

PURPOSE

Developed by industry-leading companies – in dialogue with experts from academia, civil society, government, and corporate law – this document introduces a high-level business rationale for engineering and construction companies to promote the rights and welfare of workers in their operations and supply chains. Beyond important moral considerations, an increasing array of stakeholder and regulatory drivers create a robust case for companies to implement responsible human rights policies and practices. In today's globalized infrastructure market, improving worker welfare within your organization and in project execution has significant implications for productivity, compliance, reputation, competitiveness, and the ability to secure and retain investment.

“Not only is it the right thing to do, it's the smart thing to do.”

– Chief Operations Officer, Multinational
Engineering & Construction Firm

STAKEHOLDER EXPECTATIONS

Clients

Increasing numbers of clients are embedding human rights criteria into their bid solicitations and decision-making. Having a strong worker welfare program allows engineering and construction companies not only to be competitive in the tender process but to serve their customers by (1) ensuring safe and timely project completion, and (2) mitigating clients' risk of exposure to operational, reputational, and/or legal setbacks attributable to poor worker conditions.

“The world's leading oil and gas companies prioritize the health, safety, and welfare of workers, and are increasingly seeking to engage with contractors who not only share these values but have concrete human rights policies and practices in place for their operations and supply chains.”

– Brian Sullivan, Executive Director, IPIECA – the global oil and gas industry association for environmental and social issues

Government

Governments are both regulators and clients of engineering and construction companies. In their regulatory capacity, governments can revoke companies' licenses to operate based on failure to meet legal requirements or social expectations related to human rights. In their role as procurers of construction, governments are increasingly considering human rights in their decision-making. The UK Public Contracts Regulations, for example, exclude bidders from participating in public procurement if they have been found guilty of a Modern Slavery Act 2015 offense. The US Federal Acquisition Regulation (FAR) was updated in 2015 with new human trafficking rules, requiring compliance plans for specified contracts exceeding \$500,000 USD.

Human Rights Requirements in Public Procurement

Examples of governments with human rights and labor standards in public procurement include:

- **European Union** (EU Public Procurement Directive 2014/24)
- **United Kingdom** (UK Public Contracts Regulations)
- **United States** (US Federal Acquisition Regulation)
- **Switzerland** (Swiss Federal Act of Public Procurement)
- **Sweden** (Swedish County Councils procurement rules)
- **Denmark** (Danish SKI Framework Agreement)

Shareholders & Financial Institutions

Institutional investors are increasingly exercising “active ownership” while conducting their fiduciary duties and delivering long-term shareholder value. They leverage tools like the UN Principles for Responsible Investment (PRIs), which guide investors in considering environmental, social, and governance issues that could affect portfolio performance. Additionally, human rights are becoming a more prominent feature of the due diligence that banks undertake when issuing financing and participating in IPOs.

Failure by a company to manage potential human rights issues constitutes a latent risk for financiers, as the failure may lead to a “crisis” such as the revelation of poor labour conditions or strikes and protests that disrupt project operations, causing a devaluation in the company's share price. Investors find such events difficult to predict without direct community engagement, and therefore rely on companies' human rights procedures to assess the prospect of these risks manifesting.

“Indeed, the public expectations of your company have never been greater. Society is demanding that companies, both public and private, serve a social purpose. To prosper over time, every company must not only deliver financial performance, but also show how it makes a positive contribution to society.”

– Larry Fink, Chairman & CEO, Blackrock
(Annual Letter to CEOs, 2018)

Employees & Workers

Proactive, comprehensive management of worker welfare leads to better performance on-site, preventing disruptions to projects such as work stoppages, which commonly occur even in jurisdictions that prohibit worker protests. Studies have demonstrated correlations between employee engagement and productivity, which appear to hold true for unskilled and low-paid workers. Safer working conditions lead to lower rates of absenteeism and turnover and to higher levels of performance and productivity overall. In regions like the Middle East Gulf where there is a high reliance on migrant workers, lower turnover also means a reduced need to recruit additional foreign workers, a process fraught with complex human rights risks.

