

US COMPANIES LEADING THE WAY ON BUSINESS AND HUMAN RIGHTS

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Legal Briefings

US companies are overwhelmingly taking greater steps to monitor and protect human rights and face more pressure from shareholders, investors and lenders to adopt a human rights position compared to the global average, according to our survey of global GCs.

While businesses across the globe are increasingly putting human rights on their agenda, it is the Americans that are leading the charge according to a joint survey between Herbert Smith Freehills and Legal Business.

The survey of 275 senior in-house counsel at organisations headquartered around the globe and across a range of sectors found that 60% of US companies (compared to 51% of companies globally) had changed their supply chain management practices to incorporate human rights duties, including as part of an increased focus on ethical sourcing.

US senior management are far more aware than their global counterparts that their organisations may be held liable for non-compliance with unilateral commitments on human rights, with 51% compared to a global average of just 35%.

Stéphane Brabant, co-head of Herbert Smith Freehills' business and human rights group said corporates were increasingly recognising that failing to respect human rights carried real legal risks as well as reputational, financial, and operational risks that all need to be anticipated.

"Companies and lawyers need to change their mindsets. Hard sanctions can increasingly be imposed via soft law mechanisms, or by what can be described as 'new judges' (any stakeholders) and companies must anticipate and get ahead of this risk," Stéphane said.

“We have come a long way from a few decades or even a few years ago when some multinationals did not feel concerned by human rights and did not want to hear about respecting human rights. Developments including the approval in 2011 of the UN’s Guiding Principles on Human Rights and Business have seen some of the very same companies become model citizens.”

“There is now a growing recognition among corporates, as reflected by our survey, that human rights are not a law free zone for businesses and business’ obligation to respect human rights in their supply chains is no longer an option, it is a necessity.”

Herbert Smith Freehills partner Daniel Hudson said because there was the potential for litigation and enforcement if companies did not live up to their commitments, it was vital in-house counsel were on top of pledges being made and public statements relating to human rights.

“It is also important for companies to go beyond what is strictly required under the law, they need to look beyond the strict legal litigation risks and consider reputation risk. Customers, shareholders, NGOs and lenders will expect them to be doing this and meeting high standards,” Dan said.

The survey also revealed that 85% of US of senior in-house counsel (compared to 66% globally) believe the growing momentum for international and national standards and legislation on human rights is an opportunity for their organisation, with only 15% seeing this as a risk. More than three quarters (78%) had taken steps to raise awareness of human rights in their organisation.

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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