

By Re\_Generation

# Human Wellbeing

## 2.3 Labour Rights and Working Conditions

### Description

There are over 370 million Indigenous peoples living in over 90 countries around the world, comprising a majority of the world's linguistic and cultural diversity. While they account for only 5% of the world's population, they occupy 20% of the Earth's land surface and [steward an astonishing 80% of global biodiversity](#). However, due to a painful and enduring legacy of colonial oppression, many Indigenous populations remain marginalized in modern nation-states and face disadvantages that other groups do not. The dispossession of Indigenous lands is an ongoing process in settler colonial societies; in Canada, [76% of injunctions filed by corporations against First Nations are granted](#), while conversely 81% of injunctions filed by First Nations against corporations are denied. The five largest Canadian banks provided over \$49 billion in funds to Enbridge from 2016 to 2020, despite [consistent and vehement opposition](#) from numerous Indigenous communities to the company's Coastal GasLink pipeline which has not received the Free, Prior, and Informed Consent (FPIC) of affected communities. To learn more about what corporations should be doing to advance reconciliation and ensure FPIC in all project developments, continue reading this PDF guide.

# Acknowledgements

Written by Gareth Gransaul, Associate Director of Re\_Generation, with review by some of Canada and North America's most influential sustainability leaders.

## About Re\_Generation

[Re\\_Generation](#) is a Canadian youth movement that seeks to build a regenerative, sustainable, and just economy. We aim to reimagine our schools, repurpose our careers, and remodel our companies to be aligned with regenerative principles. In particular, we provide resources for individuals to launch impact-driven careers and advocate for change within their companies and schools. We also aim to advance public policies that promote regenerative and sustainable business practices.

Our successful 'Our Future, Our Business' Manifesto campaign received the support of 65 youth organizations, 130 high-level executives, and 100 civil society organizations recognizing the need for reform in business education on sustainability. After three years of existence as the Canadian Business Youth Council for Sustainable Development, we have changed our name to Re\_Generation to become more inclusive of all youth, not just business youth.

We believe that the ideal society is a [regenerative](#) one. Regeneration to us means putting human and ecological [well-being](#) at the centre of every decision. It means restoring relationships, both within nature and within society, while helping all communities to thrive. Read more about our history and vision at our [About Us](#) page.

## Issue Summary

Labour rights are human rights, and all firms have a responsibility to provide all employees with a living wage and safe and secure working conditions free from harassment and exploitation. Unfortunately, there are a multiplicity of ways that firms continue to infringe on labour rights, including through the abuse for indentured and forced labour, child labour, the exploitation of migrant workers, the harassment of union organizers, the misclassification of employees, the theft of wages and property, and other violations.

Forced labour in global supply chains is a complex and multifaceted phenomenon, as outlined in this [comprehensive topic review](#) by the Human Rights and Business Dilemmas Forum. The organization Walk Free maintains a [Global Slavery Index](#) tracking trends in forced labour around the world, and they find that there are currently [40.3 million slaves](#) worldwide, of whom 71% are women. To learn more about modern forms of slavery, see [this informational guide](#) from the Council on Foreign Relations.

There are also over 160 million child labourers around the world, a figure which encompasses approximately one in every 10 human children. This number has increased significantly in recent years according to a [multi-year study by the US Department of Labour](#). The number of children employed in hazardous work rose from 72.5 million in 2016 to 79 million in 2020. Despite the scale of this problem, [only 26% of companies](#) report on the results of their child labour policies, while only 10% have board-level accountability for child labour responsibilities.

Additionally, many important labour protections that were won after years of working class agitation have been [slowly repealed by decades of neoliberal reforms](#). Since the 1980s, the share of labour as a proportion of national income in many industrialized democracies has [declined significantly](#) as a result of [deunionization](#), [automation](#), [offshoring](#), [wage stagnation](#), and a variety of other factors. A significant number of people are employed in forms of [precarious labour](#) that cause them to live paycheque to paycheque, while across the developing world millions of people are [paid paltry wages](#) working 12 hour days to service global supply chains (particularly in the garment industry), or remain in the [informal economy](#) where they earn barely enough to feed their families. Globally, [327 million wage earners](#) are paid at or below the applicable hourly minimum wage, representing 19% of all wage earners.