Civil Society & General Public

Technological advances and mounting expectations for responsible business practices have led to increasing reputational risk associated with inattention to human rights. Recent corporate benchmarking initiatives, such as JUST Capital's rating, use public polling data in their scoring methodologies. Others, like the Corporate Human Rights Benchmark, factor negative press into rankings. The Organisation for Economic Co-Operation and Development (OECD), consisting of 35 countries including most European countries and the US, has a mechanism for hearing complaints that can result in public recommendations, including that a company provide remedy for adverse human rights impacts.

Conversely, there are material benefits for companies that lead on human rights. A 2015 study demonstrated a correlation between responsible corporate practices and higher returns on investment (ROI). Public perception of companies' ethics and values also has increasing implications for attracting and retaining talent, particularly among millennial and Gen Z populations.

Business in the Spotlight for Human Rights

MAY 2018

Company performance at risk from ignoring human rights, say investors

DECEMBER 2017

Federally Backed Mine Accused of Human Rights Abuses

MAY 2011

Sixty big name brands continuing to use sweatshop labour

LEGAL & REGULATORY DRIVERS

There is a widening array of human rights reporting requirements for business, led by the UK, EU, and France. By mandating transparency, these laws aim to facilitate scrutiny of companies' human rights performance by investors and other stakeholders. The trend will continue: Australia and Hong Kong are proposing similar legislation, and the Netherlands is debating a law that would require companies to conduct due diligence to address child labor.

Transnational claims have been brought against parent companies in civil courts in the US, UK, Germany, Canada, and elsewhere, alleging liability for harms caused by subsidiaries and suppliers. Beyond potential damages and settlement costs to a parent company, high-profile disputes come with significant additional costs including legal fees, stock price declines, terminated or strained relationships, and other reputational impacts.

Activist shareholders have also exhibited a growing tendency to bring legal actions against companies focused on human rights issues, as well as resolutions seeking to compel the adoption of policies and procedures in this area.

Human Rights Reporting & Due Diligence Requirements

Jurisdictions that have established or are developing laws requiring businesses to report on their management of human rights include:

Existing laws

- **United Kingdom** (UK Modern Slavery Act 2015)
- **France** (French Duty of Vigilance Law 2017)
- **European Union** (EU Non-Financial Reporting Directive 2014/95)

Emerging laws

- **Australia** (Australian Modern Slavery Bill, anticipated mid-2018)
- **Hong Kong** (Hong Kong Modern Slavery Bill 2017)
- **Netherlands** (Dutch Child Labour Bill 2017)
- **Switzerland** (Swiss Federal Constitution, proposed amendment on the responsibility of business)

NEED FOR CONCERTED AND SPECIFIC ACTION

As required by the UN Guiding Principles for Business & Human Rights – and increasingly mandated by 21st-century regulatory and stakeholder environments – companies must take steps to respect and remedy potential and actual human rights abuses, including when those abuses are indirectly caused by the company's activities or interests.

Business leaders are establishing governance frameworks for risk-based human rights policies, defining clear roles and accountabilities, and making strategic changes to business practices throughout the operational lifecycle. Human rights and worker welfare must be integrated into day-to-day activities across business functions (e.g., health and safety, procurement, legal, ethics and compliance, human resources, project management), not siloed within the corporate responsibility team.

To support internal progress, companies must also engage in cross-industry collaboration. Pre-competitive standard-setting regarding human rights is common practice in other industries and is gaining momentum among leading engineering and construction firms via Building Responsibly and complementary initiatives.

Ultimately, the challenges posed by today's complex supply chains and diverse workforces cannot be tackled by one company alone. Working together, we can make significant progress in promoting the rights and welfare of workers. Doing so will benefit workers, communities, and companies across our industry.

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