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Parliamentary Briefing: A UK ‘Business, Human Rights and Environment Act’

September 2022

Summary and recommendations

- We urgently need a new UK law to hold companies to account when they fail to prevent human rights abuses and environmental harms in their global value chains.
- A new law is called for by UK [civil society organisations](#), trade unions, [businesses](#), [investors](#), and more than [120,000 people](#) in the UK who have signed a petition. YouGov [polling](#) shows four in five people in Britain want new laws to make sure businesses stamp out environmental damage and exploitative practices in their supply chains.
- It would align with advances being made in [many other countries](#), would help the UK to deliver its “Global Britain” [vision](#) to “act as a force for good in standing up for human rights around the world” and demonstrate its renewed leadership on business and human rights.
- A new law would provide a stronger, overarching framework for tackling irresponsible business conduct across all internationally recognised human rights and environmental harms, including those tied to public procurement, that would complement and go beyond existing sectoral or issue-specific legislation approaches, while reducing the overall compliance burden for business.
- To be effective, a new UK law must: include a duty to prevent harm; mandate all companies to undertake ‘[human rights and environmental due diligence](#)’ across their supply and value chains, including all business relationships, and; hold companies liable when they fail to prevent harm, providing access to justice for victims and placing the burden of proof – proving that they did all they reasonably could to prevent harm - on companies.
- A UK law should be modelled on the world-leading ‘failure to prevent’ model of the 2010 Bribery Act - as already [recommended](#) by Parliament’s Joint Committee on Human Rights and [identified](#) as legally feasible by the British Institute of International and Comparative Law.
- **We urge you to express your support in Parliament at every available opportunity, to ask questions, join debates and sign motions/pledges in support of this call.**

The UK: maintaining leadership

- UK companies have a responsibility to respect human rights, workers' rights and environmental standards wherever they operate. The UK has [committed](#) to implement internationally recognised standards, including the [UN Guiding Principles on Business and Human Rights](#) (UNGPs), the [OECD Guidelines for Multinational Enterprises](#) and the [ILO Declaration on Fundamental Principles and Rights at Work](#). The UK is also a state party to a number of international human rights and environmental treaties it must uphold. However, serious human rights abuses and environmental harms continue to take place in the global operations, products, services and supply chains of businesses operating in the UK of all sectors and sizes, including land grabs, attacks on human rights defenders, deforestation, and labour rights violations including modern slavery, child labour, union busting and discrimination.
- Global progress to end child labour is [stalling](#) for the first time in 20 years; [50 million](#) people are estimated to be living in [modern slavery](#), 75% of whom are women and girls; women workers, who make up the majority of low-paid workers worldwide, are [disproportionately impacted](#) by unjust business practices such as apparel brands cancelling orders without payment; indigenous peoples' rights, including to their land, territories and resources and Free, Prior and Informed Consent are routinely [ignored](#); against a backdrop of increasing deforestation, environmental degradation and biodiversity loss, human rights and environmental defenders are suffering a [record number](#) of attacks, while attacks on trade unions and abuses of workers' rights are at an [eight-year high](#).
- Companies are not carrying out adequate voluntary human rights due diligence. The [KnowTheChain project](#) scores global companies an average of 29/100 on due diligence procedures, with only 2% of companies taking "advanced steps" to assess and mitigate their human rights risks. The [Corporate Human Rights Benchmark's 2020 update](#) scores companies 2.3/10 for their voluntary action on human rights due diligence.
- The UNGPs call on states to consider "[smart mix](#)" of measures, including national-level, mandatory laws. There has since been a global trend towards embedding the corporate responsibility to respect human rights, and the environment, into law. The 'Transparency in Supply Chains' requirement in the UK Modern Slavery Act was part of the first generation of such laws. However, as Parliament's BEIS Committee reported in March 2021 with specific reference to forced labour in Xinjiang, it is "[not fit for purpose](#)" in ensuring supply chains are free from forced labour. As [research](#) highlights, available evidence suggests that mandatory human rights due diligence legislation holds "*greater promise [than disclosure regulations like the Modern Slavery Act] of catalysing comprehensive and effective change in corporate practices*".
- Several states around the world have since introduced obligations going beyond transparency, including taking *preventative action* based on reporting (e.g., the [Netherlands](#)) and combining such obligations with *legal liability* when damage and loss occur (e.g., [France](#)). Laws going beyond the Modern Slavery Act are being developed or enhanced in [Germany](#), France, [Switzerland](#), the [Netherlands](#), [Belgium](#), [Norway](#), [Finland](#) and [New Zealand](#), among others.
- The 2022 G7 [Leaders' Communiqué](#) stated a commitment to "*coherent implementation of and compliance with international standards relating to human rights, environment, and labour across global supply chains*", including via, "*mandatory measures that protect rights-holders, provide for greater multilateral cooperation to address abuses, and support remedy, thus enhancing predictability and certainty for business.*"

