

U4 Helpdesk Answer

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Labour and employers' associations, corruption risks and the potential of social dialogues

Labour unions and employers' associations can encounter particular corruption risks. Labour unions reportedly suffer mostly from internal corruption, where leaders are bribed by management and do not represent the workers' interests or where they embezzle union funds. Corruption on the part of employers' associations and business associations has been less documented, but scandals like the one uncovered by the *Lava Jato* investigations in Brazil show that companies, particularly in the same sector, can collude to coordinate corrupt activities.

Labour unions and employers' associations can also be vehicles for reform and there are a number of activities that they can undertake to curb corruption, not only inside their organisations but in general too. Social dialogues can provide the context and forum to discuss multi-stakeholder efforts to curb corruption and potentially drive forward anti-corruption reforms.

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Query

Please provide a summary of the key corruption risks of labour unions and employers' associations and potential mitigation measures. Please discuss what is the potential for social dialogues as an anti-corruption initiative.

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MAIN POINTS

- Labour unions can face generic corruption risks, like bribery and embezzlement, as well as risks emerging from the politicisation of unions. Additionally, racketeering has been widely covered in the media.
- Business associations can act as coordination fora where companies agree upon collusive arrangements including corruption.
- Social dialogue is any type of information exchange between employees and management – and in some cases the government as well – to achieve reform.

Background information on social dialogues

According to the [International Labour Organization](#) (ILO), social dialogues can be understood as all types of information exchange (including negotiation and consultation) between representatives of government, employers and workers on economic and social policy issues (ILO 2017:ix). A social dialogue aims to achieve change and reform in a people-centred form and can take place at different levels – international, national, sub-national and sectoral ([ETUC](#), [ND](#); Maarten et al. 2016:7; Ratnam & Tomoda 2005:4). The main

participants in social dialogues are employers and their organisations, workers' organisations and the state's labour administrations, with each of these actors representing specific interests in the negotiation (Grimshaw et al. 2017:5-6). It can include all three actors (government, employers and workers), also known as a tripartite social dialogue, or be only between employees and management (or their respective associations), a bipartite one. Sometimes states can also be part of bipartite social dialogue when they are one of the parts negotiating with employers' organisations or workers' organisations, usually in public service enterprises or for example with teachers' unions

(ILO 2019:1). When other groups of civil society are also engaged in the social dialogue one can speak of “tripartite plus”, “bipartite plus”, multi-party or civil dialogue (ILO 2017:4).

The ILO considers that social dialogue requires the existence of strong and independent workers’ and employers’ associations, both of which need to possess the technical capacity to represent their members and have access to relevant information. Political will and commitment from all parties, respect for the basic rights of freedom of association and collective bargaining, and institutional support are also crucial factors for effective social dialogue (ILO 2017).

Social dialogue does not need to obtain a perfect consensus (complete agreement between all parties involved), it is instead the process by which the relevant actors reach agreements to work together and tackle possible future conflicts (Maarten et al. 2016:7; Ratnam & Tomoda 2005:4). It is a means to work towards consensus, but this does not have to be its only goal (ILO, n.d.). The core idea of social dialogue is to establish a process that decreases the power imbalance between capital and labour and to increase the possibility of long-term trusting relations (Grimshaw et al. 2017:8-9). It is intended to provide a more inclusive form of governance in industrial relations (Maarten et al. 2016:5).

The main mechanisms used in social dialogues are information exchange, consultation, negotiation and dispute resolution (Grimshaw et al. 2017:6). Social dialogue should happen at all stages of decision-making and be flexible to the circumstances, generating a better understanding of the different positions of the stakeholders (Ratnam & Tomoda 2005:3-4). Since two of the main actors are workers’ and employers’

associations, strengthening them is crucial for effective social dialogue (ILO 2017, xi).

Unlike other ways of governing labour relations, social dialogue has tangible outputs, like social pacts, and can include co-determining policies as well as influencing public policy where the social dialogue includes the government (Maarten et al. 2016:7). Tripartite social dialogues particularly seek to influence national policy on labour issues. They involve the participation of the state and aim to gain consensus and policy coherence, and are often used for “social pacts” that cover several issues and involve trade-offs between the participants (Grimshaw et al. 2017:5-6). Social pacts are agreements between governments, trade unions, employers’ organisations and sometimes civil society organisations that result in formal policy contracts in a public form (Baccaro & Galindo 2018:1; Visser & Rhodes 2011:62). Social pacts can be single-issue or broad-based, covering different issues and areas, and they specify how the pact’s targets are to be achieved and allocate tasks and responsibilities to the signatories (Visser & Rhodes 2011:62). In Tunisia and Indonesia, for example, social pacts have in the past been agreed to support democratisation processes (Baccaro & Galindo 2018:1).

Over time, social dialogues are argued to have contributed to improved workers’ rights and conditions, access to public services and redistribution, innovation, environmental protection and better governance (Maarten et al. 2016:7).

Social dialogues in international development

Different initiatives exist in the area of development cooperation that attempt to promote social dialogue and strengthen workers’ and

employers' associations in partner countries. Several development agencies now use part of their official development assistance budget to fund programmes intended to improve the capacity of local actors to participate in social dialogues, often through mentoring provided by employers' and workers' associations based in donor countries.

For example, the Confederation of Norwegian Enterprise (NHO) seeks to improve bipartite and/or tripartite cooperation in select countries in the Global South as part of its development cooperation programme (NHO 2022:14). The ultimate objective is to strengthen and professionalise local employers' organisations by establishing long-term partnerships with NHO. In this way, NHO works with sister organisations to improve the partnership between the government, the private sector and civil society in targeted countries ([NHO website, n.d.](#)). This work is supported through collaboration with the Norwegian Agency for Development Cooperation (Norad) and the Norwegian Ministry of Foreign Affairs. One of the thematic topics of this collaboration is social dialogue.

