



Putting people first: progress & priorities in corporate respect for human rights

Issue Brief | 2018

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Introduction

2018 marks seven years since the United Nations Human Rights Council endorsed the Guiding Principles on Business and Human Rights (UNGPs), establishing the first global standard on the respective roles of businesses and governments in helping to ensure that companies respect human rights in their own operations and through their business relationships.

This issue brief sets out to succinctly highlight some of the key developments that have characterized the business and human rights landscape in the

period since the UNGPs were launched, exploring areas in which business has made progress in the implementation of this agenda and identifying a number of the enduring challenges.

In doing so the brief draws upon World Business Council for Sustainable Development's (WBCSD) latest thinking, analysis and publications related to human rights, research of human rights reporting trends among the membership of WBCSD as well as insights into how WBCSD members are aligning to the Sustainable Development Goals (SDGs).

Ultimately this brief aims to inform, stimulate and add to the discussion around the dynamic and essential issue of business and human rights.



About the UN Guiding Principles on Business and Human Rights

In 2005, after decades of divisive debate around the distribution of responsibility between states and businesses in the human rights domain, Professor John Ruggie was appointed as the UN Special Representative for Business and Human Rights. He led several years of multi-stakeholder consultations which culminated in the UN Guiding Principles on Business and Human Rights; a successful set of principles endorsed by a broad range of international stakeholders, and that the Human Rights Council unanimously adopted in 2011.

At the core of the UNGPs is the **three-pillared “Protect, Respect and Remedy” framework** for preventing and addressing negative impacts from business activities on people’s human rights:

- The state has a **Duty to Protect** people against human rights harms from third parties, including business;
- Business has a **Responsibility to Respect** the human rights of others; and,
- Both the state and business have roles to play in ensuring **Access to Remedy** when negative impacts occur.

For business, the fundamental expectation of the Responsibility to Respect is captured in Guiding Principle 11: **“Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”**

WBCSD & human rights

At WBCSD, respect for human rights is a key pillar of our People Program, with our Human Rights project striving to provide insights, inspire, guide and support our members on how to operationalize the UNGPs.

We engage our membership of almost 200 leading companies to advance this agenda, providing them with a forum to discuss challenges and explore robust solutions through peer learning and the sharing of best practice.

We advocate for corporate respect for human rights as one of the most significant opportunities for business to contribute to the realization of the SDGs. This includes advocating the development of credible and holistic SDG strategies by putting people first.

WBCSD also provides a platform for the advancement of collaborative initiatives and the forging of new partnerships for enhanced impact. We seek to inject a forward-thinking business voice into intergovernmental processes, governance and regulation.

For more information, visit the [WBCSD Human Rights Gateway](#).

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State of the human rights landscape: key developments over the last seven years

Since November 2011, the business and human rights landscape has seen a steadily expanding series of developments, building upon the tenets laid out in the UNGPs. This consists of the development of new hard and soft regulations governing business and human rights, as well as an array of supporting voluntary action by business and other stakeholders, including investors.

Regulation: from soft to hard law

At the governmental level, many states have, or are in the process of developing National Action Plans (NAPs) to promote the implementation of the UNGPs at their respective national levels. In parallel, the soft law of the UNGPs is moving towards more hard law on business and human rights, mirroring similar evolutions around issues such as the environment or anti-corruption, where regulations emerged from voluntary practices and agreements before being mainstreamed, consolidated, and turned into harder requirements at the national and international levels.

There are a growing number of national and regional legislations requiring large companies to disclose information on how they identify and address potential human rights impacts arising from their business operations and in certain cases relationships with suppliers and other business partners.

The most advanced case in point is France's "Duty of Vigilance" law, passed in 2017, which mandates that large French companies develop, enact and publicly disclose due diligence measures to identify and prevent environmental and human rights violations within their own operations and among their suppliers.

This can be seen as building on other recent developments such as the UK's Modern Slavery Act 2015, which requires all large companies doing business in the UK to publish annual declarations on how they are working to eradicate slavery from their operations and supply chains. As of April 2018, this has resulted in over 5,000 companies from nearly 30 different sectors issuing official modern slavery statements. Similarly, the EU's Non-Financial Reporting Directive is now starting to impose human rights disclosure requirements on some 6,000 companies.

