



Business Ethics and Human Rights: 2015 update

The concept of human rights is simple: every human being has a right to be treated with dignity, whatever their religion, language, nationality, place of residence, sex, skin colour or any other status.¹ Yet, the protection and promotion of human rights continue to pose a number of challenges for business.

A valuable structure is provided by the three pillars set out in the UN Guiding Principles: the State duty to protect human rights, the corporate responsibility to respect human rights, and the right of victims to access an effective remedy.² These pillars and their implications for companies were analysed in detail in a 2012 IBE Briefing, which highlighted the vital importance that this topic has for ethical business conduct.³

The present Briefing builds on the 2012 paper, updating the scope of the challenge with the more recent developments on this subject. Moreover, it gives an overview of some practical tools and frameworks that organisations can use to minimise the risk of human rights abuses in all their operations, including some recent examples of good practice.

The Scope of the Challenge

Difficulties related to the promotion of human rights have occurred in public debate for decades, and the activism of Non-Governmental Organisations (NGOs), and other associations internationally, is well-known.⁴ However, evidence shows that the protection of human rights remains a timely topic and more work is required to guarantee their respect worldwide.⁵

In particular, awareness of the role that businesses have played in reported human rights abuses has increased significantly, boosted by the diffusion of easily accessible online platforms and social media. Therefore, the link between business and human rights has become an issue to be addressed.⁶

On the one hand, businesses can advance human rights, especially in locations recognised as most vulnerable, by insisting on higher standards than those required locally.⁷ Indeed, offering access to decent, safe work and sustainable income promotes higher living standards, economic development and improved quality of life.

In February 2015, Patrick Pouyanné, CEO of the multinational oil and gas company Total, explained how the organisation had to face real questions of whether business could be conducted in line with their values with regard to their operations in Myanmar. Mr. Pouyanné pointed out that they decided to stay in the country because even though they could not have an impact on everything that was happening there, they did have control over their own operations, and could insist upon higher standards of business conduct. This is seen as having contributed to sustainable development

¹ The internationally recognised human rights are understood, at minimum, as those set in the 1948 [Universal Declaration of Human Rights](#). Other important documents are the [International Bill of Human Rights](#) and the principles concerning fundamental rights set out in the International Labour Organization's [Declaration on Fundamental Principles and Rights at Work](#) (1998).

² **United Nation** [Guiding Principles on Business and Human Rights](#) (2011). For an overview of the Guiding Principles see IBE Briefing 26 Business Ethics and Human Rights (July 2012).

³ **IBE Briefing 26** Business Ethics and Human Rights (July 2012).

⁴ *Ibid* fn [3] for a more comprehensive overview of some campaigns against human rights abuses.

⁵ **CGMA** [Managing Responsible Business](#) (2015). The reports outline some statistics on company's approach to human rights issues. In particular, it highlights how over 86% of employees surveyed were not aware of the UN Guiding Principles on Business and Human Rights. (2013).

⁶ **Human Rights First**, [The Business of Modern Slavery](#) (30/01/15). Figures show that labour exploitation (especially in agriculture, construction, domestic work, manufacturing, mining) is the main cause of modern slavery (68% of slavery victims, compared to 22% victims of sexual exploitation and 10% of state-imposed slavery).

⁷ **US Department of State** [Trafficking in Persons Report](#) (July 2015). The report provides a ranking of countries around the world based on human trafficking risk (see p.54). Most European countries sit at the top of the list. Bulgaria and Ukraine seem to be the most concerning exception.

and other positive evolutions in the country itself, including Myanmar joining the Extractives Industry Transparency Initiative (EITI) in 2014.⁸

On the other hand reports of alleged and actual human rights abuses including human trafficking, unsafe working conditions and damages to local communities are not uncommon in global media. A tragic example was the collapse of the Rana Plaza, in Bangladesh, on April 24th 2013, in which 1,134 people were killed in what has been labelled as the 'world's deadliest clothing industry accident'.⁹

Human rights abuses are not limited to developing countries: lapses are also reported within Western markets.¹⁰ The European Court of Human Rights has registered 23,397 violations of human rights in Europe since its foundation, in 1959. In the UK, the European Court has ruled in more than 300 cases where at least one violation of human rights occurred.¹¹

Tools and Frameworks

Recent legislative changes have sought to build the capacity of all participants to cope better with the challenges they face and promote a common understanding of business and human rights issues among all stakeholders. In this regard, some have called for a binding international treaty that sets out corporate human rights responsibilities¹² and the UN has recently established a working group with the task of looking into this possibility.¹³

At present, there are national laws and international guidelines which support companies in going beyond a mere policy statement on human rights. The most relevant are:

