

# U.K. Criminal Offense: “Failure to prevent human rights abuses”?

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The ***UK Joint Committee on Human Rights*** – comprised of members of both Houses – has published a [report](#) calling on the U.K. government to take significant further steps to improve corporate human rights practices, including criminalising “failure to prevent human rights abuses”.

The Committee acknowledges that the U.K. Government’s introduction of reporting requirements under the U.K. Modern Slavery Act 2015, and the publication of the first National Action Plan to implement the U.N. Guiding Principles on Business and Human Rights, have effected a change in corporate behaviour. However, the report urged the Government to introduce stronger regulation.

## The Recommendations

Reminding the Government of its National Action Plan commitment to “support, motivate and incentivise U.K. businesses to meet their responsibility to respect human rights throughout their operations both at home and abroad”, the Committee called for:

- an obligation on large companies to put in place human rights due diligence processes both for their subsidiaries and across their whole supply chain, with appropriate monitoring and enforcement procedures;
- civil remedies against parent companies when human rights abuses occur;
- a criminal offence of “failure to prevent human rights abuses” for all companies, including parent companies;
- government power to publish a list of all companies required to publish a modern slavery statement;
- company obligations to publish a modern slavery statement in their annual reports and accounts; and

- exclusion from public sector contracts of companies that have not undertaken appropriate and effective human rights due diligence.

The Committee recommends that the proposed new criminal offence mirror that contained in the U.K. Bribery Act 2010. The legislation would include a defence for companies that can prove they have conducted effective human rights due diligence (“adequate procedures”). This proposal comes at a pivotal time of legislative reform for corporate accountability in the U.K.. Among other developments, the Criminal Finances Bill, which is expected to be passed in mid- to late-2017, includes a civil power to seize assets of persons who have accumulated wealth by conduct connected with the commission of a gross human rights abuse or violation.

## **A rapidly evolving landscape**

The Committee report reflects a global trend to tighter regulation of human rights practices, and increased transparency. Last week, a French “duty of vigilance” came into force, requiring large French companies to implement a “vigilance plan” to assess and address adverse human rights impacts of activities in their global supply chains, including impacts linked to companies under their control and of certain suppliers and subcontractors. The Dutch Parliament recently approved a child labour due diligence law, requiring companies to declare that they have conducted due diligence on child labour in their supply chains. A new E.U. regulation on conflicts minerals may impose mandatory due diligence on importers of certain materials. And Canadian and Australian governments are contemplating introducing reporting requirements similar to those existing in the U.K.

The report also gave a nod of approval to the investor-led Corporate Human Rights Benchmark (CHRB) initiative, published recently, which ranked the human rights practices of certain companies in the agricultural, apparel and extractives industries. Publishers of the CHRB hope that it will contribute to a race to the top between peers in corporate human rights compliance.

## **Conclusions**

Imminent legislative reforms by the U.K. Government are perhaps unlikely, particularly in the midst of a packed Brexit agenda. However, the report provides further evidence of a clear direction of travel in this space.

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