The Australian government seems very likely to establish its own Modern Slavery Bill, and there are similar initiatives on mandatory human rights due diligence underway in Canada, Finland, Norway and Switzerland. Dutch legislation compelling companies to review their operations and supply chains for the presence of child labor is also at an advanced stage.

As the regulatory landscape matures, legal cases explicitly referring to human rights issues are now being brought forward against companies.

A second important evolution in this space was the establishment of an intergovernmental working group by the United Nations in 2014 to elaborate an international legally binding treaty on business and human rights. While this process will still need to address very serious political and substantive issues before bringing about any concrete binding obligations at the international level, the debate has raised significant public interest. This further increases pressure on policymakers and corporates to express their position and take action on the impact of business operations on human rights.

Many of these laws are relatively recent and their full impact is yet to play out. While research shows that legislation has increased the number of companies that report on human rights in their supply chains, the quality of reporting varies significantly across countries and companies.

Benchmarks: increasing recognition from investors

As in other fields, the logical next step following increased reporting requirements has been the establishment of benchmarks, ratings and indexes. In 2017, the Dow Jones Sustainability Index created a stand-alone human rights criterion in line with the UNGPs, taking human rights into

account more robustly than in previous years. In the business and human rights domain, the Corporate Human Rights Benchmark and Know The Chain's Forced Labor Benchmarks have emerged as prominent examples. Support for these benchmarks has been explicitly stated from investors representing USD \$ 5.3 trillion and USD \$ 3 trillion respectively in assets under management. As such, investors increasingly recognize the importance of

identifying and addressing human rights risks and expect companies to improve their disclosures on human rights.

Investors are even factoring companies' performance into their cost of capital. Companies including Danone, EDF, Olam, Philips, Royal DSM and Stora Enso have all negotiated credit facilities with terms that depend on their social, environmental and/or governance performance.



Guidance: supporting robust disclosures

The increased body of requirements on human rights disclosures is accompanied by a

significant amount of supporting material and guidance which can help companies fulfil these requirements. Data and research from [WBCSD's Reporting Exchange](#) shows that there are 210 human rights-related reporting provisions in 48 of the

60 countries analyzed. Of these, 42% are reporting requirements and 58% are reporting and management resources, ranging from general guidelines to resources focused on specific themes.

Figure 1. Notable landmarks across the business and human rights landscape 2011-2018. Includes both regulatory developments and key actions taken by business, NGOs and other stakeholders to advance the business and human rights agenda.



The cumulative effect of this evolving regulatory environment, coupled with enhanced scrutiny and evaluation of business performance, are continuing to make human rights a field in which companies have mounting motivation and interest to take meaningful action. Meanwhile, the increasingly widespread

emergence of detailed guidance, frameworks, and toolkits – at both an overarching as well as sector- and issue-specific level – means that there are also fewer barriers to action than ever before.

A collection of these various developments across the landscape are captured in Figure 1, clearly pointing to a gradual yet marked increase in the number of initiatives emerging, both in terms of regulatory developments and programs to support robust business engagement.

2

Progress made by business: analysis of WBCSD membership

Since 2016, human rights-related analysis has been an integral part of research conducted by WBCSD as part of its Reporting matters initiative – a project which analyses sustainability reporting of the organization’s member companies. This year, alongside the data from Reporting matters, we build on an internal survey on integration of SDGs, as well as on external benchmarks and analysis to explore trends in human rights strategy and performance of WBCSD members.

Human rights-related disclosures

Our research into human rights indicates that disclosure practices among member companies has come a long way and highlights several trends.

This year, 89% of member companies analyzed commit to respect human rights through a public statement or policy, indicating human rights

responsibilities being embraced at a policy level. This represents a – statistically insignificant - two-point drop from 2017, but still a significant increase on the findings from a member survey conducted in 2014 as part of [WBCSD’s Scaling up Action on Human Rights report](#), in which only 60% of respondents outlined a clear corporate position on human rights.