All corporations must [pay their employees a living wage](#), even in regions without a statutory minimum wage. Additionally, employers must respect the right of employees to form unions with the aim of obtaining collective bargaining agreements. We are currently entering a period of increased labour militancy, as evidenced by the [dramatic rise in the number of unionization attempts](#) and the large increase in the [number of resignations](#). These changes have put more power in the hands of workers, and forward-thinking companies should respond by improving labour relations and working conditions in an effort to retain valued employees.

## Key Considerations

Labour rights are governed globally by the International Labour Organization, which was founded in 1919 with the creation of the League of Nations. All labour rights are enshrined in the 189 [ILO Conventions and Protocols](#), some of which are legally binding and some voluntary. The eight fundamental Conventions designated in the 1998 Declaration on Fundamental Principles and Rights of Work include the:

1. Freedom of Association and Protection of the Right to Organize Convention, 1948

2. Right to Organize and Collective Bargaining Convention, 1949
  3. Forced Labour Convention, 1930
  4. Abolition of Forced Labour Convention, 1957
  5. Minimum Age Convention, 1973
  6. Worst Forms of Child Labour Convention, 1999
  7. Equal Remuneration Convention, 1951
  8. Discrimination (Employment and Occupation) Convention, 1958

In Canada, **labour rights are protected** by the [Canadian Human Rights Act](#), the [Employment Equity Act](#), and the [Canada Labour Code](#). The Canada Labour Code is [divided into four parts](#) respecting industrial relations, occupational health and safety, standard hours, wages, vacations and holidays, and administrative monetary penalties.

At a global level, modern slavery is governed by the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, which hosts a [forum on government and business](#). Modern slavery takes many forms, perhaps the most common of which is debt bondage and the exploitation of workers through odious financial burdens achieved by withholding wages, or charging exorbitant recruitment fees and other recruitment costs. The ILO finds that 51% of workers in situations of forced labour today experience debt bondage, particularly through abusive recruitment techniques. Modern slavery is also a product of restrictions on worker movement, often enabled by the retention of passports or other personal identification and travel documents.

Child labour is defined as any labour that is physically or psychologically harmful to children and interferes with their ability to attend school, usually occurring anywhere between the ages of 5 and 17. The worst forms of child labour, as outlined in [ILO Convention No. 182](#), include all hazardous child labour that is harmful to a child's health, safety and morals, such as child slavery, trafficking and engagement in armed conflict, and sexual exploitation.

The right to a fair living wage is another core labour right. A fair wage is [defined by the ILO](#) as "a wage sufficient to maintain, in the circumstances of each country, an adequate standard of life." The definition of a living wage is context-dependent and should be calculated on the basis of what income will provide a decent living in a particular region, given the fact that an official minimum wage is often not a fair wage in many jurisdictions. Other crucial labour rights included in terms of employment and working conditions include:

- Fair working hours;
- Proper employee classification;
- Freedom of association and collective bargaining;
- Adequate health and safety standards;
- Freedom from harassment and discrimination;
- Privacy.

## Tools

Before evaluating performance on any particular labour rights issue, corporations should begin by recognizing the value of their workforce using the [Social and Human Capital Protocol](#) developed by the Capitals Coalition, an approach which helps firms see their employees as valued partners rather than just expense items on an income statement.

## 1. Forced Labour

Tracing the existence of forced labour in global supply chains is an extremely complex task. To help visualize forced labour risk, businesses should use the [Comply Chain](#), [Sweat & Toil](#), and [Better Trade](#) tools developed by the US Department of Labour to help firms with compliance and accountability related to forced labour, child labour, and human trafficking. Firms should also review this comprehensive [list of goods produced by forced or child labour](#) when evaluating all sourcing decisions.

The [Fair Labour Association standards](#) require that workers must not be bound to their jobs by debt, must have reasonable freedom of movement at work, and must not be forced to work overtime. Know The Chain, a supply chain transparency organization, has [developed a list of priority action areas](#) for companies interested in reducing modern slavery throughout their value chains. These include developing a supplier code of conduct, establishing training programs and assigning clear managerial responsibility, conducting risk assessments, engaging with workers, suppliers, and other stakeholders, and adopting a formal grievance mechanism. In particular, they recommend that companies disclose a policy which prohibits worker-paid recruitment fees, and uses the Employer Pays Principle to require suppliers to pay for recruitment fees and reimburse worker-paid fees where they occur. The UN Global Compact also has a [business reference guide](#) for reducing modern slavery.

