “Asian” versus “Western” values debate, I did not find that the root cause of the debate was a difference in understanding of human rights. Rather, an understanding of this debate is relevant because of the feelings of imposition that from a lack of ownership and adjustment of the process to local operations and realities.

While some of these practices also bear resemblance to Ogunranti’s process of reframing the UNGPs through local norms (see Section 3.3.5), these unstandardised translation approaches are in fact not. When seen through the lens of organisational change and communication breakdown, this phenomenon becomes clearer. Brown proposes that in the absence of formal communication and information about the changes from leadership, a constructivist approach to change communication becomes dominant by default in employees (Brown, 2007).

Beyond a lack of standardisation that may also change the communication and understanding of HRDD, these practices are problematic. For example, using reputation damage as an argument depends on whistleblowers and allegations, and applies mostly to the most serious violations seen by society rather than all human rights which the company has the responsibility to respect. Moreover, such usage of the business impact arguments to advance the HRDD agenda may promote a customary usage of the terms that undermines the meaning of rights-holder participation. This can have serious implications for internal stakeholders such as HRDD process managers as well as for suppliers and local population understanding of the concept and play a role in marginalising opportunities for local participation and engagement.

5.1.4 Insufficient supplier development

Company practices sampled included external supplier development such as supplier assessments and audit results with frequent assessment and feedback. Positive supplier incentivisation was also seen in supplier scorecards. Other external supplier development practices include the issuance of supplier guidance. Direct supplier development was initiated by focal companies through two main methods. The first method was knowledge transfer through training, or from sending internal experts, or bringing suppliers onsite for learning or one-on-one consultations. The second method seen is the development of tools as performance measurement tools for suppliers.

In theory, what do focal companies need from their suppliers under HRDD?

Generally, focal companies need four things from local suppliers. Firstly, companies need suppliers to understand the concept of adverse business impact on rightsholders, identify what their potential human rights impacts are and how they could be contributing to these impacts. Secondly, focal companies need suppliers to respect human rights throughout the production process, and not cause human rights impacts. Thirdly, where their production does cause impacts to rightsholders, suppliers need to mitigate risks, manage and remedy these impacts at their level in the value chain. Therefore, suppliers must conduct identification efforts, have a grievance management system, have implemented prevention methods, and know how to remediate their complaints. Fourthly, focal companies need first-tier suppliers to scale their HRDD beyond the first tier, as only then will the focal company achieve their needed on-going active identification and prevention throughout the value chain. At every step, focal companies also need transparency and willingness to engage from these suppliers.

Current supplier development practices do not sufficiently address all these needs. While indirect investment encourages experiential learning about company HRDD expectations, it does not build capacity or offer resources needed to build such a system- it relies on the supplier to do so. Arguably, the same goes for the majority of direct investment seen- with trainings, suppliers can better understand their human rights impact, and how to avoid them, but this mainly represents an attempt on the part of companies to conduct their own HRDD and does not help towards suppliers themselves address the root causes of their human rights risk, or create any incentive for suppliers to themselves proactively change the behaviour. While there is some evidence of companies providing training, and even developing a tool for the suppliers and onboarding suppliers on it, for the most part, without corresponding regulations, suppliers only have a commercial incentive to do the minimum. With paper compliance prevalent in some industries or countries, suppliers are even less likely to implement changes.

5.2 Recommendations

5.2.1 *Devolved governance structure in the region- management capacity*

For local suppliers to overcome change-based resistance, it is paramount that local operations are seen to have implemented HRDD successfully, or “walk the talk” as seen in NXP’s two-step implementation (see Section 4.10.3). Therefore, there must be permanent HRDD process owners, not just located regionally, but responsible for HRDD implementation for the region.

The regional HRDD process owner will report to the regional leadership team, be part of the wider HRDD team and report to the CSO at headquarters. This will create a setting in which HRDD process owners and managers can effectively implement and follow-through with HRDD at local level.

The results revealed that organisational silos still occur, and that many HRDD process owners do not have a relationship with regional procurement, let alone local suppliers and rightsholders on the ground. It is not enough to have cross functional leadership or a short chain of command to the top, instead, geographical devolvement of process ownership should be the next step in building relationships. Moreover, this would reduce current transaction costs such as time spent coordinating activities between countries as well as related to supplier development.

Considering the results, several improvements in governance and organisation must also be put in place.

- There must be proper guidance and codification of expectations for the role and potential conflicts of interest between local and headquarters. The dual reporting structure to the CSO at headquarters can preserve the independence of the process owner.
- To reduce duplication of effort, inconsistencies, and inefficiencies between supplier selection and HRDD risk management, HRDD controls must be deeply embedded in the procurement process. Approaches can be diverse as shown in Chapter 4.6, but ultimately the HRDD process should be successful at halting the approval and continued relationship with high-risk suppliers who do not commit to corrective action. While this practice was not yet seen among the interview results, further alignment between the processes could mean that procurement targets and goals include improvement in HRDD in suppliers, which a step towards addressing the misaligned priorities as seen in Section 4.6.4. Arguably, procurement as a process owner (Section 4.6.3) is the best example of this. At the bare minimum, regional HRDD process owners should be part of category management planning for that region. There is also a need to ensure the proper recruitment and training of such a local HRDD process owner. If this regional HRDD process owner does not have a procurement background, there must be training and socialisation in procurement.

- It is also necessary for the whole HRDD team to be onboarded on one centralised and specialised system of data management, to ensure that decisions are consistent with HRDD strategy and objectives, quality is maintained, and collaboration and communication can take place. This also allows for leadership to monitor the progress of HRDD implementation. Without centralised tooling, there will be challenges when working cross-functionally, and each team may eventually adopt their own tools and processes to complete their work.
- One of the roles that leadership in companies implementing HRDD should take better responsibility for aligning internal communication around HRDD. This applies to governance structures and key operational personnel in the region, including those in charge of the relationship with local suppliers. By communicating about human rights on a regular basis, process owners or service providers would have less need to perform "translation" and can avoid certain consequences (see Section 5.1.3).

Regional process owners could bring the following outcomes. Firstly, local process owners would increase performance of the HRDD program on the ground through better monitoring of relevant legal and regulatory development in the region. Also, since they also report to regional leadership structures such as head of operations, their decisions would be better aligned to decisions for the domestic market and informed by people such as those with an understanding of logistics networks, deep category knowledge, etc. This operational responsiveness can allow for the HRDD program to keep pace with changing business needs and the changing of suppliers. Additionally, local HRDD process owners would better be able to guarantee transparency of local operations so needed for mHRDD. They would therefore be better able to understand and work with local capacity for implementation and make more strategic decisions.

The second outcome is more effective control. This allows for an improvement in control between operations and headquarters due to the reduction in geographic distance and physical separation of process owner and process manager. An increase in opportunity for interaction and communication of the vision can also lead to reduction in silos and resistance to change. Regional HRDD process owners can work cross-functionally, especially with regional procurement and compliance heads and key product teams and have the flexibility to work with local employees at all levels to ensure efficient integration of the HRDD risk mitigation

into local business processes. There is also more effective control of local supplier accountability as HRDD process owners can go on the ground.

The third outcome is a greater legitimacy of the HRDD process locally. The presence of regional leadership and oversight of the HRDD program can have an impact on trust and motivation to change, and more easily embed business respect of human rights. In the medium term, this can reduce the need for direct supervision.

In the future, as companies embed HRDD-related processes across more functions, there will be a need for the development of local HRDD teams, local experts and capacity in local staff. Therefore, the fourth outcome of a local or regional process owner would be to supervise and nurture this network. Ultimately, such a structure is needed to accommodate innovation and local differences or cultural norms into a local solution for implementation of HRDD.

