



The implementation of Sustainable Development Goals and Business & Human Rights. From theory to practice or the proof of the pudding is in the pudding

It is hectic fall season for the business and human rights agenda. The issue is gearing up at different levels and on various fronts.

The introduction of the guiding principles on Business and Human rights led by professor John Ruggie and endorsed by the UN Human Rights Council in 2011 and the recent adoption of the EU directive on mandatory disclosing of non-financial information (including human rights) have prompted companies to address the issue proactively. 83% of corporate executives recently interviewed by The Economist Intelligence Unit responded that human rights are matter for business and not any longer only for governments. Recently, companies of the like of Unilever and Ericsson have published their standalone reports on human rights, using the UN Guiding Principles reporting Framework and hinting that they may be ready to switch from a “no harm” to a “promote” approach.

In Europe while the EU directive on mandatory disclosure of non-financial information will have to be translated into national laws soon, the Modern Slavery Act is coming into force this month in the UK, obliging companies turning over more than £36m pounds per year to produce an annual statement on their strategies to combat modern slavery practices in their supply chains. At EU level, rumours indicate that the new trade policy will wink at sustainability and human rights - and “trade for all” - raising questions on consequences and opportunities for corporates’ investments around the world.

In April the G7 declarations and B7 (industry) recommendations in Berlin spelled out the need for ethical supply chains while the Sustainable Development Goals recently adopted in New York have been anchored on the respect of human rights, as Ban Ki-Moon said during the UN Summit. In fact human rights are embedded in various goals such as the “promotion of sustained inclusive and sustainable economic growth, full and productive employment and decent work for all” as well as ending poverty and hunger, addressing inequality, ensuring healthy lives, inclusive education, access to water, sanitation, energy and more.

If the role of the private sector is emerging as a key driver of the implementation of SDGs and the human rights principles are at the core of this process, business and human rights should become even more compelling for all companies as we move forward into the implementation phase of the SDGs.

Giulia Di Tommaso
Legal, Public Affairs
and Sustainability Adviser

Rome, Italy – Bruxelles, Belgium
Mobile +39 331 332 1457

giuladitomaso@gdtom.eu
twitter: [@giuladitomaso](https://twitter.com/giuladitomaso)
www.gdtom.eu



The convergence of the soft law and pragmatic approach will put further pressure on companies to go beyond the “no harm” principle and will require implementation of more specific actions (e.g. specific policies and compliance/grievances mechanisms, as foreseen in UN Guiding principles on Business and Human Rights) as well as perhaps more “positive duties”, especially where companies are sole providers and where the context requires provision of health, education etc. Moreover, defining the precise scope and granular application of the “economic human rights” to business will require a new mind-set, including in academia and legal departments, as well as new training programs and capacity building as centres like the European Inter-University Centre for Human Rights and Democratization in Venice are trying to do, fostering know-how and nurturing a new generation of young human rights experts.

That the train has already left the station for many companies is also clear from recent US lawsuits against Mars, P&G and Nestle’ over alleged slavery in the pet food supply chain show. But business and human rights will have implications not only on the traditional monolithic corporations and vertical supply chains but also on the digital market. How will new players and platforms behave and comply with the new requirements, for instance on privacy and labour law? How can these platforms help deliver implementation of SDGs and human rights principles in their aggregation of individual activities? Perhaps these “disruptors” would also be included in the Corporate Human rights benchmark developed by a group of organizations that will be released in 2016?

While companies are moving ahead, what have governments been doing? In July the Council of the EU urged member states to advance on Business and Human rights and “develop and implement National action plans on the implementation of the UN Guiding Principles or integrate the UN Guiding Principles in national CSR strategies; share experience and best practice in the developments of NAPs”.

It is indeed ultimately the duty of the state to protect individuals from corporate violations at international law, improve the legal framework, create monitoring mechanisms and drive the improvement of domestic regulation of human rights as well as ensuring policy coherence.

Some Member States have already initiated such plans and some of them have followed open and structured consultation processes by involving directly representatives of the business community and civil society (Netherlands) and publishing the report through open communications plans with media and web engagements (UK). Last August Sweden has also joined the queue.

Giulia Di Tommaso
Legal, Public Affairs
and Sustainability Adviser

Rome, Italy – Bruxelles, Belgium
Mobile +39 331 332 1457

giuliaditomaso@gdtom.eu
twitter: [@giuliaditomaso](https://twitter.com/giuliaditomaso)
www.gdtom.eu



Business and Human Rights is a complex issue that requires multi-disciplinary and inclusive solutions (perhaps some similarities could be drawn from REACH experience). For some others it is going to be a “Pandora box” (with hope at the bottom, as the myth goes). Certainly what is happening now in terms of speed and flows of developments would have been simply unthinkable only ten years ago. It should be acknowledged that this is also thanks to huge efforts from institutions, NGOs and the private sector and some credit should go to the communications/public affairs and CSR/sustainability departments inside the companies who have been leading often against the odds.

As soon as companies start to realise that the issue may impact the bottom line through erosion of reputation and share price they will grab the opportunity of integrating sustainability and human rights in the business operations. Some of them are already identifying the risk to human rights inside the business, focussing on the human rights considered salient, engaging the CEOs (as well as the CFOs) and starting to use the reporting mechanisms as behavioural-change tools.

But companies will also need to review their codes of business principles and practises, making sure that the human rights are materially embedded into compliance processes, reaching out all levels of the organization and making sure that human rights are not left only at the policy level. Many companies are already incorporating human rights into the training systems as well as in the selection of suppliers and moving away from a project-driven approach. Systemic integration into existing rules and systems (like in Italy Law 231/01, or the ethics/CSR ranking regulation of the antitrust authority) or in traceability systems should also be envisaged.

Grievances mechanisms and remedies will have to be introduced or strengthened (such as whistle blowers, leniency programs) or new partnerships with suppliers envisaged – where minimum mandatory requirements on human rights are identified as building blocks to enhance continuous monitoring and improvement benchmarks (as often termination of the contract is the last resort) and even stretching to reviewing the existing contractual frameworks to new “human rights viable” ones.

Of course it remains to be seen how, beyond sustainability strategies, compliance, reporting tools and new contractual instruments, exercising ethics consciousness inside the corporation will play a critical role in addressing seriously what is now an inescapable encounter. After all, results will not be measured on mere promises and policies. The proof of the eating will ultimately be in the pudding.

Rome, 9th October 2015

Giulia Di Tommaso
Legal, Public Affairs and Sustainability Adviser
giuliaditommaso@gdtom.eu
www.gdtom.eu
CISL, Cambridge Business and Sustainability Program Alumni

Giulia Di Tommaso
Legal, Public Affairs
and Sustainability Adviser

Rome, Italy – Bruxelles, Belgium
Mobile +39 331 332 1457

giuliaditommaso@gdtom.eu
twitter: @giuliaditommaso
www.gdtom.eu