- The OECD Guidelines for Multinational Enterprises

- The UK Modern Slavery Act 2015
- The UN Guiding Principles Reporting Framework

OECD Guidelines for Multinational Enterprises

These Guidelines were first adopted in 1976 as part of the OECD Declaration on International Investment and Multinational Enterprises.¹⁴ They relate to responsible business conduct, addressing a wide set of ethical issues. In particular, the most recent update in 2011 includes a section with more detailed recommendations on human rights and due diligence in the supply chain.¹⁵ These are designed to apply globally. They are consistent with other major laws and guidelines, such as the UN General Principles. A **complaint mechanism** to report potential breaches and critical issues is also included in the OECD guidelines.

The Guidelines apply on a voluntary basis to multinational corporations operating in or from countries adhering to the OECD Declaration, with the intention of influencing business behaviour without imposing further regulations on companies. Although not compulsory, companies generally agree with these provisions and understand the importance of following the procedures they set out as means to address issues they may face both internally and externally. Consequently, the potential **reputational risk** of ignoring concerns raised through this mechanism is high.¹⁶

In order to ensure proper implementation of the standards, a *National Contact Point* (NCP) has been set up by governments in each of the adhering countries. The main role of the NCP includes the application of a complaint mechanism for potential breaches to the Guidelines. One of the key benefits is the NCP's ability to resolve disputes, avoiding the burden of a judicial procedure.¹⁷

⁸ Patrick Pouyanné presented Total Business Case at the European Business Ethics Forum, held in Paris in February 2015.

⁹ The Guardian [Rana Plaza disaster: Benetton donates \\$1.1m to victims' fund](#). (17/04/15).

¹⁰ IBE Briefing 43 Modern Slavery (September 2014) for some example of companies with significant UK presence relying on people working in slavery.

¹¹ European Court of Human Rights [ECHR Uncovered: Datasheet](#) (2014).

¹² Global Movement for a Binding Treaty [Enhance the International Legal Framework to Protect Human Rights from Corporate Abuse](#) (2014).

¹³ For more information on the working group, see [United Nations Human Rights Council](#).

¹⁴ OECD [Declaration on International Investment and Multinational Enterprises](#) (last update 2011).

¹⁵ OECD [Guidelines for Multinational Enterprises](#) (2011).

¹⁶ These points were made particularly clear by Danish Chopra, part of the UK National Contact Point team in the Department for Business Innovation and Skills, during an event that the IBE hosted on May 21st, 2015: [Timely Topic](#) - The OECD Guidelines for Multinational Enterprises (MNEs): what do they mean for business?

¹⁷ For more information on the way this process works, see the [UK National Contact Point](#).

Building a dialogue

One example of this in practice is given by the complaint from the European Centre for Constitutional and Human Rights (ECCHR) against the cotton trading company **Cargill Cotton**. ECCHR raised concerns over the company's purchase of cotton originating in Uzbekistan, which was allegedly produced through the systematic use of child and forced labour.¹⁸

The UK NCP acted as a mediator in this complaint and the parties met at a conciliation meeting, during which a mutually acceptable solution was agreed. As the official document states, "*Cargill does not condone the use of abusive, enforced or illegal labour wherever this may occur. It recognises that there have been serious allegations about the systematic use of forced child labour in Uzbekistan and would wish such allegations to be investigated by an appropriate independent international organisation. [...] ECCHR and Cargill will inform each other and exchange views on a regular basis in the next 12 months. Cargill and ECCHR agree to meet in 12 months time to review progress against the undertakings*".¹⁹

Although resolution may not always be possible, it does not mean that the process has been unsuccessful. Danish Chopra, member of the UK NCP team, points out how the definition of a successful case can be a matter of debate, and it can be argued that establishing a dialogue between business and NGOs or unions is a successful outcome.²⁰

The UK Modern Slavery Act

The Act, passed in March 2015,²¹ is designed to give law enforcement to the fight against modern slavery, by ensuring that perpetrators receive suitably severe punishments and enhancing support and protection for victims.²² It applies to any commercial organisation carrying out business in the UK and is the first document of its kind in Europe.²³

Box 1 outlines some of the main innovations that the Act introduces.

Box 1 *Modern Slavery Act provisions*

The Act strengthens the response of law enforcement and ensures victims receive protection by:

- Increasing the maximum sentence available for the most serious offenders from 14 years to life imprisonment;
- Ensuring that perpetrators convicted of slavery or trafficking face the toughest asset confiscation regime;
- Consolidating and simplifying existing modern slavery offences into one Act;
- Creating a statutory defence for victims of modern slavery so that they are not inappropriately criminalised;
- Giving the courts new powers to order perpetrators of slavery and trafficking to pay Reparation Orders to their victims;
- Providing statutory guidance on victim identification and victim services, including an enabling power to put the relevant processes on a statutory basis; and
- Introducing protections for victims of abuse on an overseas domestic workers visa.