5.2.2 Companies as an equal partner in the local ecosystem

One of the most fundamental problems in regulating human rights impact of business conduct lies in a governance gap (Human Rights Council, 2008) caused by lack of rules and/or the lack of enforcement of business conduct between different countries. mHRDD legislation applying from Europe throughout the value chain is important in bridging this gap, but international companies also need to lean into the local HRDD ecosystem. Participation in industry associations such as in RBA offer companies an opportunity to detect shared risks regionally and the collective development of systems. However, as demonstrated in Section 4.1.3, companies cannot be over-reliant on such organisations to localise their HRDD, as they have their own limits or may even disincentivise critical local input. If focal companies aim at understanding and improving HRDD with their rightsholders in mind, they should look towards funding and selecting local service providers, looking for local CSOs and engaging with local trade unions. Reforming the HRDD process into a process with local actors will reduce feelings of imposition (see Section 5.1.3) and reduce resistance to change. On top of this, in some ways, this is the only way to ensure that authentic HRDD will be carried out by the supplier in the long term as these local structures serve to check and balance the behaviour of local suppliers.

Beyond the HRDD ecosystem, companies must increase investment in building capacity to implement HRDD for local suppliers, as the cascading of HRDD management systems from the focal company to key suppliers located in regions without corresponding regulations will not be possible without investment (see Section 3.3.4.2).

What do mHRDD laws say about businesses bearing the cost of HRDD?

Businesses should bear “the costs of establishing and operating the due diligence procedures. Transition costs, including the expenditure and investments to change a company’s own operations and value chains to comply with the due diligence obligation, if needed” (European Commission, 2022). Within the debates in the business and human rights space, a “reasonable amount” of investment are caught up legal jargon between “an obligation of means”- which means that companies must invest all they have at their disposal or “an obligation of results”- which means companies must invest everything they can to achieve results (Lewis & Wagner, 2023).

However, the realities of how much companies would need to invest in HRDD seem to have been one of the points that received pushback (Allenbach-Ammann, 2023) (George, 2023). A tabled amendment for debate in the EU CSDDD proposal of recital 28 included: “the due diligence policy should notably include a strategy of co-investment to build the capacity of weaker business partners to carry out due diligence” (EU Parliament, 2023a). However, in the text adopted on 1st June 2023, this line was not approved and missing from the final text adopted. The relevant portion of recital 28 now to costs reads “ The due diligence policy should contain ... a description of the processes put in place and appropriate measures taken to implement due diligence in line with Articles 7 and 8 in the value chain, including the relevant measures taken to incorporate due diligence into its own business model, employment and purchasing practices with entities with which the company has a business relationship and measures taken to monitor and verify due diligence activities, and adequate policies to avoid passing on the costs of the due diligence process to business partners in a weaker position...” (EU Parliament, 2023b).

Still, considering the interview results and the rest of the mHRDD obligations, true costs of HRDD are clear. They can be detailed with the following scenario. Foremost, focal companies should pay suppliers fairly, allowing them to cover costs and worker salaries. Next, companies should look towards financial coverage of root causes of human rights risks to workers (see Section 4.2.3), such as the payment of recruitment fees, or salaries that may be too low or the provision of daycare services. Next, not only should companies supporting the implementation of HRDD system and tools tailored to the supplier and operational, and ensure the supplier has the same knowledge of HR risk and applies the same standards in managing the risk and impacts, companies also need to be realistic about how the suppliers

will keep this system running. Just like how focal companies have dedicated staff members and resources to perform HRDD for their own operations, suppliers will also need to allocate resources to do so.

Therefore, theoretical best practice in investment for HRDD undoubtedly surpasses what can be seen in companies today. Companies should plan accordingly, and ensure adequate resources are allocated to HRDD teams. As seen from the results, most companies are investing in supplier development for the weakest of a company's strategic suppliers.

Due to the difference in industries and lack of information on the suppliers for some companies, it is not possible to generalise among the companies interviewed the type of sourcing strategy for the region. Companies may have strategic suppliers or non-critical suppliers in Southeast Asia. Regardless, with mHRDD, companies will have to extend investment to suppliers which they might have even less leverage or interest in terms of investment- those that fall in the non-critical or bottleneck product categories. Financial investment for supplier capacity building is likely to be even more substantial for these suppliers as the only ways to ensure HRDD implementation are cover the full cost in the contract in addition to the purchase price. There must be monitoring and supervision to ensure standards are maintained. Another option is that companies ultimately run HRDD for them. However, if both parties are interested in a long-term partnership, there is chance that they will share the cost of implementation.

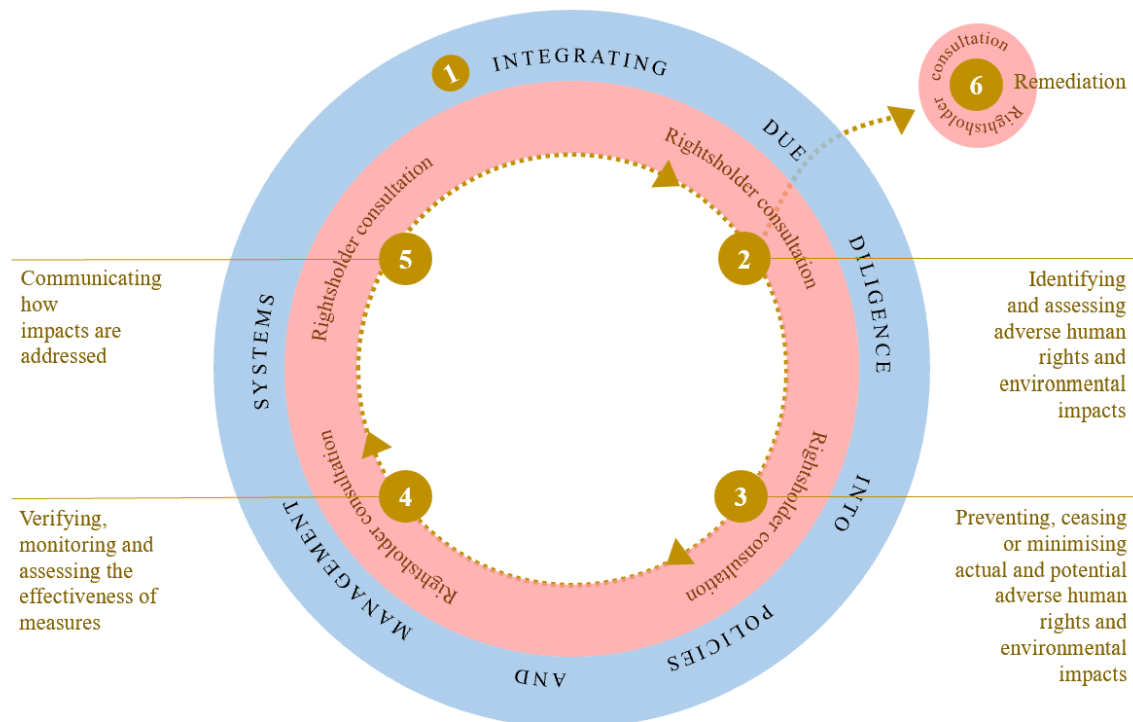
5.2.3 Formal structures for integration of rightsholder input

Companies raised systemic problems as one of the key challenges to HRDD implementation in the region. Ashoka, a non-profit organisation that maintains a global network of social entrepreneurs and has a vision of "everyone a changemaker", puts forth that changing mental models-deeply embedded ideas and schemas in people's heads about how things work or should work in the world- can change even systematic problems (Ashoka, 2022). Applied to the context of this paper, in many ways, companies that create HRDD processes that operate within the framework of business as usual and offer top-down solutions to help people on the ground. But if the very rightsholders that these processes are created to help are brought to the foreground of process creation, there is a chance that these rightsholders may be empowered to create solutions that move structural elements of the systemic problem. Some research has shown that incorporating WSR can contribute to more effective human rights by

empowering workers, or rights holders, as central actors (McCorquodale & Nolan, 2021). However, it is not enough to engage sporadically.