The Norwegian Confederation of Trade Unions (LO), the country's largest labour organisation, runs a programme with trade union confederations and sector unions in 16 countries. The objective is to promote decent work through the strong participation of trade unions in public life. The LO engages in activities to develop the capacity of trade union organisations and strengthen their legitimacy. This work is financed through its own funds and funding from the Norwegian government. The NHO and the LO work together in some of their international cooperation projects ([LO website, n.d.](#)).

Other European organisations have similar initiatives, like the [Dutch Employers Cooperation](#)

[Programme \(Decp\)](#), which is a programme founded by the Dutch Ministry of Foreign Affairs to strengthen employers' organisations in emerging markets and includes social dialogue as a central theme. Similarly, the German Federal Ministry for Economic Cooperation and Development (BMZ) in cooperation with, among others, the German Chambers of Commerce Abroad, implemented a programme supporting social dialogue in Tunisia, working there with the Ministry of Social Affairs, the trade union federation UGTT and the employers' organisation UTICA. The project aims to promote local capacity for implementing tripartite social dialogue with the aim of promoting employment (GIZ 2020).

Corruption risks and mitigation measures

To provide an overview of corruption vulnerabilities to which donor-funded initiatives supporting social dialogues in the Global South might be exposed, this section briefly considers risks in three areas: international aid broadly, workers' associations and employers' associations.

Corruption in the international aid sector

Corruption in international development assistance is well documented and can take many forms, ranging from manipulated tender specifications to demands for bribes by local officials in exchange for granting aid agencies access to target populations, the falsification of inventory documents, nepotistic practices in recruitment, improper accounting and the falsification or inflation of invoices (Transparency International 2014). Depending on how the project is designed and implemented on the ground, some risks will be

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greater than others. Conducting an ex-ante risk assessment is a good first step, but even after the project has started, development agencies should continuously assess corruption risks at all decision-making levels (Transparency International 2014:3; OECD 2016:7; U4 Anti-Corruption Resource Centre 2015).

Importantly, perceptions of what constitutes corruption can vary across countries and cultures, and non-financial types of corruption, like nepotism, sextortion or diverting aid funds to non-target groups might not be perceived as corruption in some places (Transparency International 2014:XII).

Practical recommendations to tackle corruption in the aid sector include separating duties and increasing oversight of recruitment and the selection of partners and suppliers, improved on-site monitoring, greater transparency and downward accountability (Transparency International 2014:XII). Codes of conduct should be in place, and resources, both human and financial, allocated to provide ethics and anti-corruption advice and training to staff (OECD 2016:6). LO, for example, developed procurement guidelines that it shared with all of its partners (LO 2022:42).

A compliance programme can help employees follow transparency and anti-corruption policies (Transparency International 2014:29). It is also important to have whistleblowing mechanisms that make it safe to report suspected instances of corruption, and both the investigation of corrupt acts and sanctions have to be applied consistently (Transparency International 2014:19 21; OECD 2016:8).

It is important to analyse the larger environment in which the aid programme is situated and perform a

political economy analysis to understand where the programme will operate and how to ensure that the intervention will not reinforce or support corruption (Transparency International 2014:5; OECD 2016:10). The LO, for example, has included anti-corruption strategies in its donor coordination meetings with funders in the Nordic countries (LO Norway 2022:46).

Particularly important when dealing with highly political interest groups like workers' and employers' associations, donors should conduct robust due diligence to understand who and what they are funding (Transparency International 2014:45). This implies not only conducting an analysis of their internal structure and their members (and crucially ascertaining whether strong governance practices exist to ensure fair representation of members' interests) but also looking into the links between these actors and political parties, and assess what those links mean in terms of possible corruption risks or conflicts of interest.

Corruption in unions and workers' associations

Trade unions grew out of the labour movement in Western countries during the 19th century, chiefly in response to the growing power of capital in the course of the Industrial Revolution. Drawing on the strength of collective bargaining power, trade union delegates are supposed to uphold the interests of the rank-and-file union membership in negotiations with employers and occasionally the state. These interests can range from wages and benefits, working conditions and safety standards, as well as the establishment of grievance mechanisms and legal protections.

Historically, trade unions have been instrumental in securing labour rights ranging from the eight-

hour day to the minimum wage and protection against unfair dismissal (Australian Unions 2022). However, two characteristics of trade unions – their internal governance structures and the political nature of their organisations – can expose them to certain forms of corruption.

Corruption risks arising from weak internal governance structures

Typically, trade union delegates are elected by the members of the union and their work is funded through fees paid by the members. In practice, delegate staff of the trade union often wield substantial power, with considerable discretion over how to allocate union resources, and bargaining with employers in negotiations that may take place behind closed doors.

Where the governance structure of a union is weak, with limited internal democracy, transparency or accountability to the membership, these risk factors can lead to instances of corruption. Jacobs (2013:1063) observes that becoming a union official can be an enticing and potentially lucrative opportunity, so cliques within the union can try to maintain power through corrupt practices and suppressing the opposition. Incumbent union leaders or factions within the union may resort to voting fraud, stuffing ballot boxes or miscounting votes (Jacobs 2013: 1065). Union leaders can also undermine democratic structures and expel members and officials who challenge corrupt practices (Ashman 2015:57). In the case of CEPPAWUW in South Africa, a struggle over who had control of the union's assets ended up paralysing the union entirely (Ashman 2015:58).

