



British Institute of  
International and  
Comparative Law

NORTON ROSE FULBRIGHT

## Executive summary



## Major differences between companies which carried out specific human rights due diligence and those which engaged other types of review mechanisms

Almost ½ of respondents had never conducted a due diligence or risk assessment process that was expressly focused on human rights.

77 per cent of respondents who had conducted a specific human rights due diligence process identified actual or potential human rights impacts linked to their operations during the process.

19 per cent of respondents who did not conduct specific human rights due diligence identified adverse human rights impacts linked to their operations.

74 per cent of respondents who had conducted a specific human rights due diligence process identified actual or potential human rights impacts linked to activities of their third party business relationships.

29 per cent of respondents who did not conduct specific human rights due diligence identified adverse human rights impacts linked to activities of their third party business relationships.

## Top incentives for conducting human rights due diligence

- reputation
- avoidance of legal risk
- compliance with reporting requirements
- compliance with applicable laws

## Human Rights Due diligence legal framework

It is clear human rights due diligence is assuming a hard law dimension through:

- Corporate law
- Reporting obligations
- Slavery and human trafficking regulations
- Sector and region specific regulation
- Industry standards and law
- Legal claims for remedies for human rights impacts
- Directors' duties
- Investor requirements
- Procurement rules
- CSR requirements
- State-based grievance mechanisms such as OECD National Contact Points.

## Prevalent challenges

Determining “how far is far enough” when engaging in **supply chain due diligence** is a challenge for many businesses.

Information on third parties or country-specific human rights risks is not readily available.

It is difficult to change a company’s focus from risk to the business to impacts/risks to rights-holders.

Managing responsibility for impacts caused by third parties is a common issue.

## Practical tips

**Contractual provisions** (including specific human rights clauses) are the current most common action used to prevent, mitigate or remedy adverse impacts followed by **codes of conduct, inspections** and **training**. The effectiveness of these other tools can be facilitated through clauses in contracts with counterparties (e.g. requiring inspection rights or compliance with codes).

The main methods for identifying **human rights impacts** are desktop research and studies, audits, (internal or external) investigations, independent expert reports and stakeholder and supplier consultations. Grievance mechanisms seem to be under-utilised.

**Human rights-specific training** enables a company to capitalise on the important preventative impact of training.

Human rights due diligence is most effective where it is **cross-departmental**, including involvement from CSR, legal, operational and the board.

A **collective approach** between companies assists significantly where individual company action is unlikely to result in change.

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