Companies need to create explicit provisions for the inclusion of local suppliers and workers (rightsholders) in regional HRDD process development. Inclusive participation requires a combination of top-down structure and bottom-up innovative inclusion practices (Samel, 2020), such as the organisation of focus group discussions and testing, process testing, and collaborative design. Every regional HRDD process, including risk assessments, must pass through a “layer” of rightsholder consultation before it emerges, for example, collectively selecting the appropriate third party to perform a risk assessment analysis, or involving workers in the design of a worker voice tool. This is visualised in Figure 4.

Figure 4: Layers of rightsholder consultation in the HRDD process for rightsholder input integration



Source: Figure is author's own work. *The stages of the HRDD process are taken from OECD. (2023). OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. <https://doi.org/10.1787/81f92357-en>

In order to facilitate dialogue generated by rightsholder own experiences, several understandings must be put in place (see Section 4.11.2). Throughout engagement, companies also need to be responsive, and practise timely two-way communication in order to build trust. In particular, the end goal for rightsholder input should be to arrive at locally adapted HRDD processes for local operations and suppliers that are successful at identifying, ceasing,

preventing and mitigating adverse impacts for workers and wider communities. Rightsholder participation can ensure that company responses fit to the context and provide individuals with the type of support they need, those that will actually mitigate and prevent harm. The creation of locally adapted processes could transform HRDD from a process of "treating people how we want people to be treated" to treating people how they themselves would like to be treated. This will also reduce change-based resistance and feelings of imposition.

As the intended beneficiaries of prevention and mitigation efforts, rightsholder input reflects their perspective on what successful and effective local HRDD looks like. Their input is necessary to provide a yardstick against the different biases and organisational goals of each stakeholder in decision making.

In order to keep rightsholders at the centre of the HRDD processes' theory of change, companies must also track the right kind of progress around improving outcomes for rightsholders, as this holds the key to corporate learning and building a culture of respecting human rights throughout the company. For example, Shift's theory of change for HRDD processes (Shift, 2021) suggests a midpoint evaluation of desired 'practices and behaviours' rather than outcomes, as this can be a much stronger indication of whether workers are likely to be treated better, and can be more easily and consistently measured. Once a clear and replicable connection between practices/behaviours and outcomes is established, they can be valuable and scalable indicators of likely outcomes (Shift, 2021). This approach can better avoid tracking outcomes that disincentivise behaviours that a company is trying to embed, and better reveal other factors that may affect the outcomes.

5.2.4 Encourage intrapreneurship for HRDD maturity

Companies should consider using intrapreneurship as a framework for looking at HRDD process owner hiring and selection, job design and evaluation. An observation throughout the study was the significant role of HRDD process owners in creating and adapting HRDD processes. A key factor HRDD maturity was learning based on experience. Achieving organisational learning based on experience accumulation starts with a variation stage, whereby new ideas on how to approach old problems in novel ways or to tackle relatively new challenges are generated (Zollo & Winter, 2002). If HRDD process owners are the source of new ideas, more attention should be paid to this. This process can be reframed as one of intrapreneurship. Intrapreneurship can be defined as a process whereby employees recognize and exploit opportunities by being innovative, proactive and by taking risks, in

order for the organization to create new products, processes and services, initiate self-renewal or venture new businesses to enhance the competitiveness and performance of the organization (Neessen et al., 2019). Intrapreneurship has been to a strategic resource to achieving business sustainability, or as a principle to enhance adaptation (Huang et al., 2021). Crucially, intrapreneurship is a bottom-up construct that can spiral up and affect team and organisation performance (Hayton & Kelley, 2006)(Antoncic & Hisrich, 2003).

An intrapreneurial framework developed by Huang et al can explore how companies can intentionally and systematically build innovation into HRDD process owner roles within an organization. The enablers at both individual and organisational levels are shown in the table below.

Table 3:How companies can build innovation

Individual enablers	Organisational enablers	Facilitating mechanisms
<i>Self attitudes:</i> Personal initiative, Entrepreneurial self-efficacy, Proactivity, <i>Capabilities:</i> Market knowledge, Technology knowledge, Innovativeness, Career adaptability <i>Judgments:</i> Rewards (finance, achievement, and satisfaction), Risks (job, pay, and reputation), Probability of venture success, Organizational identification <i>Personality attributes/traits:</i> Flexibility and drive, Openness, Conscientiousness, Extroversion, Emotional	<i>Developmental support and work design:</i> Management support, Work discretion, Managerial coaching, Developmental advice and mentoring, Job design and work context <i>Resource availability:</i> Financial resources (e.g., rewards), Technological systems, Intrapreneurial workshops, Related knowledge, Innovation capability <i>Managerial style:</i> Managerial framing, Transformational leadership, Managerial receptiveness <i>Innovative culture:</i>	<i>Establishing information and communication technologies and infrastructures:</i> ICT-based systems help support: Novel ways of working (time- and location-independent work), Flexible and decentralized working system, Ideas development, Monitoring intrapreneurial process, Implementing new business ideas <i>Forming organization–employee relationship (OER):</i> OER reflects on: Trust, Control mutuality, Commitment, Satisfaction <i>Creating employee–employee relationship (EER):</i> Civil

stability	Autonomy, Tolerance for failure, Encouraging risk-taking, Extension of individual network	relationship, Inspiring relationship, Integrating relationship, Synergizing relationship, Knowledge sharing among employees
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Source: Table adapted from Huang et al. (2021). *Cultivation of Intrapreneurship: A Framework and Challenges*. *Frontiers in Psychology*, 12(731990). <https://doi.org/10.3389/fpsyg.2021.731990>

In terms of hiring, insourcing and nurturing specific competencies of HRDD process owners, companies, like L'Oréal, should consider factors other than technical or related expertise in the topic. Self-attitude, capabilities, judgments, and personality attributes/traits are individual enablers of intrapreneurship. In particular, a perception of entrepreneurial self-efficacy, for example a HRDD process owner's belief that they have the resources and are capable of successfully completing a task can lead to entrepreneurial behavior within the firm. Personal attributes such as flexibility and drive are also critical (Huang et al., 2021). This is also often found in employees with a high degree of technical specialization. Such "experts" typically enjoy challenge, are intrinsically motivated by their job, and recognise that continuous learning is a big part of their job (Dai & Swisher, 2015).

The career track, job design and evaluation of the HRDD process owners warrants attention. At the organizational level, developmental support and work design, resource availability, managerial style (also linked to employee trust and employee recognition), and innovative culture are seen as enablers (Huang et al., 2021). Results showed that organisational silos occurred no matter the HRDD team's organisational placement, but that the high technical specialisation of some of these HRDD process owners can be a barrier to developing operational HRDD processes. If HRDD teams are organised functionally, development strategies such as training and job rotation in different departments such as procurement, or between different departments could be explored. Over and above that, HRDD process owners can be evaluated not just through whether they possess usable and useful expertise in human rights, but also by their ability to transfer knowledge (Dai & Swisher, 2015) of human rights useful to the organisational strategic needs and demands of their colleagues. This is necessary to move the HRDD process out of its own silo within the company. In companies with innovation central to their business or product, HRDD process owners seemed to be more receptive with reshaping elements of the HRDD process to better fit contextual and

organisational circumstances. An organizational culture that is tolerant of failure (Huang et al., 2021), risk taking (Aramburu & Sáenz, 2011), and trial and error, elicits employees' intrapreneurial engagement. In organizations where this is not yet established, companies need to exercise clear leadership direction in normalisation of risk and creativity and can implement mandates and training for innovation among HRDD teams. Not referred to directly in the interviews but highlighted in theory are the concepts of horizontal participation: peer-to-peer sharing of knowledge between HRDD process owners, as well as the need for work discretion. Companies could do more to adopt such practices.