The three major corruption risks that arise as a result of weak internal governance structures are the misuse of union resources, collusion between union leaders and representatives of the employer,

and infiltration by organised criminal groups, all of which are detrimental to the interests of union members.

Misuse of funds

Corruption in trade unions can be broadly understood as the “misuse of union office and authority for unlawful personal gain” (Jacobs & Peters 2003:230). As with any organisation, unions are subject to common forms of corruption such as the misappropriation of funds, bribes and embezzlement.

Embezzlement and misappropriation of funds are particularly worrisome where union officials are in charge of the workers' pension funds. Examples, unfortunately, abound. In the Confederation of South African Trade Unions (COSATU), the largest union federation in Africa, the establishment of union investment funds is considered to have become an important source of corruption as those charged with investing union resources may misappropriate or embezzle this money (Ashman 2015:57). For example, SAMWU, the South African Municipal Workers' Union, faced allegations of having siphoned off the union's resources via suspect investments (Ashman 2015:58).

In Spain, the UGT (Workers General Union, a national labour union confederation) has been investigated for the alleged embezzlement of more than €1 million from union funds. The apparent scheme to divert the funds was to simulate instalments to union members in order to pocket them (El Diario 2022). In Australia, two secretaries of the AWU Workplace Reform Association in Perth misappropriated up to AUS\$1 million in funds (Silver 2013:131). The South African Transport and Allied Workers (SATAWU) was accused of money laundering, with corruption allegations involving millions of rand, while a

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provincial secretary of this union was shot dead, and the president's house was firebombed (Ashman 2015:58; Jacaranda FM 2019). The largest union in Tunisia was accused of corruption and failed to comply with a demand by an independent judicial body to reveal its financial records and provide details about the use of government funds in response to a request by the Access to Information Authority (Middle East Eye 2020), while the former union leader was charged with corruption in Algeria (TV5 Monde 2022). The workers' union of PEMEX (the Mexican state-owned petroleum company) was accused of reselling housing built with PEMEX funds and destined for workers. According to the accusation, the union charged workers for housing that should have been allocated to them (Regeneración 2022).

Collusion with management

Beyond the misuse of unions' own funds, union leaders may collude with employers in backroom deals that come at the expense of rank-and-file union members. For instance, union officials might accept bribes from employers and in return ignore violations to the collective bargaining contract (Jacobs 2013:1057). Where union officials accept bribes from management, it can contribute to wages remaining low, particularly in emerging economies, as corrupt union leaders may accept bribes from employers in exchange for keeping wages close to the workers' reservation wage (the lowest wage a worker is willing to accept) (Chaudhuri & Ghosh Dastidar 2013:1).

In the absence of sufficient transparency and oversight, patronage networks can also develop between union bosses, employers, suppliers and public officials. Union officials may pay illicit sums to suppliers or invest funds in projects of friends, family or business partners, as well as extort bribes

from employers and employees (Jacobs 2013: 1065). The Builders Labourers Federation in Australia reportedly secured favours from developers, like improvements to union leaders' beach houses (Silver 2013:130). In the same country, the Health Services Union made questionable payments, without tenders, to several union suppliers, including companies operated by the family of the general secretary of the branch (Silver 2013:13). In Mexico, World Acceptance Corporation (WAC), a loan company, allegedly bribed public servants as well as union representatives to place their loan deals in public sector offices (Contra la Corrupción 2020).

Corruption in unions has a detrimental effect on union members. In South Africa, a survey revealed that a third of union members perceived corruption in their unions, despite not all having experienced it personally. In particular, they felt officials were selling out to management and union leaders were abusing pension funds and benefits (Corruption Watch 2012). In Kazakhstan, institutionalised corruption and state interference in union activities has reportedly led to workers preferring to interact directly with management on their rights and wages as they do not feel their interests are truly and transparently represented (Akhmetzharov & Orazgaliyev 2021).

Infiltration by organised criminal groups

One form of corruption in unions that has been widely reported by the media in the United States is the link between organised criminal groups and unions. Historically, Jacobs & Peters (2003:232) argue this connection has its roots in union leaders reaching out to gangsters to provide security and counteract the violence they were suffering at the hands of employers.

The link with organised crime is a core component of what is often referred to as labour racketeering, whereby unions and union members are exploited by crime bosses through their alliances with corrupted union officials (Jacobs 2013:1057; Jacobs & Peters 2003:230).

By infiltrating unions, organised crime bosses can obtain access to union funds, use threats of strikes, vandalism and no-shows to extort employers, maintain illegal employer cartels through the threat of sabotaging non-cartel members and receive or solicit bribes from employers to ignore collective bargaining agreements (Jacobs 2013:1057; Jacobs & Peters 2003:230).

Labour racketeering has also included violence against “dissidents” (Jacobs & Peters 2003:230). This kind of organised criminal corruption is historically mostly frequently linked with the US where they received publicity in the congressional hearings beginning in the late 1950s (Jacobs & Peters 2003:230). The response was the Racketeer Influenced and Corruption Organisation (RICO) Act enacted in 1970, since when the FBI devoted considerable resources to investigating the links between organised crime and local and national unions (Jacobs & Peters 2003:231).

Despite this campaign to curb union corruption, it has reportedly remained a problem in the United States. In 2011, the Department of Justice indicted several union officials and members in connection with organised crime (Jacobs 2013: 1066). A more recent investigation found widespread corruption in the United Auto Workers union, which resulted in two former presidents being convicted of embezzling more than US\$1 million of union funds for their personal expenses (New York Times 2022).