Figure 2. Key findings from WBCSD’s analysis of human rights reporting trends in 2018

Policy	
89%	Publicly commit to respect internationally recognized human rights
89%	Communicate human rights position to business partners
73%	Disclose staff training on human rights
Due Diligence	
61%	Report on processes in place to identify and assess adverse human rights risks and impacts along supply chain
37%	Provide details on how company integrates findings of human rights impact assessments into actions to prevent and mitigate issues
13%	Disclose details on how effectiveness of human rights responses is tracked
Remedy	
44%	Provide details on grievance mechanisms

The next challenge of course is to ensure that policies translate into tangible actions. Our analysis signals that human rights commitments are being communicated to business partners (89%) and are being integrated into training of employees (73%). Though only 61% report on processes that they have in place to identify and assess adverse human rights risks along their supply chains, which we take as indication that more needs to be done.

It's also clear that there's still substantial work to be done to roll-out comprehensive human rights due diligence and remediation systems as prescribed by the UNGPs. At present, 37% of WBCSD member companies provide details on integrating and acting upon human rights impact assessments, while just 13% disclose details on how they track the effectiveness of their response to human rights impacts. The findings of this analysis are summarized in Figure 2 above.

The UK Modern Slavery Act (MSA) requires companies to publish an annual statement detailing the steps they have taken to tackle modern slavery in their operations and supply chains. Every year since the adoption of the MSA, the [Business & Human Rights Resource Centre](#) (BHRRC) assesses the largest UK-based companies (FTSE100) on how well they fulfil the requirements laid out by the legislation. The reporting performance varies greatly, with the highest score at 78% and the lowest at 6%. Out of 100 companies assessed by BHRRC, seven are WBCSD members. Three of them – Diageo, Unilever and BT - are in the top 10, and only two member companies score below the overall average of 31%.

In 2018 the [Corporate Human Rights Benchmark](#) (CHRB) released its second assessment of 101 companies from the Extractives, Apparel and Agriculture sectors. Out of the 19 WBCSD members benchmarked, four showed leading performance and made it to the top 10. Most notably though, out of the five companies that were able to improve their score by more than 25 points since 2017, four are WBCSD members – ENI, Vale, Diageo, Danone - with three more joining the group if we extend the improvement since 2017 to more than 20 points. These companies show that substantial improvement is possible and that performance can be improved quickly.

[Know The Chain's benchmarks](#) of 40 ICT and 38 Food & Beverage sectors, include three and seven WBCSD members respectively, with the top ten performers in the Food & Beverage industry featuring five WBCSD members.

Both benchmarks highlight progress being made since the previous rounds of assessments. However, they equally emphasize that overall human rights performance remains low and call for business to increase and speed up their engagement on human rights.

Despite gaps, there remains a strong sense that the work of embedding the UNGPs into practice is maturing fast and moving in a positive direction, with a number of WBCSD members displaying marked leadership in this field; the challenge ahead is to accelerate progress by turning increasing levels of intention and action into coherent strategies and substantial performance improvements.

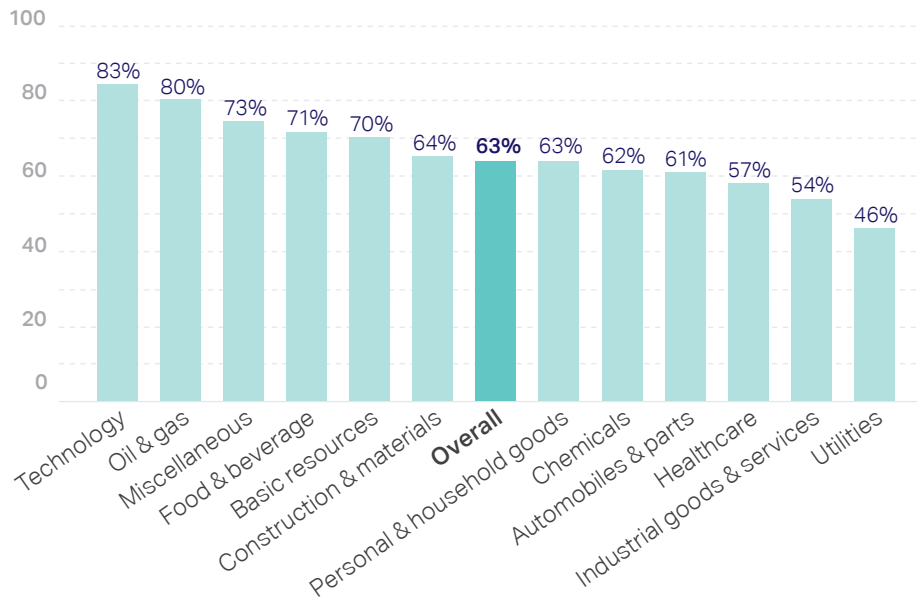
Saliency and materiality

The analysis carried out by the Reporting matters team is based on the review of WBCSD members' main source of sustainability disclosure. Generally, sustainability reporting applies the concept of "materiality", which focuses on risk-to-business. Hence, material human rights issues are those identified based on their impact on business and stakeholders.