A [database of company disclosures](#) on modern slavery can be seen from the Business and Human Rights Resource Centre, which includes disclosures from over 18,000 firms. The most comprehensive [transparency guidelines](#) are from the UK Government, and the [Global Reporting Initiative](#) as well as the Corporate Justice Coalition have also issued [guidelines on supply chain transparency](#).

The Danish Institute for Human Rights has developed a [list of self-assessment questions](#) for companies analyzing the risk of modern slavery throughout their supply chains. These include:

- Does the company refrain from threatening or coercing employees to work against their will, up to and including the use of violence?
- Does the company refrain from retaining the identity cards, passports, and other important personal documents of its employees?
- Does the company avoid hiring workers into bonded labour relationships involving salary advances or loans?
- Does the company refrain from withholding wages in an attempt to coerce additional labour from employees, or demanding deposits for any reason?
- Are company employees free to move around and leave the workplace and housing facilities, limited only by reasonable restrictions?
- If the company sources labour from a correctional facility or other government authority, does the company ensure that labourers have voluntarily consented to work and that the labourers are appropriately remunerated and supervised?

Other important red flags, as [identified by Anti-Slavery International](#), include:

- Do workers feel free to refuse overtime?
- Did migrant workers pay a fee to get a job outside their hometown or country? What are the terms of repayment?
- Do workers retain complete control over their personal documents or have free access to them, if they are kept by their employer?
- Are workers paid on time, directly and in legal tender? Do they have payslips that accurately detail the hours they have worked and the rates which they are paid?
- Do you know who the workers are when you or your suppliers subcontract work? Are you aware of all subcontracting in your supply chain?

- Is prison labour used in the production of your goods?

The Business and Human Rights Resource Centre has [analyzed the modern slavery statements of all the FTSE 100 companies](#), and issued a report identifying important gaps. For more information on industry best practices, review [this document](#) highlighting positive case studies, as well as these [case studies](#) from the Danish Institute for Human Rights. There are also many [innovative ways to use new technology](#), such as [artificial intelligence](#), to combat modern slavery through the increased availability of data.

For more information about modern slavery and business responsibility, see the [resources compiled by Walk Free](#) and the [NGO resources developed by Corporate Crimes](#).

## 2. Child Labour

For a thorough list of products that are likely to have been produced with forced or indentured child labour, [review this report](#) developed by the US Department of Labour. The ILO has also developed a [mobile app called Checkpoints](#) which helps decision makers create checklists to ensure a child labour-free operation.

UNICEF, in partnership with the UN Global Compact and Save the Children, has developed a list of [Children's Rights and Business Principles](#) meant to ensure business practices respect the rights and needs of children worldwide. These principles stipulate that all businesses must:

1. Meet their responsibility to respect and support children's rights and commit to supporting the human rights of children;
2. Contribute towards the elimination of child labour, including in all business activities and business relationships;
3. Provide decent work for young workers, parents and caregivers;
4. Ensure the protection of children in all business activities and facilities;
5. Ensure that products and services are safe, and seek to support children's rights through them;
6. Use marketing and advertising that respect and support children's rights;
7. Respect and support children's rights in relation to the environment and to land acquisition and use;
8. Respect and support children's rights in security arrangements;
9. Help protect children affected by emergencies;
10. Reinforce community and government efforts to protect and fulfill children's rights.

UNICEF has also published a [document that serves as a business reference guide](#) to the Children's Rights and Business Principles, with a series of recommendations for decision makers. A separate document includes a [list of best practices](#) associated with each principles, and another document outlines [appropriate procedures for impact assessments](#) related to child labour, with specific self-assessment questions outlined on pages 7-11. Key self-assessment questions [developed by the Danish Institute for Human Rights](#) include:

- Does the company respect minimum age standards in its hiring practices?
- Does the company have a process in place for monitoring, reporting and managing cases where children below the minimum age are discovered?
- Does the company have clear procedures in place for identifying and addressing the worst forms of child labour, including hazardous work, trafficking, sexual exploitation, debt bondage and forced labour?
- Does the company have a formal grievance mechanism in place for receiving, processing, investigating and responding to reports of violations regarding the employment of children below the



minimum age?