Corruption risks arising from the political nature of trade unions’ work

The second characteristic of unions that can exacerbate corruption risks relates to the political engagement. The work of trade unions is inextricably linked to political contestation; trade unions have a mandate in representative democracies to advance the particular interests of their members. As such, much of their activity is necessarily partisan, and in many countries, this has led to differing degrees of cooperation with formal political parties.

Political parties have links with trade unions that differ greatly from context to context. Whereas in highly industrialised capitalist societies trade unions are often affiliated to a single political party, in other countries workers’ associations tend to have multiple links with different political parties through different unions and federations (Taher 1999:405). In the first case, political affiliations have generally been fairly stable, since the affinity of certain unions with centre-left parties is typically clear, but in the low and middle-income countries, trade unions’ relationships with politicians is more fraught as unions can switch their support from one political faction to another (Taher 1999:405).

In Africa, many trade unions were involved in the anti-colonial movements and developed close ties with the national liberation movements (Webster 2007). Some unions have played important roles to this day, as in Tunisia, where a labour union played a key role in the political settlement to end the crisis of 2011 (Chayes 2014) or in South Africa, where the ANC has historically relied heavily on its union partners (Webster 2007). These ties can be exploited both by the government and unions.

For instance, collusive relationships between public officials and union representatives have been reported in South Africa. The South African Democratic Teachers' Union (SADTU) was accused of receiving bribes in exchange for allocating teaching posts (702 2015). Reports pointed to a patronage system in which union members were able to develop corrupt relations with officials in the education department, who received cash in exchange for appointing certain candidates (often SADTU members) to desirable teaching positions (News24 2015; Corruption Watch 2016).

Notably, the Zondo Commission's state capture report did not look into COSATU and its member SADTU, despite accusations against SADTU, which some believe was due to the union's tight links with ANC (Lagardien 2020). Indeed, the union NUMSA was a key player in the ANC Alliance, and some of its members were not only members of the political party but also became part of the government (Ashman 2015:57).

Finally, unions can be co-opted by the government. In Kazakhstan, the biggest union association is largely controlled by state authorities, which eventually led to its exclusion from the International Labour Union Confederation for insufficient independence (Akhmetzharov & Orazgaliyev 2021:140-141). Continuous government interference can be understood as a case of institutional corruption where the government is trying to limit the power of organised labour (Akhmetzharov & Orazgaliyev 2021:141).

As such, the political dimension of unions' work adds another level of complexity to the corruption risks. Independence is at the forefront of workers' associations and is one of the key principles the International Trade Union Confederation (ITUC) demands of its affiliates (ITUC Constitution

2018:6). However, evidence shows that unions can be subject to or exercise undue influence and they can be co-opted by other players, potentially jeopardising their mandate to represent their members' interests.

From the perspective of development agencies wishing to engage with trade unions, there should be an appreciation of the political nature of unions' work, which necessitates careful consideration of the specific political constellation in each setting. In countries with very business-friendly governments, unions may oppose government policy and development actors engaging with trade unions may expose themselves allegations of supporting the opposition. Conversely, in setting in which trade unions have been largely co-opted by the state, or infiltrated by organised criminal groups, supporting unions may bring additional risks.

One final word of caution regarding corruption allegations in the labour movement. Jacobs (2013:1079) notes that investigations into corruption in the labour movement have on occasion been accused of being politically motivated and "anti-labour". In Georgia, for example, the International Trade Union Confederation reports that members of parliament aligned with the government launched a defamation campaign against the Georgian Trade Union Confederation and its president (ITUC-CSI 2017). Particularly where unions are involved in politics in countries with weak democratic institutions and limited judicial independence, accusing workers' associations of corruption can be a political manoeuvre to discredit them.

Mitigation measures

In the US, there have been moves to strengthen unions' internal governance standards as one way of addressing corruption in unions (Ash Center,

n.d.). Recently, after the corruption scandals in the United Auto Workers union, the union decided to establish a direct means of electing union leaders, instead of the delegates in a convention system used before, indicating that improving unions' internal democratic governance is believed to be an effective response to corruption (New York Times 2022). However, given past incidents of vote-rigging in union elections in the US, there is a continued need to monitor these elections to ensure transparency and fairness.

Unions should also be required to release information on their financial practices and governance procedures, and the penalties for non-compliance need to provide sufficient deterrence (Ash Center, n.d.). When dealing with racketeering, the support of the judicial power and particularly of the specific judges presiding over the trials is crucial (Jacobs & Peters 2003:274). Prioritising union reform to empower rank-and-file members to challenge racketeering is similarly important (Jacobs & Peters 2003:274). Union officials accused of corruption should face the same penalties as a corporate director or a public servant, instead of being subject to internal disciplinary proceedings or intra-union grievance mechanisms (Silver 2013:158).

Finally, it is worth considering how to monitor unions to hold union officials and representatives to account without compromising their independence. This can be a delicate balance when union leaders are vocal opponents of the government and the separation of powers not guaranteed.

International cooperation can be a tool to strengthen unions' resilience against corruption. LO, for example, has assisted several of its counterparts in low and middle-income countries to improve their anti-corruption policies through a

digital training course (LO 2022:46).

Whistleblowing mechanisms can also be implemented; LO, for example, includes a whistleblowing link on its [website](#).

Corruption in employers' associations

Employers' associations – also known as business associations in many countries – are organisations that seek to enhance coordination between employers in their dealings with trade unions and the state. As such, these associations can provide a channel for businesses to provide consolidated collective input into public policy discussions.

