

Littler Lightbulb: Highlighting Global Human Rights Topics



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Human rights issues increasingly require the assistance of experienced counsel who can help employers navigate very fluid and complex legal, business and societal considerations. From the Business Roundtable's statement on redefining the role of business in society to complex tort and mandatory due diligence legal and compliance issues, Littler's Business and Human Rights practice [group](#) helps clients assess the local, national and international human rights impacts of their operations and develop strategies to stay ahead of the evolving landscape. Here we illuminate several topics facing the international business community.

- **CEOs Redefine the Role of Business.** The Business Roundtable, an association of U.S. CEOs, released a [Statement on the Purpose of a Corporation](#) signed by 181 of its members, promoting a more socially aware and active corporate role in strengthening the U.S. economy. Among other items, the CEOs committed to invest in employees, work ethically with suppliers and partners, and support their surrounding communities. This position marks a departure from the group's prior statements, which stressed the primacy of shareholders, and reflects a burgeoning trend among some corporate leadership to voluntarily tackle broad societal issues while continuing to deliver value to customers and shareholders.
- **Supply Chain Due Diligence.** Many companies may be at greater risk of purchasing materials or parts (even inadvertently) from areas where workers may be more likely to face difficult working conditions. Some jurisdictions require companies to conduct due diligence to identify, mitigate and/or prevent, as applicable, certain human rights impacts in their operations and the operations of their business partners. This process often can lead companies to disclose their efforts to investigate these matters. California's [Transparency in Supply Chains Act](#) was one of the first laws requiring such due diligence. Several countries also have enacted or proposed similar measures. For example, the United Kingdom's [Modern Slavery Act](#), and [measures](#) adopted in Australia and New South Wales also impose responsibility to combat these issues.
- **United Nations Draft Treaty.** The fifth session of the UN IGWG treaty negotiations is taking place in Geneva from October 14 to 18, 2019. As with years past, Littler will be representing the business community during this session. Since 2015, a United Nations working group (the "IGWG") has met to negotiate and draft a multilateral treaty that addresses human rights violations committed by businesses. In July 2019, the IGWG published a [revised draft](#) of the treaty that – while more thoughtful in some ways – continues to have several areas of significant concern. For example, language setting forth the scope of the treaty, as well as the language setting forth what type of business affiliation that might lead to liability, remains both unclear and problematic. Moreover, the revised draft continues to seek to hold certain corporate employees personally liable for alleged violations, while (in certain undefined circumstances), reversing the burden of proof. In addition, the draft treaty allows for extraterritorial jurisdiction, in that plaintiffs would be able to bring suit in the home country of a multinational corporation, regardless of where the alleged harm occurred, and still seeks to cover "all human rights" violations – including alleged environmental rights – even though the meaning of that phrase is subject to fulsome debate. The European Union has not taken an official position on the latest draft, and we are awaiting news of any development.

We will continue to monitor these interesting topics, as well as other developing human rights issues that may affect multinational employers.