Above all, considering the personal motivations of the HRDD process owners, if companies fail to promote and encourage intrapreneurial initiatives within the organization that allow for the development of mature HRDD processes, they may lose such employees (Armstrong & Taylor, 2014).

Part 6: Conclusion

This study sought to showcase approaches to HRDD for Southeast Asian operations and suppliers of European companies, anchored in their local ecosystem of actors and contextual challenges. By examining the organisational structures in different companies, the impact of leadership and HRDD process owners, and how procurement, risk assessment, auditing, data collection and documentation, capacity building and stakeholder engagement processes look like in practice, this thesis also demonstrated reasons for different approaches, as well as demarcated innovative approaches, their reasons for implementation and their advantages and disadvantages. The thesis revealed that current actors, companies and these processes all have their own limitations, and there is a need for better governance and constant improvement.

In light of the results, four issues were selected for further attention. First, silos formed among HRDD process owners and HRDD process managers, between third-party services and internal teams, between HRDD processes owners and procurement, as well as other departments necessary to coordinate HRDD processes and corrective actions all have the potential to reduce the effectiveness of HRDD in companies and in supply chains. Second, a lack of integration of rightsholders input in process design and/ or in determining the effectiveness of HRDD implementation was discovered across tools, processes and indicators. Third, results also revealed feelings of imposition and divergent practices of translation and change communication within the local HRDD system and within companies, which may have wider negative implications for present and future HRDD implementation in

the region. Lastly, when comparing results with the theoretical need for supplier development under mHRDD, current practices have a long way to go.

In the hope of addressing these, four recommendations were put forth. The first recommendation revolved around improving governance for the region such as instating regional process owners responsible for local implementation of the HRDD process. Additional areas of focus are proper guidance and codification of expectations for the role, better alignment between the HRDD procurement processes, targets and training in the region, the need for one centralised and specific system of data management, as well as better leadership on internal communication on HRDD. The second recommendation is for international focal companies to lean into the local HRDD ecosystem, including selecting local service providers, looking for local CSOs and engaging with local trade unions, as well as increasing supplier development. For illustrative purposes, a scenario of the true costs of HRDD is also put forth based on the results. Thirdly, I proposed that companies create explicit provisions for the inclusion of local suppliers and workers (rightsholders) in HRDD development, such that every HRDD process passes through a layer of rightsholder consultation before it emerges as a policy or practice. Empowering rightsholders as an actor may hold the key to the creation of locally adapted processes and reducing change-based resistance and feelings of imposition. This also requires companies to be mindful of engagement methods that will facilitate dialogue generated by rightsholder own experiences and companies to track progress around improving outcomes for rightsholders. Last but not least, by reframing the adapted HRDD process as a product of intrapreneurship, HRDD maturity can be achieved when companies intentionally and systematically build innovation into HRDD process owner hiring, job design and evaluation.

6.1 Limitations and suggestions for future research

In hindsight, as the two benchmark interviews revealed, this study would have benefited from more in-depth data gathered from non-HRDD process owners based in the region for the companies, as well as interviews with suppliers themselves, in order to cross-check focal company representatives and practitioners' perspectives. Several of these people were approached but did not respond to requests for the interview. This is also due to my limited ability from Europe to find such people in Southeast Asia with interest to engage, as well as the time constraints.

Moreover, LinkedIn as an outreach platform has its strengths and weaknesses. A key strength of this was its utility in identifying a starting pool of technical HRDD specialists. A key weakness, considering the nature of the results and discussion, was that their initial identification through LinkedIn might produce an overemphasis in their interview behaviours as adopting personal branding (Healy et al., 2023) or overattributing their role in creation of HRDD processes. Another weakness of LinkedIn as an outreach tool is that it limits the scope of interviewees to users of the platform and may exclude the essential viewpoints of workers on the ground, or other relevant personnel within the company.

Several interesting questions for further study emerge, such as investigating how different the HRDD processes need to be for them to be effective in different regions, and what the differences are. Another question is if by overcoming resistance to change using communication and local approaches, human rights will be accepted completely in a region which “Asian” values remain part of past and present conversation. Also, while it is clear from the results that the involvement of procurement in HRDD process needs to increase, practical implications and consequences of this, especially regarding procurement dilemmas (see Section 4.6.4) are underexplored and should be considered.

HRDD is unique in that it is both a process and a standard (see Section 3.3.1.1), and the legal motivation in mandating the standard as in mHRDD allows for freedom in building approaches that can be tailored to the specific culture or organisation and rightsholder. However, except for some companies, the data on implementation seems to suggest that mHRDD gives rise to an increased focus on the standard, where many people do not realise the need to innovate away from the standard.

At the time of writing, it is likely that many companies have not yet made deliberate decisions in adapting their HRDD processes for the local environment and local rightsholders. As mandating HRDD will increase the uptake of these standards in other companies, a similar study in five years may yield even more interesting results. Companies will need to start looking deep in their supply chains. With Southeast Asia playing a key role in many global value chains, one should keep a careful eye on progress in the region.

Bibliography

Abdullah, L. Foo, SC. (2019). HSSE Elements in Social Risk Assessment: An Integrated Approach in Managing Social Risks. <https://doi.org/10.2118/195429-MS>

Accenture. Twenty Fifty. (2021). Moving with responsibility towards success: Practical implementation of human rights due diligence in 10 companies. Retrieved August 6, 2023 from <https://twentyfifty.co.uk/wp-content/uploads/2022/06/2021-Practical-implementation-of-HRDD-in-10-companies.pdf>

AFP. (2023). Indonesian farmers fight for their land in nickel mining boom. *Radio France Internationale*. Retrieved August 6, 2023 from <https://www.rfi.fr/en/business-and-tech/20230313-indonesian-farmers-fight-for-their-land-in-nickel-mining-boom>

Ahmed, K. (2021). Palm oil land grabs ‘trashing’ environment and displacing people. *The Guardian*. Retrieved August 6, 2023 from <https://www.theguardian.com/global-development/2021/nov/15/palm-oil-land-grabs-trashing-environment-and-displacing-people>

Allenbach-Ammann, J. (2023). EPP launches last-minute attack on EU corporate due diligence law. *EURATIV*. Retrieved August 6, 2023 from <https://www.euractiv.com/section/economy-jobs/news/epp-launches-last-minute-attack-on-eu-corporate-due-diligence-law/>

ASEAN University Network–Human Rights Education. SHAPE-SEA. (2019). An introduction to Human Rights in Southeast Asia Volume 3.