Like trade unions, business associations have a legitimate role to play in the democratic arena promoting the interests of their members: in this case, private sector employers. Like trade unions, these organisations are funded by their members and often participate in work of a political nature, including public relations, lobbying and donating funds to political entities.

The nature and role of employers' organisations varies by country. In free-market countries employers' associations often serve primarily as a lobbying group to influence government policy through public relations campaigns. In social market economies, notably in the Nordic countries, employers' associations can play a more formalised role in institutionalised tripartite negotiations with trade unions and government bodies, a process known as social dialogue.

Corruption risks associated with collusion between employers

As with workers' associations, employers' associations are subject to numerous corruption risks. Indeed, in many countries corruption is rife among the business community and may result in

cartel-like arrangements (Lee-Jones 2018). One of the most infamous corruption scandals of the past decade was the one uncovered through the *Lava Jato* investigation, which revealed that dozens of companies colluded to pay bribes to secure contracts (BBC 2019). The corruption allegations extended to 10 different countries.

Some of the common forms of corruption involving private enterprise are bribery (including bribing inspectors not to report labour violations or bribing union officials), fraud, extortion, trading of information, collusion, nepotism, cronyism and undue influence (Lee-Jones 2018).

While much business sector corruption takes place at the level of the individual firm, there is some evidence that companies can use business associations as a way to gain access to and bribe high-level officials (Kiselev 2013:3), as well as to collude with nominal competitors to illicitly dominate a market. In Eastern Europe, joining business association lobby groups did not stop some companies from paying bribes, it actually seemed to increase the probability of a company bribing legislators to secure policy change (Kiselev 2013).

Companies can also collude with other companies for corrupt purposes. For example, in Chile, a collusive scheme for the sale of toilet paper, paper towels and tissues was revealed in 2015. The companies involved in the scheme had coordinated market quotas and fixed sale prices. Aware of their actions, the executives avoided leaving a digital trail and most of the coordination happened through their personal emails and even prepaid cellphones (Araya Seguel 2016). Executives of one of the companies involved went as far as to get rid of company computers once the case became public (Camara de Diputados Chile 2016).

Another important corruption risk among companies operating in the same sector is bid rigging. Bid rigging refers to a situation where the bidders of a tender enter an agreement not to compete independently and to manipulate the selection process (Sandeepan & Pradhan 2022). Common bid rigging practices are (Sandeepan & Pradhan 2022):

- collusive pricing (coordinating the prices for their respective bids)
- cover bidding (submitting a quote much higher that will not be accepted)
- bid rotation (taking turns at “winning” the tender)
- bid suppression (not bidding or retracting a bid)
- market allocation (allocating different geographical areas or segments of the market)
- proxy bidding (bidders whose sole purpose is to ensure a particular bidder wins the tender)

In Peru, a corruption investigation into bid rigging is looking into more than a dozen of the biggest infrastructure companies. According to the prosecution, these firms engaged in bid rigging to allocate who would “win” each public bid among themselves. They would promote one bidder and then pay a public officer to secure the desired outcome (IDEHPUCP 2020). In the UK, demolition contractors were accused of colluding illegally to rig bids, including the compensation of the designated losers of the bids by the winners (The Construction Index 2022). In India, seven vendors trying to supply Indian Railways were charged with bid rigging by agreeing on prices (Sandeepan & Pradhan 2022).

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Although the coordination of these companies generally happened in informal environments – in the Peruvian case initial findings point to executives meeting in restaurants – a business association without proper transparency standards could become a place to enable a bid rigging or collusion network, or at least a place to interact with “the right people”.

Corruption risks associated with lobbying by business interests

In a similar manner to the political engagement of trade unions, the lobbying efforts of business associations can constitute an integrity risk.

Particularly where lobbying by business interests is opaque, it can lead to administrative bribery and political corruption (Martini 2013a). The extensive funds at the disposal of many interest groups and the close relationship that exists between some private sector actors and lawmakers can lead to undue influence over public policymaking (Jenkins & Mulcahy 2018). When such disproportionate influence is leveraged on behalf of a particular set of interests, the decisions that ensue do not necessarily uphold the public interest.

This risk is especially acute where lobbying activities by business interests are intended to cultivate a “sense of reciprocity” with a public official – such as political donations that come with strings attached or the promise of future employment in the private sector (Gurría 2009). In fact, where the influence of business groups becomes excessive, it may result in what ALTER-EU (2018) refers to as “corporate capture”, in which “business and industry groups, gain privileged access to policymaking processes, which gives them disproportionate influence, behind closed doors.”

In addition to ‘direct lobbying’ by individual firms that target policymakers with regards to a specific decision, observers note that business associations can provide a forum and vehicle for so-called ‘indirect lobbying’, which refers to coordinated, industry-wide attempts to change the narrative surrounding a particular policy (Jenkins & Mulcahy 2018:6-9). Employers’ associations can provide a useful venue to coordinate lobbying activities and messaging and push for the adoption of business-friendly measures. A good example of this was the Business Alliance for Transatlantic Trade and Investment Partnership (TTIP), which was comprised of a broad spectrum of business associations who hired the specialised a lobbyist consultancy to “communicate the benefits of TTIP” (De Clerck 2018).

In Europe in particular, businesses have traditionally sought to exert influence over public policy through membership organisations and employers’ associations, which lobby in their collective interest via semi-official or established channels (Transparency International 2015). Such groupings of private enterprise by sector can actually mask a broad range of interests and vary greatly in terms of size, budget, scope of influence and lobbying behaviour (Transparency International 2015).