- Does the company have a defined approach to providing decent working conditions for young workers and student workers?
- Are apprenticeship programmes appropriately supervised, fairly administered and beneficial to the trainee/apprentice?
- Does the company have a zero-tolerance policy on violence, exploitation and abuse of children, including but not limited to sexual exploitation and is there a process in place to identify, assess and monitor risks and impacts related to non-compliance?

The ILO has also published a [series of guides and tools for businesses](#), with recommendations related to developing a policy commitment, assessing impacts, communicating performance, and engaging with stakeholders. This document is focused on the three 'H' topics, which include fair hiring, eliminating hazards, and reducing hours. The ILO has also published a second [document specifically for employers](#), outlining a holistic approach that includes encouraging microfinance and skills training, improving wages and hiring family members, supporting education, and paying wages while children attend school. Building on this systemic approach, businesses should review this [guide from Stop Child Labour](#) which helps businesses make community partnerships designed to create child labour-free zones.

The Global Reporting Initiative (GRI) has developed a [standard for the disclosure](#) of child labour risk and incident reporting. Companies should require disclosure of any allegations that involve hazardous work under the age of 18, child labour under the age of 15, children working excessive hours or that result in the death of a child, and child exploitation, including sexual exploitation.

### 3. Terms of Employment

Companies should adopt an explicit policy on living wages, and should engage their suppliers to ensure the payment of living wages throughout the value chain. Companies should also adopt policies to [eradicate wage theft](#) and ensure [all wages earned are accounted for](#). The Danish Institute for Human Rights has [developed self-assessment questions](#) for paying a living wage, which include:

- Does the company provide all employees with a wage that is sufficient to cover food and housing expenses and all other basic needs for themselves and their entitled official dependents?
- Is the value and type of non-cash remuneration or allowances provided to employees appropriate?
- Are employees paid the appropriate premium for overtime hours or hours worked during statutory holiday periods?
- Are all workers, including home workers, informed of all essential wage information, and are their salaries and benefits accurately calculated?
- Are all paycheck deductions properly authorised, legitimate, transparent and accurately calculated?
- Are wages paid on a regular and frequent time schedule, and in a safe manner?
- Does the company contribute to national unemployment, sickness and pension benefit schemes, workers compensation and invalidity/disability schemes, or establish such schemes if none exists at the national level?

Firms should use the [IDH Roadmap on Living Wages](#) to help generate living wage benchmarks for every region that they source from. The Vancity Credit Union has also developed a [roadmap for a living wage](#), which includes steps to help employees gain the support of leadership, review the current employee base and supply chain, and set a budget figure. To help companies more accurately value their employees, the Shift Project has developed an accounting methodology called '[Accounting for a Living Wage](#)'. For case studies involving fair wage claims, see [these resources](#) from the Danish Institute for Human Rights.

All employees should also be asked to [work a fair amount of hours](#), within a maximum defined by the ILO at eight hours per day, or 48 hours per week. Client expectations, or payment based on piece-work, are two common factors leading to longer working hours. In all circumstances, overtime should be purely voluntary and paid at a higher rate. Company policies on working hours should be in compliance with local laws, and communicated to all employees. Companies should also disclose any allegations involving forced or excessive overtime (defined as employees working more than 60 hours a week on an ongoing basis). Policies on working hours should [include the following](#):

- Minimum paid holiday of at least three weeks per year;
- Maternity or paternity leave;
- Maximum working hours per day, especially for industrial and commercial sectors;
- Limits on overtime;
- Reasonable rest periods;
- Adequate weekly rest periods;
- Leave of absence for medical reasons;
- Flexible working arrangements;
- Advance notice of work schedule.