ASEAN. (2022). Promoting Decent Work and Protecting Informal Workers. Retrieved August 6, 2023 from <https://asean.org/wp-content/uploads/2022/05/The-ASEAN-Magazine-Issue-21-2022-Informal-Economy.pdf>

ASEAN. (2012). ASEAN Human Rights Declaration. Retrieved August 6, 2023 from <https://asean.org/asean-human-rights-declaration/>

Asian Development Bank. (2023). ASEAN and Global Value Chains: Locking in Resilience and Sustainability. <http://dx.doi.org/10.22617/SPR230100-2>

Asian Development Bank. (2021). ASEAN corporate governance scorecard country reports and assessments 2019. Retrieved August 6, 2023 from <https://www.adb.org/sites/default/files/publication/696621/asean-cgscorecard-2019.pdf>

Ananthalakshmi, A. (2021). Malaysia charges Dyson supplier ATA with labour law violations. *Reuters News*. Retrieved August 6, 2023 from <https://www.reuters.com/world/asia-pacific/malaysia-probes-dyson-supplier-ata-over-labour-complaints-2021-12-11/>

- Aramburu, N. Sáenz, J. (2011). Structural capital, innovation capability, and size effect: An empirical study. *Journal of Management & Organization*, 17(3), 307-325. <https://doi.org/10.5172/jmo.2011.17.3.307>
- Antonicic, B. Hisrich, R.D. (2003). Clarifying the intrapreneurship concept. *Journal of Small Business and Enterprise Development*, 10(1), 7-24. <https://doi.org/10.1108/14626000310461187>
- Armstrong, M., and Taylor, S. (2014). *Armstrong's Handbook of Human Resource Management Practice*. Kogan Page.
- Ashoka. (2022). *Mindset Shift Course: Module 1* [Video]. Youtube. Retrieved August 6, 2023 from <https://www.ashoka.org/de-de/mindset-shift-course>
- Black Law Dictionary. (n.d.). Due Diligence Definition & Legal Meaning. Retrieved August 6, 2023 from <https://thelawdictionary.org/due-diligence/>
- Bon, E. (2023). Views: Businesses cannot run away from human rights regulatory standards. *The Edge Malaysia*. Retrieved August 6, 2023 from <https://www.theedgemarkets.com/node/655727>
- Brems, E. (2001). *Human Rights: Universality and Diversity*. Martinus Nijhoff Publishers. 37.
- Brown, JFK. (2007). First steps: linking change communication to change receptivity. *Journal of Organizational Change Management*, 20(3), 370 – 387. <http://dx.doi.org/10.1108/09534810710740191>
- Cheng, SH. (1972). Government legislation for Chinese secret societies in the late 19th century, *Asian Studies*, 10(2), 262-271. Retrieved August 6, 2023 from <https://www.asj.upd.edu.ph/mediabox/archive/ASJ-10-02-1972/siok-hwa-government%20legislation%20chinese%20secret%20straits%20settlements%20late%20nineteenth%20century.pdf>
- Chia, J. (2017). Singapore Trades Union Congress. Retrieved August 6, 2023 from https://eresources.nlb.gov.sg/infopedia/articles/SIP_1236_2008-11-30.html
- Chuyen, DN. (2018). Responsibility of business enterprises in Vietnam to protect the environment: a critical analysis of the UN Human Rights Due Diligence Process. In Sharom, A (Ed.), *Protecting the Powerless, Curbing the Powerful*, 159- 180. Retrieved August 6, 2023 from <http://shapesea.com/wp-content/uploads/2019/03/Final-Protecting-the-Powerless-Curbing-the-Powerful-SEAHNRN.pdf#page=169>
- Ciorciari, J. (2012). Institutionalizing Human Rights in Southeast Asia. *Human Rights Quarterly*, 34(3), 695-725. <https://doi.org/10.1353/hrq.2012.0055>

Corporate Europe Observatory et al. (2021). Off the hook? How business lobbies against liability for human rights and environmental abuses. Retrieved August 6, 2023 from <https://corporatejustice.org/publications/off-the-hook-how-business-lobbies-against-liability-for-human-rights-and-environmental-abuses/>

CSR-in-Deutschland. (2023). EU supply chain law initiative. Retrieved August 6, 2023 from <https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Europe/EU-supply-chain-law-initiative/eu-supply-chain-law-initiative.html>

Curphey, S. Cole, J. (2022). Stakeholder Engagement in Human Rights Due Diligence. <http://dx.doi.org/10.2139/ssrn.4178446>

Dai, G. Swisher, V. (2015). Expert value. *Korn Ferry Institute*. Retrieved August 6, 2023 from https://www.kornferry.com/content/dam/kornferry/docs/article-migration/Korn-Ferry-Institute_Expert-value.pdf

Danish Institute for Human Rights (2023). Due Diligence in the Downstream Value Chain: Case Studies of Current Company Practice. Retrieved August 6, 2023 from <https://www.humanrights.dk/files/media/document/Due%20diligence%20in%20the%20downstream%20value%20chain%20-%20case%20studies%20of%20current%20company%20practice.pdf>

Danish Institute for Human Rights. (2020). Crosscutting: Stakeholder Engagement, Human Rights Impact Assessment Guidance and Toolbox. Retrieved August 6, 2023 from <https://www.humanrights-in-tourism.net/publication/crosscutting-stakeholder-engagement>

De Feyter et al. (2011). The local relevance of human rights: A methodological approach. Cambridge University Press. <https://doi.org/10.1017/CBO9780511841842>

Dickson, M. (2021). In ‘Watershed Moment,’ Bank Compensates ‘Blood Sugar’ Victim Families. *VOD News*. Retrieved August 6, 2023 from <https://vodenglish.news/in-watershed-moment-bank-compensates-blood-sugar-victim-families/>

Dubois, A. Gadde, L. (2002). Systematic combining: an abductive approach to case research. *Journal of Business Research*, 55(7), 553-560. [https://doi.org/10.1016/S0148-2963\(00\)00195-8](https://doi.org/10.1016/S0148-2963(00)00195-8)

Durham et al. (2014). The Bio-divERsA Stakeholder engagement handbook. Retrieved August 6, 2023 from <https://www.biodiversa.eu/wp-content/uploads/2022/12/stakeholder-engagement-handbook.pdf>

Ethical Trading Initiative. (2017). Guide to buying responsibly. Retrieved August 6, 2023 from https://www.ethicaltrade.org/sites/default/files/shared_resources/guide_to_buying_responsibly.pdf

European Coalition for Corporate Justice. (2021). Suing Goliath. Retrieved August 6, 2023 from <https://corporatejustice.org/publications/suing-goliath/>

European Commission. (2022). Corporate sustainability due diligence. Retrieved August 6, 2023 from https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en

European Council. (2023). Infographic - EU-ASEAN trade. Retrieved August 6, 2023 from <https://www.consilium.europa.eu/en/infographics/eu-asean-trade/>

EU Parliament. (2023a). REPORT on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937. https://www.europarl.europa.eu/doceo/document/A-9-2023-0184_EN.html

EU Parliament. (2023b). Texts adopted. Retrieved August 6, 2023 from https://www.europarl.europa.eu/doceo/document/TA-9-2023-0209_EN.html#ref_1_2

Ezer, T. (2022). Localizing Human Rights in Cities. Retrieved August 6, 2023 from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4132703

FIHRRST. (2021). Human Rights Due Diligence Guidelines: for Pharmaceutical Companies in Indonesia. Retrieved August 6, 2023 from <https://fihrrst.org/launch-of-the-guidelines-of-human-rights-due-diligence-hrdd-for-the-pharmaceutical-industry>

George, S. (2023). EU Parliament agrees on new corporate due diligence law despite right-wing pushback. Retrieved August 6, 2023 from <https://www.edie.net/eu-parliament-agrees-on-new-corporate-due-diligence-law-despite-right-wing-pushback/>

Guha, A. (1978). Review: New Imperialism Re-Examined: Britain in the Scramble for Southeast Asia. *Economic and Political Weekly*, 13(45), 1847+ 1849-1850. Retrieved August 6, 2023 from <https://www.epw.in/journal/1978/45/review-uncategorised/new-imperialism-re-examined-britain-scramble-southeast-asia#>