Against this background, we analyzed to what extent WBCSD members included human rights in their materiality analysis. 63% of the 158 WBCSD member companies examined in 2018 considered human rights as material. However, the research shows significant differences between sectors. Human rights rank particularly high among companies in the technology (83%) and the oil & gas (80%) sectors, while less than half of Utilities businesses consider human rights material to their business. Figure 3 provides an overview of the research results.

It should be noted that, business and human rights frameworks emphasize the concept of "saliency." Salient human rights issues refer to those human rights that are at risk of the most severe negative impact through a company's operations and business relationships. Hence, saliency focuses on risk to people as the starting point for businesses' human rights due diligence.

Figure 3. WBCSD member companies considering human rights as material, by sector.



Risks vs. opportunities

Often, corporate respect for human rights is viewed as simply a matter of compliance or risk management. Looking at the issues most commonly mentioned we see child labor and forced labor being covered respectively by 25% and 24% of companies discussing human rights in their sustainability reports.

Interestingly, how companies address the SDG agenda seems to be quite the opposite. A survey WBCSD carried out in cooperation with DNV GL earlier this year, reveals that when it comes to interacting with the SDGs, companies are focusing predominantly on the positive impacts that they can have. 69% of companies surveyed take steps to identify their positive impacts on the SDGs while only

36% take action to identify their negative impacts. Similarly, 43% use the SDGs to identify business opportunities linked to the SDGs, while only 33% use them to consider emerging operational, regulatory or operational risks. This represents a marked difference in the way companies approach the human rights and the SDG agendas.



3

The road ahead

Increasing transparency

[WBCSD's Reporting research](#) shows there has been exponential growth in the number of human rights related reporting requirement across all regions, increasing from 25 in 2010 to 89 in 2017, with no signs of this growth abating. It is increasingly understood that all companies are exposed to human rights issues, either directly or through their business relationships – and businesses are being pushed to openly acknowledge this and to demonstrate their responses.

As a result, the quality of corporate reporting is increasingly being used as a proxy for companies' human rights performance, in regulation as well as in benchmarks. Expectations are set to rise, pushing companies to disclose not only their human rights policies, strategies and systems, but the effectiveness of those responses. The rise of an increasingly sophisticated field of research and guidance will continue to help companies to advance in this area, with examples including the [Human Rights Reporting Framework](#) and the new [Valuing Respect](#) project, launched by Shift.

International regulation

Discussions on a legally binding international treaty on business and human rights will continue at the UN Human Rights Council. The current draft treaty, put forward by Ecuador, aims at imposing obligations on home and host states to hold companies liable under their domestic criminal, civil and administrative laws for

human rights violations in the context of transnational business activities. The draft echoes some of the elements of the UNGPs but diverges from them.

At present, the draft does not have majority support and there are limited negotiations and discussions among governments, which indicates that the process may be heading towards an impasse. While it is difficult to predict the next steps with any certainty, there could be three possible scenarios: (1) a conclusion of the negotiations and the proposal for ratification of a new treaty, (2) prolonged negotiations over many years, or (3) the end of this process without any decision followed or not by a new process to elaborate a business and human right treaty.

Whichever scenario is realized, there is a clear trend towards regulatory developments as evidenced by new human rights related regulations in a growing number of jurisdictions. This is compounded by increased interest and scrutiny from the investment community. Advancing corporate respect for human rights and achieving the UN Sustainable Development Goals (SDGs) will entail the ongoing evolution of both voluntary and regulatory measures. It is in the interest of business to continue and accelerate its work to fully respect human rights, and to inform, support and advocate for government implementation of the State Duty to Protect human rights. Not only are the rights of the most vulnerable at stake, but business thrives when operating in jurisdictions with stable operating environments that support rule of law, justice, human rights, and sustainable development.