Employees also have the right to be classified appropriately, as employee classifications can significantly affect a person's benefits and responsibilities, and the legal liability the company faces with regard to the employment contract. In their contracts, employees should also not be expected to agree to unethical concealment clauses, including [non-disclosure agreements](#) or [non-compete agreements](#) (forms of concealment clauses which are becoming [increasingly controversial](#).) Employees also have the right to be [dismissed or laid off in a fair and ethical manner](#), with appropriate procedural safeguards and compensation, in accordance with national laws and union agreements. For further information about [hiring classifications](#), see these resources from Workplace Fairness.

Employee classification is particularly important for workers in the '[gig economy](#)', such as Uber drivers or other temporary and flexible jobs, who are often not classified as employees but rather 'independent contractors' to save companies both money and administrative burden. Gig work and other forms of precarious labour have been identified by the Shift Project as a [red flag for human rights](#), given that gig work often [fails to satisfy minimum standards of fair work](#) such as living wage guarantees, protections from task-related risks, and the provision of avenues to appeal decisions. Employers should commit to [classifying their employees appropriately](#), and not using gig labour as an excuse to disrespect basic rights associated with conventional employment. Companies should also commit to better transparency around gig work practices, and perform a self-assessment using the [Fairwork](#) protocol.

## 4. Freedom of Association

Unionization attempts are [fought by many large corporations](#), who retaliate against their employees that advocate for union agreements. [Union-busting](#) is a common technique used by corporations to intimidate their employees into voting against union proposals. There are many ways that corporations [attempt to disempower unionization attempts](#), including by harassing workers with anti-union messaging, threatening to fire employees that vote to unionize, hosting heavily biased anti-union assemblies, and other tactics outlined in this [union-busting playbook](#). To learn more information about corporations using union-busting tactics, see this [Union-Busting Tracker](#) developed by Labor Lab.

According to the Corporate Human Rights Benchmark, companies must respect the right of workers to form a trade union of their choice and provide worker representatives with the facilities to advocate for collective bargains, while retaining from intimidation or harassment of union organizers. Important-



ly, companies operating in politically unstable countries must also make sure to [embed a respect for labour rights defenders](#) throughout their policies and procedures, as union activists and other labour rights advocates in countries in the Global South are often in danger from armed groups or even paid assassins.

To ensure respect for freedom of association, corporations should [adopt policies that reflect the following principles](#):

- Workers shall not be discriminated against on the basis they belong to a trade union;
- Workers shall have the right to develop a parallel means of independent free association to protect their rights, such as forming an internal workers group, if the law restricts the right for a worker associate freely;
- Employers are prohibited to use intimidation, unreasonable searches, or police and military force to obstruct workers' right to freedom of association;
- Workers' organizations have the right to conduct their activities without employer interference, including the right for workers to convene meetings without the presence of management;
- Workers are free to meet and discuss workplace issues during breaks at work and before and after work;
- Workers are free to choose with whom they communicate their concerns;
- Workers shall have the right to freely choose representatives to organize workers;
- Workers can personally, or through workers' representatives, engage in dialogue with management, inspect working conditions and carry out other organizing activities that do not disrupt factory management;
- Employers should not prohibit or impede individual unions affiliation with larger regional, national or international unions or federations;
- Managers should be trained in freedom of association compliance.

Important [self-assessment questions](#) related to freedom of association include:

- If trade unions do not exist in the area of operation, or only state authorized organizations are allowed, does the company facilitate or allow the establishment of alternative measures to allow employees to gather independently to discuss work-related problems?
- Does the company provide union representatives with access to company property to meet with employees, and provide them with the information required for carrying out their responsibilities?
- Does the company effectively prohibit intimidation, harassment, retaliation and violence against union members and union representatives?
- Does the company remain neutral as regards employees' membership in any particular trade union and allow trade unions to operate independently?
- Does the company recognise the elected worker representatives, and their trade unions, and engage with them in good faith in collective bargaining concerning all important workplace concerns?
- Does the company comply with the terms of collective bargaining agreements, including the mechanisms for dispute resolution?
- Does the company cooperate fully with labour inspectors, and remedy deficiencies that they identify?
- Does the company refrain from dismissing union officials during their office tenure for anything other than serious misconduct, and does it accept the burden of justifying the validity of such dismissals?