Transparency clause

One particularly innovative provision, scheduled to come into force in October 2015, is related to transparency in the supply chain. Businesses with a turnover of **more than £36 million** will be required to disclose each year what they have done to ensure that their operations and **supply chains are slavery free**.²⁴

18 NCP [Initial Assessment by the UK National Contact Point \(NCP\) for the OECD Guidelines for Multinational Enterprises \(the Guidelines\)](#) (09/03/2011).

19 NCP [Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises](#) (26/06/2011).

20 Danish Chopra (UK National Contact Point team in the Department for Business Innovation and Skills) during an event hosted by the IBE on May 21st, 2015: [Timely Topic](#) - The OECD Guidelines for Multinational Enterprises (MNEs): what do they mean for business?

21 The Houses of Parliament [Modern Slavery Act](#) (2015).

22 *Ibid* fn [10] for more information.

23 The Act therefore covers organisations based in the UK but operating abroad and those based abroad but carrying out some part of their business in the UK.

24 There are similar transparency requirements in California, but they only apply to businesses producing goods for sale, whereas this disclosure will apply regardless of what it supplies, whether goods or services.

United Nations Guiding Principles Reporting Framework

The UN Guiding Principles Reporting Framework represents the first comprehensive guidance for companies to report on human rights issues,²⁵ designed to fulfil the responsibilities set out in the UN *Guiding Principles*.²⁶ **The document, developed through the Human Rights Reporting and Assurance Frameworks Initiative (RAFI), provides a set of questions which companies should try to answer in order to assess whether they are upholding human rights in practice.**²⁷ The Framework focuses on three areas of intervention: governance of respect for human rights, definition of the focus of reporting and management of salient human rights issues. It also includes guidance on how to answer the questions, and ensure that information is relevant, meaningful and comparable.

In addition, the RAFI has announced the launch of an Assurance Framework, which is scheduled to be issued in 2016. This second document will provide guidance for assurance providers and internal auditors on how to assess and assure the information reported by companies is appropriate.

Reporting on Human Rights issues

The first company to adopt this Framework as a guideline for their reporting on Human Rights issues is **Unilever**, which published its inaugural report '*Enhancing Livelihoods, Advancing Human Rights*' in June 2015.²⁸ According to Marcela Manubens, Unilever's Global Vice President of Social Impact, the Reporting Framework has proved to be very useful in implementing the human rights agenda of a company that employs 172,000 people around the world, with 76,000 suppliers and sales in more than 190 countries. As Ms Manubens pointed out, "*We have a long way to go and we cannot do this alone. ... Transparency is critical to engage everyone in bringing solutions to*

complex issues. That's why we agreed to pilot the UN Guiding Principles Reporting Framework".²⁹

Impact and Implications

Despite the complexity of the issue, a growing number of organisations continue to make progress with the agenda. Multinational organisations are increasingly producing Human Rights policies, where they set out not only their commitment to the respect of human rights, but also how this commitment will be applied in practice. Box 2 gives some examples of such policies.

In addition, collaborative initiatives between companies and public bodies are gaining momentum. A relevant example is the Human Rights and Labour Working Group (HRLWG), an expert group comprising representatives from business, civil society and UN agencies, set up to provide guidance and support on the implementation of the UN Global Compact's human rights and labour principles.³⁰ Among other business-driven projects, a particularly interesting one is the Global Business Initiative on Human Rights, a non-profit organisation led by a core group of 18 corporations from different industries, whose mission is to advance human rights in a business context through cross-industry peer learning, outreach and capacity building, and by informing policy.³¹

The issue of human rights protection is not limited to companies in Western countries. A study conducted by the Business and Human Rights Resource Centre in China, for example, highlights the level of engagement on human rights issues amongst both Chinese companies, and companies operating in the region. The paper suggests that although a gap remains between current practice and international standards on business and human rights, such as the UN Guiding Principles, "*as Chinese companies become more international, the voice of stakeholders*

²⁵ **United Nations** [Guiding Principles Reporting Framework](#) (2015).

²⁶ *Ibid* fn [2].

²⁷ **RAFI** is co-facilitated by the non-profit centre for business and human rights practice Shift and the global provider of audit, accountancy, tax, legal and advisory services Mazars, in collaboration with the Human Rights Resource Centre.

