

SURVEY: CORPORATES TAKING ACTION ON HUMAN RIGHTS

13 October 2016 | Global
News

Businesses across the globe are increasingly putting human rights on their agenda, with a joint survey between Herbert Smith Freehills and Legal Business revealing that corporates are taking action, including changing how they manage their supply chains, because of human rights concerns.

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

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."

Almost half (46%) of the respondents to the survey said their organisation had made a public commitment to respect human rights, with 51% saying this took the form of a code of conduct for suppliers and 44% saying this was via a formal human rights policy. However, 22% of respondents were unsure whether their organisation had made such a commitment.

In response to the question of whether senior management were aware that their organisation may be held liable for non-compliance with its unilateral commitment on human rights, 65% of the respondents said they were either not aware, unsure or only partially aware. Only 35% said senior management were fully aware.

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 66% of senior in-house counsel believe the growing momentum for international and national standards and legislation on human is an opportunity for their organisation, with only 34% seeing this as a risk. More than half, 60%, of legal teams had taken steps to raise awareness of human rights in their organisation.

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