The GRI has developed a [standard for disclosure](#) on the freedom of association and collective bargaining. Corporations should disclose all allegations that involve systematic opposition to employees' unionization attempts, interferences in union activities, and refusals to recognize unions.

For case studies related to freedom of association and collective bargaining, review [these resources](#) by the Human Rights and Business Dilemmas Forum.

## 5. Working Conditions

All employees have the right to working environments in which they feel mentally and physically safe from harm. Harassment and exploitation in the workplace must not be tolerated, and all employees must have the ability to feel respected and empowered in their working environments. Workers should not be [harassed](#), face [sexual violence](#), or be [disciplined with physical punishments](#) or mental or physical coercion. Companies must adopt policies to prevent workplace harassment, and to redress grievances wherever they occur.

Special attention must be paid to the [treatment of migrant workers](#), who frequently experience labour rights abuses given their marginalized position (often as undocumented immigrants). As outlined by Business for Social Responsibility, common violations include:

- Passport withholding;
- Incidents of bonded labor;
- Contract substitution;
- Non-payment of wages and/or illegal deductions/withholdings;
- Lack of protection under national law;
- Lack of access to functioning dispute resolution channels;
- Lack of access to organized labor and/ or civil society support networks.

Companies must abide by the [Dhaka Principles](#) for migration with dignity, which also come with [implementation guidance](#) for responsible recruitment policies. Businesses should also follow these [guidelines from Business for Social Responsibility](#) about responsible recruitment and supplier engagement, as well as these [general principles for fair recruitment](#) developed by the ILO. Migrant workers are also more likely than other groups to [require company housing](#), in particular on agricultural projects, and many of these company facilities do not meet appropriate standards. The Danish Institute for Human Rights [stipulates that all facilities](#) must come with adequate access to water, sanitation, and basic public services, and be designed to withstand natural hazards and disease. For more information about migrant workers rights, check out the online database from [Migrant Workers Rights Global](#).

Employees also have the right to work in environments that operate according to [optimal health and safety standards](#). Companies must have policies in place to prevent and remediate injuries and other health damages, including by providing proper training, supervision, safety devices, and personal protective equipment. Companies should disclose all [information related to rates of injury and fatality](#), the total number of days lost to health-related incidents, and any other major accidents within a company's operations or throughout its supply chain that involve a failure to abide by health and safety standards. The GRI has developed a health and safety [disclosure standard](#) to record all such accidents. For more information on workplace health and safety, see these [self-assessment questions](#) from the Danish Institute for Human Rights.

Employees also have the [right to privacy](#), and should not be subject to intrusive surveillance practices. Employers should minimize their use of [workplace surveillance technologies](#), which have been shown to significantly [reduce job satisfaction](#) and increase stress. Workers should also be permitted not to [share private or sensitive personal information](#), without fear of retaliation.

## Case Studies

Of all the industries that chronically fail to pay workers a living wage, the global textiles and garment sector is possibly the worst culprit. There are many reports of garment workers [subsisting on starvation wages](#), while working in unclean, unsafe environments for up to 100 hours a week. Analysis by the Clean Clothes campaign has shown that [93% of major multinational fashion brands](#) fail to pay their workers a living wage, while some brands like H&M have [yet to deliver](#) on promises to increase wages.

Companies must abide by internationally recognized minimum floor wages, such as those advocated by the [Asia Floor Wage Alliance](#), in order to ensure that fair wages are being paid by all supply chain partners. Fairphone, the ethical smartphone company, demonstrated in 2020 that it was [possible to pay a living wage](#) for workers at one of its Chinese suppliers by raising the price of its phones by just €1.50 per unit.

## Organizations/Initiatives

For more information about labour rights, modern slavery, and corporate employment practices, check out the following organizations:

- [International Labour Organization](#)
- [Workplace Fairness](#)
- [Fair Labour Association](#)
- [Jobs with Justice](#)
- [International Labour Rights Forum](#)
- [Canadian Foundation for Labour Rights](#)
- [Walk Free](#)
- [Anti-Slavery International](#)
- [Save the Children](#)
- [UNICEF](#)
- [Worker Rights Consortium](#)
- [US Department of Labour](#)
- [Canadian Labour Congress](#)
- [Public Services International](#)
- [AFL-CIO](#)