The urgent need for a 'level playing field'

- In February 2022, the European Commission tabled a proposal for an EU-wide Directive on '[Corporate Sustainability Due Diligence](#)', that includes civil liability and a duty to undertake due diligence. This is set to apply to UK companies operating in the Single Market with turnover above a [specific threshold](#).
- If the UK fails to keep pace with regulations on this issue in other jurisdictions, it will put UK business at a competitive disadvantage, while also [increasing](#) the compliance burden for UK businesses set to fall in scope of a new EU law.

- UK businesses including the British Retail Consortium, the John Lewis Partnership, Tesco, Sainsbury's and Twinings are [calling](#) on Government to: "...urgently bring forward ambitious primary legislation to mandate companies to carry out human rights and environmental due diligence [HREDD]. To level the playing field in practice, the requirement needs to be accompanied by consequences that will be strong enough to ensure that businesses that fall within the scope of the legislation carry out HREDD to a high standard and that victims have access to justice."
- UK investors representing £4.5 trillion in assets under management – including Legal&General, abrdn, Jupiter and CCLA - call for a UK 'Business, Human Rights and Environment Act' inclusive of legal liability for harm, [stating that](#): "The investment community views rigorous due diligence legislation as good for businesses, investors, the economy, and the people it serves... Mandated human rights and environmental due diligence should be cross-sectoral, covering the operations and value chains of all business enterprises and financial institutions, public and private, domiciled or based in, operating, or offering a product or service within the UK."
- In *Okpabi v Shell*, the UK Supreme Court in 2021 [ruled](#) that under English common law parent companies can now have - under certain circumstances, such as the adoption and implementation of group-wide policies - a duty of care to stakeholders affected by the acts of their subsidiaries. A new law is needed to level the playing field between responsible businesses that will not change their practices after this ruling and irresponsible businesses that may seek to evade common law liability by changing their practices.

Widespread support for a new law

- **Business and investors:** UK businesses are [calling](#) for a new UK law, inclusive of mandatory due diligence, stating that: "Legislation can contribute to a competitive level playing field, increase legal certainty about the standards expected from companies, ensure consequences when responsibilities are not met, promote engagement and impactful actions between supply chain partners and, above all, incentivise impactful and effective action on the ground." This builds on [research](#) which finds that a majority of UK companies surveyed believe that they lack clarity and certainty on their human rights obligations, of which a majority believe a new UK law could provide, and [research](#) from Justice and Care which shows that "businesses and other stakeholders prefer regulation that applies to all human rights to allow them to prioritise and respond to the most severe risks".
- **UK public:** YouGov [polling](#) shows four in five people in Britain want a new law to stop exploitative practices and environmental destruction in company supply chains, and that 75% support this across all ages, regions Remain/Leave Brexit voters and those who voted Conservative, Labour or Liberal Democrat at the 2019 General Election. More than 120,000 people have signed a [UK petition](#) calling on MPs to bring in a new UK law: "We need a new law to hold business, finance and the public sector to account when they fail to prevent supply chain human rights abuses and environmental harms."
- **UK Parliament:** The Joint Committee on Human Rights [recommends](#) that: "... the Government bring forward legislation to impose a duty on all companies to prevent human rights abuses...[which] would require all companies to put in place effective human rights due diligence processes [...] both for their subsidiaries and across their whole supply chain." In its "Xinjiang Detention Camps" inquiry, Parliament's Foreign Affairs Committee [recommended](#) the Government "introduce new legislation that will create a legal requirement for businesses and public sector bodies to take concrete measures to prevent and remove the use of forced labour in their value chains".