Halff, G. (2010). Codes of Conduct - Managing the Contradictions between Local and Corporate Norms. *Journal of Communication Management*. 14, (4), 356-367. https://ink.library.smu.edu.sg/lkcsb_research/2963

Hamm, B. Schlax, A. (2015). Human Rights Due Diligence through Stakeholder Engagement? The Case of a Copper-Gold Mine in the Philippines. Retrieved August 6, 2023 from <https://www.uni-due.de/imperia/md/content/inef/report109.pdf>

- Han, J. Lim, TS. (2014). Industrial Relations Ordinance and Industrial Arbitration Court. Retrieved August 6, 2023 from https://eresources.nlb.gov.sg/infopedia/articles/SIP_2014-04-22_140417.html
- Harrison, J. (2023) Human rights due diligence : challenges of method, power and competition. Working Paper. Coventry: School of Law. Retrieved August 6, 2023 from <https://warwick.ac.uk/fac/soc/law/research/centres/chrp/publications/workingpaper/harrisonhrdd2023.pdf>
- Hayton, J. Kelley, D. (2006). A competency-based framework for promoting corporate entrepreneurship. *Human Resource Management*, 45(3), 407–427. <https://doi.org/10.1002/hrm.20118>
- Healy et al. (2023). LinkedIn as a pedagogical tool for careers and employability learning: a scoping review of the literature. *Education + Training*, 65(1),106-125. <https://doi.org/10.1108/ET-01-2022-0004>
- Hicks, R. (2021). Asian companies trail in sustainable palm oil adoption. *Eco-Business News*. Retrieved August 6, 2023 from <https://www.eco-business.com/news/asian-companies-trail-in-sustainable-palm-oil-adoption/>
- Hogan, B. Reyes, J. (2023). Downstream Human Rights Due Diligence: Informing Debate Through Insights from Business Practice. *Business and Human Rights Journal*, 1-7. <https://doi.org/10.1017/bhj.2023.27>
- Maplecroft. (n.d.). Developing a human rights due diligence process. Retrieved August 6, 2023 from <https://www.maplecroft.com/about-us/case-studies/prioritising-human-rights-using-a-risk-assessment-tool/>
- Huang et al. (2021). Cultivation of Intrapreneurship: A Framework and Challenges. *Frontiers in Psychology*, 12(731990). <https://doi.org/10.3389/fpsyg.2021.731990>
- Human Rights at Sea. (2023). Does it do What it Says on the Tin? Fisheries and Aquaculture Certification, Standards and Ratings Ecosystem: An Independent Review 1.0. Retrieved August 6, 2023 from <https://www.humanrightsatsea.org/news/how-ethical-seafood-you-eat-review-international-fisheries-and-aquaculture-certifications>
- Human Rights Council. (2008). Protect, Respect and Remedy: A Framework for Business and Human Rights: Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Retrieved August 6, 2023 from <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>
- HRW. (2023). World Report 2023. Retrieved August 6, 2023 from https://www.hrw.org/sites/default/files/media_2023/01/World_Report_2023_WEBSPREADS_0.pdf

Hunt, L. (2022). Taiwan Frets for 'Thousands' Trafficked Into Cambodia. *The Diplomat*. Retrieved August 6, 2023 from <https://thediplomat.com/2022/08/taiwan-frets-for-thousands-trafficked-into-cambodia/>

ILO. (2017). Purchasing practices and working conditions in global supply chains: Global Survey results. Retrieved August 6, 2023 from https://www.ilo.org/travail/info/fs/WCMS_556336/lang--en/index.htm

Sciortino, R. (2017). Philanthropy in Southeast Asia: between Charitable Values, Corporate Interests, and Development Aspirations. *ASEAS - Austrian Journal of South-East Asian Studies*, 10(2), 139-163. <https://doi.org/10.14764/10.ASEAS-2017.2-2>

Investment Policy Hub. (2020). "Omnibus Law" on job creation has been enacted. Retrieved August 6, 2023 from <https://investmentpolicy.unctad.org/investment-policy-monitor/asures/3567/indonesia-omnibus-law-on-job-creation-has-been-enacted>

International Trade Union Confederation. (2019). The ITUC Global Rights Index. Retrieved August 6, 2023 from <https://survey.ituc-csi.org/ITUC-Global-Rights-Index.html?lang=en>

Irham et al. (2022). Palm oil firms depriving tribes of millions of dollars. *BBC News Indonesia*. Retrieved August 6, 2023 from <https://www.bbc.com/news/world-61509744>

Kasztelan, M. Quashie-Idun, S (2022). Revealed: Garment waste from Nike, Clarks and other leading brands burned to fuel toxic kilns in Cambodia. *Unearthed*. Retrieved August 6, 2023 from <https://unearthed.greenpeace.org/2022/08/08/garment-waste-nike-clarks-cambodia-bonded-workers-toxic/>

Khan, M. (2021). Worker Voice and Labor Standards. Working paper. Retrieved August 6, 2023 from <https://betterwork.org/wp-content/uploads/Discussion-Paper-41.pdf>

King et al. (2022). Deny, Deceive, Delay: Documenting and Responding to Climate Disinformation at COP26 and Beyond. Retrieved August 6, 2023 from <https://www.isdglobal.org/isd-publications/deny-deceive-delay-documenting-and-responding-to-climate-disinformation-at-cop26-and-beyond-full/>

Lee, L. (2021). U.S. Customs bans fifth Malaysian glove maker over alleged forced labour. *Reuters News*. Retrieved August 6, 2023 from <https://www.reuters.com/legal/government/us-customs-bans-malaysian-glove-maker-brightway-over-alleged-labour-abuses-2021-12-20/>

Lewis, C. Wagner, C. (2023). A Guide to Human Rights Due Diligence for Lawyers. ABA Book Publishing.

Llewellyn, A. (2022). Indonesian ExxonMobil accusers get day in court after 21 years. *Aljazeera News*. Retrieved August 6, 2023 from <https://www.aljazeera.com/economy/2022/7/27/indonesian-exxonmobil-accusers-get-day-in-court-after-21-year-wai>

- Lout, G. (2023). Human rights in a sea of market-based approaches: Evaluation of market-based tools integrating social responsibility in the Sustainable Seafood Movement. *Sustainable Production and Consumption*, 35, 1-12. <https://doi.org/10.1016/j.spc.2022.10.020>
- Lundan, S. Muchlinski, P. (2012). Human Rights Due Diligence in Global Value Chains. *Progress in International Business Research*, 7, 181-201. [https://doi.org/10.1108/S1745-8862\(2012\)0000007011](https://doi.org/10.1108/S1745-8862(2012)0000007011)
- Martha, C. Logahan, J. (2016). Human Rights Due Diligence (HRDD) and Human Rights Impact Assessment (HRIA) Best Practices to Corporate Shared Value (CSV): A Case of British Petroleum Tangguh Project in Papua. *Binus Business Review*, 7(3), 221-226. <http://dx.doi.org/10.21512/bbr.v7i3.1785>
- McCorquodale, R. Nolan, J. (2021). The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses. *Forthcoming Netherlands International Law Review* 2022, 68, 455–478. <https://doi.org/10.1007/s40802-021-00201-x>
- McCorquodale et al (2017). Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises. *Business and Human Rights Journal*, 2(2), 195-224. <https://doi.org/10.1017/bhj.2017.2>
- Migration Data Portal. (2023). Migration data in South-eastern Asia. Retrieved August 6, 2023 from <https://www.migrationdataportal.org/regional-data-overview/south-eastern-asia>
- MNC Sekuritas. (2021). Indonesia Pharmaceutical & Healthcare Update - July 23, 2021. Retrieved August 6, 2023 from <https://www.mncsekuritas.id/detailpost/indonesia-pharmaceutical-amp-healthcare-update--july-23-2021>
- Mullen et al. (2019). Human Rights Disclosure in ASEAN. Retrieved August 6, 2023 from <https://www.a30humanrights.com/s/Human-Rights-Disclosure-in-ASEAN-Full-Report-1.pdf>
- National Trades Union Congress. (2019). Origins of Trade Unionism in Malaya and Singapore:1940s. Retrieved August 6, 2023 from <https://reunion.ntuc.org.sg/1940s/>
- Neessen et al. (2019). The intrapreneurial employee: toward an integrated model of intrapreneurship and research agenda. *International Entrepreneurship and Management Journal*, 15(1), 545–571. <https://doi.org/10.1007/s11365-018-0552-1>
- Nestlé. (2023). Nestlé human rights salient issue action plans. Retrieved August 6, 2023 from <https://www.nestle.com/sites/default/files/2023-02/nestle-salient-issues-action-plans-feb-2023.pdf>
- Nguyen et al. (2023). Human Rights and Business: A Lesson from Vietnam. https://doi.org/10.2991/978-94-6463-150-0_30