²⁸ **Unilever** [Enhancing Livelihoods, Advancing Human Rights](#) (2015). Appendix 2 helps identify the location of answers to questions according to the UN Guiding Principles Reporting Framework.

²⁹ **BHR** [Q&A with Marcela Manubens](#) (01/07/15).

³⁰ **UN Global Compact** [Human Rights and Labour Working Group](#).

³¹ [Global Business Initiative on Human Rights](#). The GBI members and work plan are supported by a dedicated Secretariat and several expert advisors, between them offering decades of experience and expertise in the field of business and human rights. GBI works in collaboration with the UN Global Compact Office.

like NGOs is becoming stronger. As a result, Chinese companies are incorporating human rights into their management systems. Even within China they cannot avoid this topic.”³²

In addition, victims of human rights abuses now have opportunities to hold companies responsible for their behaviour. One example is the £55 million settlement agreed by Shell to 15,600 farmers and fishermen whose lives were adversely impacted by two large Shell oil spills in 2008 and 2009 in the Niger delta.³³

Box 2 *Examples of Human Rights Policies.*

Gap Inc. “Gap Inc. is committed to developing a culture which implements a policy of respect and support for internationally recognized human rights and seeks to avoid complicity in human rights abuses. [...]Due to the nature of the retail and apparel industry, we believe [that] [...] the four fundamental labor principles that protect workers’ rights, which are defined in the International Labor Organization’s Declaration on Fundamental Principles and Rights at Work, are among the most relevant to our apparel supply chain and our Operations. Therefore, our primary focus for implementation of this policy concentrates in these areas”.³⁴

BG Group. “We believe that respect of human rights is central to sustainable value creation. [...] To meet the requirements of this Policy, BG Group will: ensure that BG Group Standards meet the requirements of this Policy with specific focus on Human Resources, Ethical Conduct and Social Performance; assess risk appropriately and ensure that public and private security providers working for or on behalf of BG Group, conduct their operations with respect for human rights; [...] and publicly report on human rights objectives and performance”.³⁵

Rio Tinto. “We support human rights consistent with the Universal Declaration of Human Rights and Rio Tinto respects those rights in conducting the Group’s operations throughout the world. [...] Rio Tinto respects and supports the dignity, well being and human rights of Group employees, our families and the communities in which we live, as well as others affected by the Group’s operations. [...]Where human rights are threatened, we seek to have international standards upheld and to avoid any involvement in human rights abuses, including through misuse of our equipment and facilities”.³⁶

Conclusion

It is clear that the respect and promotion of human rights in business practices still poses a number of challenges that companies need to address. However, as this briefing has shown, there is some evidence of how such concerns are being taken more and more seriously by business.

Instruments provided by current laws and international regulations (such as National Contact Points), as well as current good practice amongst businesses, encourage others to strengthen their human rights commitment.

Box 3 outlines some practical steps for companies seeking to meet their commitment to a high standard of human rights within their organisations.

Box 3 *Some action points for companies.*

Disclose information in an open and timely way.

- This will help to evidence the commitment of the company and the efforts that have been put in place to prevent, and address, human rights abuses.
- It will help build trust and enhance the company’s reputation.
- It also helps identify a clear set of objectives for the future and as well as areas that require more attention

Encourage multi-stakeholder dialogue.

- This will create a collaborative environment, building on different stakeholders’ strengths and capacities.
- It brings in different perspectives and possible solutions through cooperation

Make reference to internationally recognised standards and frameworks in their reports.

- These are reliable guidelines and provide benchmarking opportunities.
- It offers support and guidance in critical situations.
- It gives an authoritative endorsement to the programme.

32 Business and Human Rights Resource Centre [Regional Briefing – Greater China Region](#) (2014).

33 The Guardian [Shell announces £55m payout for Nigeria oil spills](#) (07/01/2015).

34 Gap Inc [Human Rights Policy](#).

35 BG Group [Human Rights Policy](#).

36 Rio Tinto [Human Rights Policy](#).



The IBE was established in 1986 to encourage high standards of business behaviour based on ethical values.

Our vision is to lead the dissemination of knowledge and good practice in business ethics.

We raise public awareness of the importance of doing business ethically, and collaborate with other UK and international organisations with interests and expertise in business ethics.

We help organisations to strengthen their ethics culture through effective and relevant ethics programmes.

The IBE is a registered charity, supported by subscriptions from businesses and other organisations, as well as individuals. Charity no. 1084014



This and other Business Ethics Briefings are available to download free of charge from the IBE website:

<http://www.ibe.org.uk/list-of-publications/67/47/>

If there is a topic you would like to see covered, please get in touch with us on +44 (0) 20 7798 6040 or email:

research@ibe.org.uk