While business associations continue to be the primary conduit for small and medium-sized enterprises to articulate their interests and lobby decision makers (Transparency International 2015), around the world large multi-national corporations are increasingly turning to specialised lobbying consultancies (Corporate Europe Observatory 2017).

Many large corporate players now lobby both individually to pursue their specific interests and as

part of broader industry coalitions. Falgouty (2018) found that Microsoft is a member of 30 different federations, associations and thinktanks in Europe alone, and Google is represented in 24 such organisations.

Mitigation measures

Although multiple standards have been developed to promote transparency by private sector firms, there is much less available in terms of standards or guidance regarding the transparency of business associations themselves. The focus instead tends to be on the role of business associations in promoting good corporate governance and transparency among their members, rather than on governance standards for the associations themselves in areas such as the election of representatives to lead the association (McDevitt 2016: 2).

The Center for International Private Enterprise (CIPE) and the International Chamber of Commerce (ICC) World Chambers Federation have developed a clear set of principles and guidance on how to comply with them for business associations and chambers of commerce to prevent, detect and mitigate corruption risks (CIPE & ICC 2019). The principles are voluntary and intended to promote self-regulation, which is perhaps a reflection of many companies' opposition to oversight by independent bodies. To ensure the principles are relevant to specific market segments, business associations should conduct risk assessments and adapt the programme to their context (CIPE & ICC 2019:7). An effective compliance programme should have a code of conduct prohibiting the company's board, personnel and business partners from engaging or enabling corruption and be accompanied by a whistleblower policy, a

procurement policy and a finance and accounting policy (CIPE & ICC 2019:10).

The International Organisation of Employers (IOE), in conjunction with the OECD, developed a guide for business and employers' organisations on connecting the anti-corruption and human rights agendas. In it, they recommend that companies conduct an initial corruption risk assessment as part of a larger risk assessment that includes human rights risks as well and, based on this, consider how best to mitigate these vulnerabilities (BIAC & IOE 2020:12). Other recommendations include that anti-corruption compliance programmes should be implemented by senior officers with autonomy and that the approach should be promoted from the top (BIAC & IOE 2020:13-14). Companies can be encouraged to follow these guidelines by the employers' associations they are part of.

The OECD recommends that business organisations and professional associations should "encourage and assist companies, in particular small and medium-size enterprises, in developing international controls, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery" (OECD 2021:15). They can play an essential role in disseminating information on the topic, providing training, supporting due diligence and other compliance tools to members, offering general advice on these topics and on resisting extortion and solicitation (OECD 2021:23). Companies should cooperate with one another, sharing information on suppliers and joining industry initiatives for change (BIAC & IOE 2020:17).

Additional recommendations to prevent corruption in business associations and the private sector include implementing a code of conduct regarding

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both gift giving and receiving, developing internal checks and balances, and associations establishing an internal audit function (ILO 2011:60). It is also important to promote clear accounting, auditing and bookkeeping requirements and to limit the possibility for corporations to hide their true ownership through measures such as beneficial ownership transparency (Lee-Jones 2018:4-5).

Business and employers' organisations can disseminate information, provide training and capacity building, as well as tools and advice on different topics related to anti-corruption (BIAC & IOE 2020:18). They can serve as an exchange platform for best practices, experiences and effective company approaches (BIAC & IOE 2020:18). Finally, given the sensitive work of employers' organisations, they should retain independence both from other social actors and from the government, avoiding giving or receiving contributions from political parties (ILO 2011:60).

When it comes to development agencies looking to engage with business associations, the World Bank (2008) has developed a due diligence checklist, which includes both internal and external considerations (World Bank 2008).

Internal considerations:

- i. History of organisation's establishment
- ii. Independence from any particular commercial or political interest
- iii. Demonstrated support to open market competition and the rule of law
- iv. Track-record of promoting ethical business
- v. Demonstrated facilitation skills and experience with public policy advocacy
- vi. Proper accounting and disclosure of its own operations
- vii. Proper governance mechanisms
- viii. Local knowledge and credibility

- ix. Broad representation of business community

External considerations:

- i. Association's standing in the community, based on views from the media, public officials, CSOs, and members, among others
- ii. Credibility among other NGOs and business associations.

The anti-corruption potential of workers' and employers' associations

Workers' associations

At the international level, the [Trade Union Advisory Committee](#) (TUAC) to the Organisation for Economic Co-operation and Development (OECD) represents the labour movement at the OECD with over 500 trade union representatives taking part in TUAC and OECD meetings every year. Among other actions concerning anti-corruption, the TUAC, along with the [International Trade Union Confederation](#) (ITUC) has called for the creation of a global standard for public beneficial ownership registers, commented on the OECD's guidelines for integrity and anti-corruption in state-owned enterprises and privatisation, and has participated in the consultations related to the work of the OECD Committee on Corporate Governance (TUAC 2020; TUAC 2019). The ITUC has also urged progress on the implementation of UNCAC, but the impetus and involvement of trade unions with UNCAC work has declined over the years (ITUC 2017).

For its part, the Civil Society and Trade Unions groups for G20 (Civil20 and Labour20) called for actions to protect whistleblowers from retaliation and thus promote the detection of corruption. And the Labour20 group has also called for G20 to do more in eliminating corruption and illicit flows (C20 & L20 2019; L20 2022).