A UK 'Business, Human Rights and Environment Act': further detail

- A new law must hold UK companies and the public sector accountable if they fail to prevent harmful human rights or environmental impacts at home or abroad. The law must include effective and deterrent **sanctions and liability provisions** (civil and criminal, with joint and several liability for commercial organisations) and provide for effective access to justice for victims. In June 2022, the [Law Commission](#) included an option

of a 'failure to prevent' human rights abuses offence as one of its proposals for how the Government can improve the law to ensure that corporations are effectively held to account for committing serious crimes.

- The law would require commercial organisations to conduct **human rights and environmental due diligence** across their operations, subsidiaries and value chains to identify, address and remedy the actual and potential impacts that their activities pose to rights-holders both in the UK and globally. The rights of women, children and indigenous peoples should be embedded throughout the due diligence process and in its outcomes.
- A new 'Business, Human Rights and Environment Act' would build on the Environment Act's Due Diligence Schedule (17) and the Modern Slavery Act's Transparency in Supply Chains S.54 requirement. The Environment Act's due diligence requirement focused only on products associated with illegal deforestation ignores the specific [recommendation](#) of the Government-convened Global Resource Initiative taskforce to address **human rights as well as environmental risks and impacts**.
- A new law would allow **domestic enforcement of international standards**. A [2021 legal opinion](#) commissioned by the Business and Human Rights Resource Centre, after a 2020 independent review commissioned by Boohoo into alleged violations in its supply chain, found that: "... *there may be evidence of breaches of the United Nations Guiding Principles on Business and Human Rights...[but] it has no force of law in the UK and thus a breach could not by and of itself amount to the commission of a criminal offence.*" It argues that: "*Boohoo could have been found liable for breaches of the Guiding Principles under mandatory human rights due diligence/UK 'failure to prevent' legislation in the form of the BIICL Model Legal Provision, had such legislation been in place during the relevant period of time.*"
- Business enterprises must provide for or cooperate in the **remediation of adverse impacts** in their global value chains and within their operations and business. Remedies may include, but are not limited to, financial or non-financial compensation, reinstatement, apologies, restitution, rehabilitation, contribution to investigation, as well as the prevention of additional harm.
- There must be mandatory safe and **meaningful engagement with rights-holders and stakeholders** who are affected by companies' activities. Affected or potentially affected rights-holders and stakeholders must be given a meaningful role in implementing and monitoring mandatory human rights and environmental due diligence.
- The law should cover companies in **all sectors and of all sizes** carrying out business in the UK, with the scope of a company's actions determined by its size, sector and activities: the UNGPs, OECD Guidelines and Bribery Act Guidance all note that due diligence conducted by small and medium-sized enterprises (SMEs) should be proportionate to the risks posed by their operations, with [research](#) highlighting no resultant disproportionate negative impacts for SMEs. The finance sector would be included, as would public sector bodies, including government departments, local authorities, development finance agencies and UK Export Finance.
- This law should be modelled on the civil and criminal duties to prevent tax evasion and bribery found in the Criminal Finances Act 2017 and the **Bribery Act 2010**.
- To ensure that the law is effective and responds to the issues at stake, civil society organisations and trade unions - including affected or potentially affected stakeholders - must be **meaningfully consulted** to inform its drafting.

For more information, suggested Parliamentary Questions/next steps please contact:

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