



COP26 Policy Brief: Human Rights: A Framework to Incentivise Reduced Industrial Emissions

Legal frameworks around human rights offer a means to incentivise corporate behaviour to protect the climate

KEY POLICY RECOMMENDATION:

Including the consequences of climate change within Human Rights Due Diligence can give governments a powerful tool to incentivise changes in corporate behaviour and reduce emissions.

Background

In May 2021, a Dutch court decided that Shell has a duty of care in relation to climate change and obliged the oil & gas multinational to reduce the CO₂ emissions of its entire group's activities by net 45% by the end of 2030 relative to its 2019 emissions. In reaching this conclusion, the court relied on the UN Guiding Principles on Business and Human Rights 2011 (UNGPs), in which it is set out that companies do have a responsibility to respect human rights, including those impacted by environmental damage and climate change. This decision – and recognition that companies bear responsibility for the human consequences of their impact on the climate – creates a valuable tool that governments can use to drive changes in corporate behaviour and reduce emissions.

Research at Nottingham

Research at Nottingham has explored the concept and practice of human rights due diligence (HRDD), a core part of the UNGPs in relation to the corporate responsibility for human rights. HRDD is a process through which companies can identify, prevent, mitigate and account for their actual and potential human rights impacts. These are the impacts which companies cause, contribute to, or are directly linked to by their business relationships (e.g. a supply chain).

HRDD has been brought into legislation by some countries. For example, France passed the Duty of Vigilance Act in 2017, imposing a mandatory due diligence requirement for human rights and environmental impacts on companies with more than 5,000 employees or 10,000 employees worldwide. There is similar legislation in Germany, the Netherlands and Norway. The EU is committed to introduce legislation this year. The UK Modern Slavery Act was a forerunner of these developments, though it is limited to a few human rights and has no effective enforcement process.

There is strong support from a wide range of companies for such mandatory HRDD legislation. In a major report for the European Commission, a large survey of companies showed that 75% of company respondents wanted



a harmonised HRDD legislation across the EU. It also showed that there were some additional costs to business but no detriment to innovation or competitiveness. Companies want clarity in their reputational, legal, operational and financial risks and often acknowledge their social and environmental responsibilities, and investors are increasingly considering environment.

Implications for Climate Change

Framing COP26 is an opportunity to incentivise companies to act to prevent and reduce their activities which impact on climate change and to provide effective sanctions if they do not. There should also be pressure on companies themselves to act now and not wait for such legislation. These actions should be based on the existing responsibilities which companies do have in this area, as shown by the decision against Shell.

Further Reading

Read the [full article](#)

Read the [COP26 blog](#)

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