At the national level, labour unions can become relevant players in tackling corruption. Former South African Municipal Workers' Union (Samwu) shop steward, Wycliff Mabusela, recalled that union members and officials used to undergo training in employment law (Majavu 2021). Training regarding anti-corruption and integrity practices could be conducted at this level as well. For example, in a training course organised by the MacArthur Foundation, trade and labour unions in Nigeria were asked to actively participate in anti-corruption campaigns (Vanguard 2021). The foundation highlighted the importance of speaking out to put an end to impunity, acknowledging the importance of labour unions in holding public officials to account (Vanguard 2021).

Unions have been vocal in denouncing corruption and advocating for change. In 2020, South African workers and union representatives staged a general strike and took to the streets to demand stronger action against corruption, and several Cosatu affiliates have signalled their commitment to anti-corruption in the past (OCCRP 2020; Corruption Watch 2012). Workers' associations might also be interested in pushing for beneficial ownership transparency as it is in their best interest to know with whom they are ultimately negotiating, and unions could add their voice to campaigns to legally compel private entities to disclose their ownership structures.

Employers' associations

There are initiatives to engage business associations in anti-corruption efforts at the international level. Some business associations – for example, the Bulgarian Industrial Association and the Union of Bulgarian Business – are part of the UN Global Compact. The UN Global Compact has also worked in partnership with business associations. For example, they have worked together with the Egyptian Junior Business Association (EJB) to improve anti-corruption compliance among SMEs in Egypt. Together, they established an integrity network, a group led by SMEs committed to curbing corruption (UN Global Compact 2018:2). The UN Global Compact also fosters Global Compact Local Networks, and several networks, like the Nigerian and Kenyan ones, have reportedly developed toolkits to strengthen anti-corruption initiatives and practices (UN Global Compact 2018:6-7).

Another organisation is TRACE, a non-profit international business association that seeks to promote anti-bribery, compliance and good governance ([TRACE website, n.d.](#)). The association helps member companies comply with anti-bribery legislation (TRACE 2020). TRACE also provides training and works with other industry organisations to encourage the implementation of the UN Global Compact's tenth principle on anti-corruption. In particular, TRACE helps small and medium-size enterprises that lack the resources to address integrity issues along with training and access to the due diligence team (TRACE 2020).

At the national level, business and employers' associations can engage in different activities, particularly collective action initiatives, to curb corruption. Companies are thought to behave more ethically when they believe their competitors do so

as well, so business associations can provide a platform to collectively engage them in support of efforts to make the playing field equal for competitors (Martini 2013b). A business association can launch a collective anti-bribery effort that seeks to detect and punish firms that give bribes (Dixit 2014:2). This can be accomplished with the firms committing to this honest behaviour and implementing mechanisms to detect and investigate dishonest acts (Dixit 2014:3). This is a form of reducing unfair competition through a collective action approach. Collective action against corruption is believed to be more successful where it takes place with the support of a facilitator, and the World Bank Institute (2018) points out that business associations and chambers of commerce can fulfil this facilitation role.

In Korea, the Business Integrity Society (BIS) is an anti-corruption initiative that works with members of the UN Global Compact Network Korea (BIS, n.d.). They promote a Stewardship Code Guideline and Procurement Act to increase transparency and integrity in Korean companies, as well as incorporating effective compliance systems and improve anti-corruption capacity at all levels (Collective Action, n.d.).

These associations can promote the use of integrity pacts in government procurement processes, where an agreement is reached between the companies bidding for a public contract and the government that all parties will abstain from corruption, and their behaviour is monitored by civil society (Martini 2013b:2). In Thailand, the Thai Chamber of Commerce launched a network of public and private sectors to curb corruption. This anti-corruption network promoted several activities, including integrity pacts, an award for good governance

policies, a hotline to denounce corruption and a corruption index (Martini 2013b:5).

Business associations can also advocate for reforms to public administration, as companies can be in a unique position to assess corruption entry points in public administration (Martini 2013b:3). In Tunisia, an employers' organisation, UTICA (the Union of Industry, Trade and Handicrafts) sought to add its voice to measures to curb corruption, which led to training on anti-corruption and a workshop provided by NHO (NHO 2022:13. 22). In India, the Karnataka state contractors' association – which represents the biggest works contractors of that state – has publicly called on the government to address the rampant corruption in the state (India News 2022; The Hindu 2022).

Business and employers' organisations can promote greater state action on anti-corruption and represent the concerns of their constituents when interacting with governments (BIAC & IOE 2020:18). They can also be the point of reference for companies to denounce corrupt practices they might have encountered by reducing the cost on any one company of reporting corruption (BIAC & IOE 2020:18).

Lastly, business associations can choose to raise awareness on the part of their members about corruption and conducting advocacy work (Martini 2013b:4). In Malaysia, the Federation of Malaysian Manufacturers worked with Transparency International to organise a conference in 2011 to raise awareness in the business community to anti-corruption programmes (Martini 2013b:4).

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Social dialogues and collective action

There is evidence that the benefits of social dialogue extend beyond a single enterprise and that when adopted by several actors it can create an enabling environment for enterprise development (ILO 2019:9). Furthermore, any reform attempt will have a greater chance of success where it is designed and implemented in consultation with relevant stakeholders (Ratnam & Tomoda 2005:iii). Social dialogues provide an opportunity for the state to interact with representatives of both labour and capital, each of which may have their own reasons to want to see a reduction in the rate of corruption. Additionally, when entering a social dialogue, states are expected to fulfil the commitments that emerged from it, and as such, it provides an entry point to include anti-corruption measures that have the backing of multiple parties.