Integrating the human rights agenda

Human rights have traditionally been a niche area within business – the subject matter is complex, the issue landscape is evolving rapidly, practitioners use highly technical language and there can be legal ramifications that are not always clear. But companies are now approaching human rights in proactive, systemic ways and bringing the subject into the mainstream. This trend is set to increase as companies move towards putting people first in their strategies and materiality assessments. In line with expectations from governments, investors and society, forward-looking companies will include salient human rights risks in their material issues by looking through the lens of impacts on people as well as on the bottom line.

This is likely to dovetail with the strengthening connection between human rights and the SDGs, bringing a traditionally risk-based agenda into companies' goals and aspirations. While addressing negative impacts may be the starting point for many efforts, the potential and aim of corporate respect for human rights should not just be to avoid harm: it should be to deliver meaningful and positive outcomes to the lives of people who are affected by business operations. As an example, when a company works towards rooting out forced labor from its supply chain, it is contributing to lift people out of misery and bondage and into a life of new freedom and hope.

Priorities for business

In light of the growing maturity of the business and human rights debate, and the fact that the relevant mechanisms

companies should have in place are increasingly well known, in the coming years business will be collectively more focused on improving the effectiveness of human rights-related actions. There are of course many factors to take into consideration as part

of this continuing discourse, but as a starting point when looking to navigate the road ahead, responsible businesses should look to address the following key areas:

1

Implement the UNGPs

Embedding the UNGPs into practice is a significant undertaking. Companies should continue on this transformative journey, improving their strategies and building upon their approaches as they go along. Implementing effective policies, training, due diligence measures, establishing grievance mechanisms and providing or cooperating in remediation will set companies in good stead for any future regulatory shifts.

2

Improve transparency

As human rights awareness increases among stakeholders, businesses will be expected to disclose not only their position on human rights, but the issues they faced, responses, and the effectiveness of their responses. Companies should focus on building a culture of transparency and developing indicators and targets to guide and communicate their human rights performance.

3

Elevate human rights

Salient human rights issues should increasingly be considered as part of a company's overall materiality analysis, effectively bringing human rights discussions to the level of corporate strategy. Companies should also ensure that SDG-related messaging and activities are aligned with the company's human rights strategy and that the two are mutually supportive.

4

Expand engagement

The actions above will not be possible without leadership at CEO and Board levels, as well as extensive collaboration to effectively tackle complex human rights issues that often extend beyond the boundaries of a single organization. This will be needed across functions within the company, with strategic partners by issue or geography, at industry, value chain or even system levels.

The work of embedding the UNGPs into practice is picking up speed, with mechanisms such as policy commitments, human rights training and risk assessments now routinely underway in many enterprises. The challenge ahead is to ensure that new practices translate into improved human

rights performance, impacting positively upon the lives of vulnerable individuals within companies' operations, supply chains, communities, customers and beyond.

Against this backdrop, WBCSD will continue to advocate for and support the work of its membership in scaling up action on the UNGPs and advancing respect for human rights with a view to enhancing companies' capacity to make significant contributions to the SDGs by putting people first.

AUTHORS

WBCSD Social Impact team

Filippo Veglio

Managing Director & Senior
Management Team

Kitrhona Cerri

Director

Davide Fiedler

Manager

Rohan Unny-Law

ABOUT WBCSD

WBCSD is a global, CEO-led organization of over 200 leading businesses and partners working together to accelerate the transition to a sustainable world. We help make our member companies more successful and sustainable by focusing on the maximum positive impact for shareholders, the environment and societies.

Our member companies come from all business sectors and all major economies, representing a combined revenue of more than USD \$ 8.5 trillion and 19 million employees. Our Global Network of almost 70 national business councils gives our members unparalleled reach across the globe. WBCSD is uniquely positioned to work with member companies along and across value chains to deliver impactful business solutions to the most challenging sustainability issues.

Together, we are the leading voice of business for sustainability: united by our vision of a world where more than nine billion people are all living well and within the boundaries of our planet, by 2050.

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CREDITS

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**World Business Council
for Sustainable Development**

Maison de la Paix
Chemin Eugène-Rigot 2B
CP 2075, 1211 Geneva 1
Switzerland
www.wbcsd.org