Nonthasoot, S. (2017). Humane Aspects of the People-Centred, People-Oriented ASEAN Economic Community. Retrieved August 6, 2023 from https://asean.org/wp-content/uploads/2017/09/Ch.3_Humane-Aspects-of-the-People-Centred-People-Oriented-AEC.pdf

OECD. (2023). OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. <https://doi.org/10.1787/81f92357-en>

Ogunranti, A. (2023). Localizing the UNGPs – An Afrocentric Approach to Interpreting Pillar II. *Business and Human Rights Journal*, 8(1), 66-84. <https://doi.org/10.1017/bhj.2022.35>

Ostrowsky, J. (2005). Union-Management Cooperation: Can a Company Move from an Adversarial Relationship to a Cooperative Relationship and is Interest-Based Bargaining a Necessary Condition to do so? Retrieved August 6, 2023 from https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1010&context=lrc_paper_series

Pohlmann et al. (2020). The role of the focal company in sustainable development goals: A Brazilian food poultry supply chain case study. *Journal of Cleaner Production*, 245. <https://doi.org/10.1016/j.jclepro.2019.118798>.

Responsible Business Alliance. (n.d.). Factory Engagement Program. Retrieved August 6, 2023 from <https://www.responsiblefactory.org/programs/factory-engagement-program/>

Rueangkul, K. Treephetchara, N. (2022). Employment and Employee Benefits in Thailand: Overview. Retrieved August 6, 2023 from [https://uk.practicallaw.thomsonreuters.com/8-617-6522?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/8-617-6522?transitionType=Default&contextData=(sc.Default)&firstPage=true)

Ruggie, J. Sherman, J. (2017). The Concept of ‘Due Diligence’ in the UN Guiding Principles on Business and Human Rights: A Reply to Jonathan Bonnitcha and Robert McCorquodale, *European Journal of International Law*, 28(3), 921–928, <https://doi.org/10.1093/ejil/chx047>

Sabchev et al. (2021). Human Rights Localisation and Individual Agency: From ‘Hobby of the Few’ to the Few Behind the Hobby. https://doi.org/10.1007/978-94-6265-447-1_8

Salcito, K. Wielga, M. (2018). What does Human Rights Due Diligence for Business Relationships Really Look Like on the Ground? *Business and Human Rights Journal*, 3(1), 113-121. <https://doi.org/10.1017/bhj.2017.31>

Samel, M. (2020). Stakeholder engagement in the Mekong River: Relevant Findings from the Blue Peace Index. *East-West Center*. Retrieved August 6, 2023 from <https://www.eastwestcenter.org/publications/stakeholder-engagement-in-the-mekong-river-relevant-findings-the-blue-peace-index>

Sato, Y. (2019). Rule of Law for Whom? Human Security Perspectives on the Emerging Asian Market for SDGs: Focused on a Cambodian Case Study. *Journal of Malaysian and Comparative Law*, 45(1). 27–46. Retrieved August 6, 2023 from <https://adum.um.edu.my/index.php/JMCL/article/view/20925>

Serrat, O. (2010). Bridging Organizational Silos. *Asian Development Bank*. Retrieved August 6, 2023 from <https://www.adb.org/publications/bridging-organizational-silos>

Seuring, S. Muller, M. (2008). From a literature review to a conceptual framework for sustainable supply chain management. *Journal of Cleaner Production*, 16(5), 1699-1710. <https://doi.org/10.1016/j.jclepro.2008.04.020>

Shift. (2023). From policing to partnership: Designing an EU Due Diligence Duty that Delivers Better Outcomes. Retrieved August 6, 2023 from <https://shiftproject.org/resource/cs3d-better-outcomes/>

Shift. (2021). Indicator Design Tool. Retrieved August 6, 2023 from <https://shiftproject.org/resource/indicator-design/indicator-design-tool/>

Shift. (2009). Evaluating business respect for human rights: A Theory of Change Methodology to Develop Meaningful Indicators. Retrieved August 6, 2023 from <https://shiftproject.org/wp-content/uploads/2019/09/3.%20Introduction%20to%20Theory%20of%20Change%20method.pdf>

Shift. Mazars LLP. (2015). UN Guiding Principles Reporting Database: Glossary. <https://www.ungpreporting.org/resources/glossary/>

Sim, D. (2021). Explainer: What are ‘Asian values’ and is the concept still relevant today? *South China Morning Post*. Retrieved August 6, 2023 from <https://www.scmp.com/week-asia/explained/article/3130891/what-are-asian-values-and-concept-still-relevant-today>

Singapore Institute of Directors. Centre for Governance and Sustainability NUS Business School. (2021). ASEAN corporate governance scorecard. Retrieved August 6, 2023 from <https://bschool.nus.edu.sg/cgs/wp-content/uploads/sites/7/2021/05/CGS-ASEAN-Corporate-Governance-Scorecard-2021.pdf>

Sopheavotey, L. (2023). Companies Face Deadline for Foreign Workers Reports. *Cambodianess News*. Retrieved August 6, 2023 from <https://cambodianess.com/article/companies-face-deadline-for-foreign-workers-reports>

Southeast Asian Fisheries Development Center. (2023). Fishery Statistic Summary 2020. Retrieved August 6, 2023 from <http://www.seafdec.org/stat2020/>

Spangenberg et al. (2018). Doing what with whom? Stakeholder analysis in a large transdisciplinary research project in South-East Asia. *Paddy and Water Environment*, 16, 327-337. <https://doi.org/10.1007/s10333-018-0634-2>

Testaverde et al. (2017). Migration in Southeast Asia. https://doi.org/10.1596/978-1-4648-1106-7_ch1

Thai Union. (2022). Thai Union Ranked No. 1 in Food Industry on Dow Jones Sustainability Indices. Retrieved August 6, 2023 from <https://www.thaiunion.com/en/newsroom/press-release/1583/thai-union-ranked-no-1-in-food-industry-on-dow-jones-sustainability-indices>

Thao, B. (2022). How old are the working ages in Vietnam? Retrieved August 6, 2023 from <https://english.luatvietnam.vn/legal-news/how-old-are-the-working-ages-in-vietnam-4729-92024-article.html>

The Industry We Want. (2023). Dashboard: The Industry Wage Gap. Retrieved August 6, 2023 from <https://www.theindustrywewant.com/wages>

UN Global Compact. (n.d.). Case Studies. Retrieved August 6, 2023 from <https://bhr-navigator.unglobalcompact.org/issues/forced-labour/case-studies/>