Indeed, social dialogues do not need to restrict themselves to discussions around wages and labour rights, they can cover a variety of topics, including the formulation and implementation of public policy (Ratnam & Tomoda 2005:8). A social dialogue with an anti-corruption component could have spillover effects and help create a more transparent and accountable environment. As a matter of fact, the UNODC has already issued a call to introduce anti-corruption strategies into social dialogue. It calls for both the private sector and trade unions to partner together and ensure zero tolerance for corrupt acts (UNODC, n.d.).

For a social dialogue to be effective, the following conditions need to be observed (ILO 2019):

- freedom of association is respected
- the social dialogue has legal and institutional support

- the organisations involved are independent and representative of their members
- there is a true commitment of the participant parties
- the parties have technical capacity, knowledge and access to information
- there are processes in place that allow for effective coordination and frameworks for workplace cooperation

Commitment is thus a key component of social dialogues. In that sense, having a legal framework for social dialogue, a formal mechanism with permanent structures (e.g. a national tripartite consultative committee) could facilitate its functioning and sustainability (Ratnam & Tomoda 2005:13-14). Similarly, autonomous and advisory social dialogue institutions are relevant for policymaking and can play a similar role, providing a sustainable forum for social dialogues (Ratnam & Tomoda 2005:14). Such structures could be created with support from civil society, specifically for topics related to corruption. Given the success of the integrity pact model, whereby civil society organisations act as a monitor of commitments made by private firms and state officials, civil society observers may be able to fulfil a comparable oversight function of anti-corruption pledges made during social dialogue.

Although not a social dialogue per se, in Japan, the UN Global Compact Local Network together with Principles for Responsible Investment consulted multiple stakeholders and developed the Tokyo Principles for Strengthening Anti-Corruption Practices, a collective action initiative (UN Global Compact 2018:5). The network also created a tool to support anti-bribery measures and encourage public disclosure of information (UN Global Compact 2018:5). Their engagement with multiple stakeholders and the specific tools they developed

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could serve as an example of the anti-corruption potential of social dialogues.

The UN Global Compact has already engaged in “whole of society” initiatives to curb corruption. For example, the local Global Compact Network in Brazil brought together business entities, government representatives and civil society actors to jointly explore how to address corruption risks (UN Global Compact 2018:4). The Global Compact Network together with Ethos Institute was able to engage the four largest construction companies in Brazil in a dialogue that resulted in a guidance on how to curb corruption in the construction sector (UN Global Compact 2018:4).

The OECD (2020) contends that collective action involving multiple actors is an effective means of promoting corporate compliance with the rules and can be used to harmonise regulation and address the distortionary effect that corruption has on competition.

In a similar manner, partnerships between employers’ and workers’ associations could jointly tackle corruption issues identified through social dialogue and come up with sector-specific means of addressing these. Example collective action approaches to tackle corruption are anti-corruption declarations, integrity pacts, principle-based initiatives and establishing mechanisms by which business associations monitor the behaviour of their members (World Bank Institute 2008).

Challenges to social dialogues and collective bargaining in low and middle-income countries

Globalisation has greatly changed labour markets around the world. One consequence has been “offshoring”, which involves multinational firms shifting their labour-intensive production processes to low and middle-income countries (LMICs) where labour costs are lower (Bottini et al. 2007). For LMICs trying to find their competitive advantage, the ability to negotiate certain labour conditions, particularly regarding salaries and safety standards, thus becomes limited by the fact that the bigger companies outsourcing to these places make it known they are prepared to relocate to find cheaper suppliers elsewhere. This can lead to labour regulation being ignored or employers bribing labour inspectors to keep their costs low.

Donor support to social dialogues in LMICs would thus do well to consider the role of multinational corporations in the partner country and seek to engage these in the process instead of only focusing on national players. This is equally true if and when social dialogues deal with the topic of corruption, given that international firms are often complicit in corrupt schemes (Transparency International 2022).

Another issue complicating worker-employer relationships is that in many LMICs, the informal economy employs a large sector of the population. In 2016, estimates put the number of people employed in the informal economy at 2.5 billion, about half of the global workforce (ILO 2016:1). These types of labour come with more uncertainty and precariousness, and it is harder to apply normal regulatory regimes to workers in the

informal sector compared to their counterparts in formal employment (Ebisui 2012). The usual channels of representation and negotiation between workers and employers are also distinct for informal workers, who typically do not have a permanent link with a single workplace. As such, it is often more difficult for their interests to be collectively represented (Ebisui 2012:4).

Among the challenges they face to organise and engage in collective bargaining is the fear of losing their jobs due to the limited duration of their contracts (if they have a contractual relationship), the difficulty in identifying who is ultimately their employer (especially for outsourcing companies), their exclusion from standard workers' trade unions and agreements, and their uncertain and ambiguous legal status in terms of labour law and regulations (Ebisui 2012:6).

Trade unions can extend membership to workers in the informal economy (ILO 2016:4), but often this requires different approaches, like collective bargaining outside workplaces, multi-employer bargaining and the extension of collective agreements (Ebisui 2012:6). Social dialogue practices can attempt to improve the situation of workers in the informal economy by including their voices into tripartite dialogue and inter-sectoral negotiations (Ebisui 2012:20-21).

Finally, a key element for social dialogues to be successful is for all involved parties to have approximately equal capacity to negotiate and to be able to access information and knowledge. In low to middle-income countries characterised by extensive inequality, this assumption might not hold and the dialogue facilitator might have to first level the playing field.

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The U4 Anti-Corruption Resource Centre shares research and evidence to help international development actors get sustainable results. The centre is part of Chr. Michelsen Institute (CMI) in Bergen, Norway – a research institute on global development and human rights.

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