United Nations Development Programme (2022a). Reflections and Directions – Business and Human Rights in Asia: From the First Decade to the Next. Bangkok, Thailand. Retrieved August 6, 2023 from <https://www.undp.org/publications/reflections-and-directions-business-and-human-rights-asia-from-first-to-next-decade>

United Nations Development Programme (2022b). Business And Human Rights in Asia: Progress Report 2021. Retrieved August 6, 2023 from <https://www.undp.org/asia-pacific/bizhumanrights/publications/bhr-asia-%E2%80%93-progress-report-2021>

United Nations Development Programme (2023). Business And Human Rights in Asia: Progress Report 2022. Retrieved August 6, 2023 from https://www.undp.org/sites/g/files/zskgke326/files/2023-03/B%20BHR-Progress%20Report-2022_0.pdf

University of Antwerp. Federal Institute for Sustainable Development. (2018). Human Rights Due Diligence: What does this mean for your organisation? Retrieved August 6, 2023 from <https://business-humanrights.be/tool/8/how>

Uyen, N. (2023). EU Due Diligence Directive and Supply Chains in Vietnam. *Vietnam Briefing*. Retrieved August 6, 2023 from <https://www.vietnam-briefing.com/news/eu-due-diligence-vietnam.html/>

Van Gelder et al. (2021). A future without coal: Banking on Asia's just energy transition.
<http://dx.doi.org/10.13140/RG.2.2.16869.73448>

Van Weele, A. J. (2018). Purchasing and Supply Chain Management. Cengage Learning.

Verité. (2020). Case Study on Improving Management of Human Rights Risk in the Extended Palm Oil Supply Chain. Retrieved August 6, 2023 from <https://verite.org/wp-content/uploads/2020/09/Improving-Management-of-HR-Risk-in-Palm-Oil-Supply-Chain.pdf>

Villena, V. Gioia, D. (2020). A More Sustainable Supply Chain. *Harvard Business Review*. Retrieved August 6, 2023 from <https://hbr.org/2020/03/a-more-sustainable-supply-chain>

WBCSD. (2023). Continuous Improvement in Human Rights Due Diligence: 2020 case-study stock-take. Retrieved August 6, 2023 from <https://www.wbcsd.org/contentwbc/download/15654/227136/1>

Winrock International. (2022). A Participatory Action Research Project with Victims of 'Seafood Slavery' for Effective Counter-Trafficking Communication. Retrieved August 6, 2023 from <https://winrock.org/wp-content/uploads/2022/03/Asia-CTIP-Valuing-Victims-Voices.pdf>

World Benchmarking Alliance. (2023). Corporate Human Rights Benchmark 2022 Insights Report. Retrieved August 6, 2023 from https://assets.worldbenchmarkingalliance.org/app/uploads/2022/11/2022-CHRB-Insights-Report_FINAL_23.11.22.pdf

Wouters et al. (2007). Supplier development and cost management in Southeast Asia: Results from a field study. *Journal of Purchasing and Supply Management*, 13(4), 228-244. <https://doi.org/10.1016/j.pursup.2007.07.002>

Your Europe. (2023). Working hours. Retrieved August 6, 2023 from Retrieved August 6, 2023 from Retrieved August 6, 2023 from https://europa.eu/youreurope/business/human-resources/working-hours-holiday-leave/working-hours/index_en.htm

Zollo, M. Winter, S. (2002). Deliberate Learning and the Evolution of Dynamic Capabilities. *Organization Science*, 13(3), 223-353. <https://doi.org/10.1287/orsc.13.3.339.2780>

Appendix

1. Interview schedule

Interviewees	Date interviewed
anonymous sustainability role in one of the named companies (personal communication)	28 July 2022

anonymous employee working in HRDD from Nestlé	22 February 2023
director of business and human rights of Ericsson	23 February 2023
anonymous human rights expert from a technology company	5 April 2023
HRDD expert working to promote the implementation of UNGPs	6 April 2023
anonymous expert from a non-profit industry coalition	5 May 2023
anonymous senior level compliance officer of one of the named companies	5 May 2023
sustainable procurement expert	8 May 2023
senior director for partnerships and content of Labor Solutions	12 May 2023
anonymous human rights expert from a technology company	15 May 2023
human rights specialist from Neste	15 May 2023
anonymous from an NGO promoting transparency by sharing data with international organisations	16 May 2023
director of corporate social responsibility and human rights for NXP	25 May 2023
chief executive officer of ASEAN CSR Network	25 May 2023
anonymous expert from an independent (regional) organization working on access to remedy	29 May 2023
senior director for operations of Verité Southeast Asia	29 May 2023
president manufacturing and services global of Flex	30 May 2023
anonymous informant working in retail	30 May 2023
human rights manager at L'Oréal	5 June 2023
anonymous human rights expert from a technology company	7 June 2023
anonymous informant from Shell	9 June 2023

2. Interview guide

2.1 Group 1 interviewees

Section	Question
Interviewee Introduction	What is your position in the company and how are you related to the Southeast Asian supply chain for your company? Which Southeast Asian regions do you work in/ are you familiar with?
Overview	What percentage of your key suppliers/(operations) are in Southeast Asia? OR What is the percentage spend on Southeast Asian suppliers/ (operations)? 0-20%, 20-40%, 40-60%, 60-80%, 80-100% Per year, how many Southeast Asian suppliers do you conduct human rights due diligence on? What kind of suppliers are these? What kind of relationship does the company have with these suppliers? Did European regulation play a part in triggering the implementation of human rights

	due diligence in Southeast Asia?
Procurement	Would you say that procurement plays a strategic role in your human rights due diligence process? In which steps of the purchasing process with Southeast Asian suppliers do you integrate human rights considerations? How are the procurement managers in Southeast Asia involved in the human rights due diligence process? What is a good example of how companies should adapt to procurement systems and culture in Southeast Asia?
Risk Management	Do you have governance structures or performance management incentives in relation to human rights risk for Southeast Asia? Would you say human rights issues in Southeast Asia differ from those in other parts of the world? How do you prioritise which risks to address? In which case would you conduct human rights due diligence on your suppliers? What is a good example of how companies should adapt to conduct effective human rights risk management in Southeast Asia? How frequently do you measure human rights performance for your Southeast Asian operations? How do you track the impact of actions as a result of the due diligence process?
Culture and Human rights	What tools/ tips help overcome the barrier due to lack of common understanding and prioritisation of human rights between Europe and Southeast Asia?
Successes	In your experience, which tools and management systems have been the most effective for managing human rights risks in Southeast Asia?
Challenges/ Barriers	What would you say are the 3 biggest challenges of managing human rights risks in Southeast Asia using these tools and management systems?

2.2 Group 2 interviewees

Section	Question
Interviewee Introduction	What is your position in the company and how are you related to the Southeast Asian supply chain for companies? Which Southeast Asian regions do you work in/ are you familiar with? Within companies, which function do you work with?
Overview	Do you notice an increase in companies performing human rights due diligence (or implementing compliance/responsibility programs in workplace/ recruitment/ procurement) in Southeast Asia? How do you think European regulation plays a part

	in triggering this implementation?
	Do you think the companies are doing a good job? What do you think your role is in helping companies implement such programs successfully in Southeast Asia?
Procurement	What is a good example of how companies should adapt to procurement systems and culture in Southeast Asia?
Risk Management	What is a good example of how companies should adapt to conduct effective human rights risk management in Southeast Asia?
Culture and Human rights	What tools/ tips help overcome the barrier due to lack of common understanding and prioritisation of human rights between Europe and Southeast Asia?
Successes	In your experience, which tools and management systems have been the most effective for managing human rights risks in Southeast Asia?
Challenges/ Barriers	What would you say are the 3 biggest challenges of managing human rights risks in Southeast Asia using these tools and management systems?