

Business and Human Rights



Australian
Human Rights
Commission

Australia's third UPR | 2021

Background

In 2011 the Australian Government co-sponsored the UN Human Rights Council resolution endorsing the [UN Guiding Principles on Business and Human Rights](#) (UNGPs).

The Commission welcomes steps the Australian Government has made towards implementation of the UNGPs since the last UPR including:

- reform of the Australia OECD National Contact Point
- passing the *Modern Slavery Act 2018* (Cth), and other efforts to combat modern slavery such as the regionally-focused Bali Process.

Key Issue – National Action Plan on business and human rights

The Human Rights Council and UN Working Group on Business and Human Rights (WGBHR) [have called on](#) States to adopt a National Action Plan on Business and Human Rights (NAP) as a means of implementing the UNGPs within their respective territories and jurisdictions.

The [WGBHR has stressed](#) that while legislative and other efforts to eliminate modern slavery are laudable they are not a substitute for full implementation of the UNGPs, including through developing a NAP.

In October 2017 the Australian Government decided not to proceed with the development of a NAP.

A NAP would help clarify the expectations on business in relation to respecting human rights in Australia and overseas, highlight the role of government in supporting business, address policy and legal gaps and ensure there is a plan for implementation of the UNGPs that is targeted, transparent, measurable and informed by relevant stakeholders.

Recommendation

Government develop a National Action Plan on Business and Human Rights



Key Issue – Mandatory due diligence legislation

Human rights due diligence, as outlined in the UNGPs, is a process to identify, prevent, mitigate and account for how businesses address adverse human rights risks and impacts arising in their global operations, and business relationships including supply chains.

There is an increasing number of countries and regions introducing laws to require businesses to conduct human rights due diligence. The *Modern Slavery Act 2018* (Cth) does not impose such obligations. Mandatory human rights due diligence legislation would address extraterritorial concerns such as allegations that Australian multinational companies are operating with impunity despite being allegedly linked to human rights violations in their operations abroad.¹

In 2017, the [Multi-stakeholder Advisory Group on the implementation of the UNGPs](#) recommended the Government consider the development of legislation mandating human rights due diligence, noting the approaches in the Australian *Illegal Logging Prohibition Act 2012* (Cth) which prioritises at-risk sectors and the French Corporate Duty of Vigilance Law 2017. [The Commission has also previously recommended](#) the adoption of mandatory due diligence laws as a way to implement the UNGPs.

Finally, there is increasing recognition of the adverse human rights impacts arising from climate change and other environmental issues in Australia and globally, and the central role business has to play in mitigating these impacts.

Recommendation

Government legislate for large Australian companies and Australian companies operating in high risk sectors, including extraterritorially, to conduct human rights and environmental due diligence



Endnotes

¹ Australian Law Reform Commission, [Corporate Criminal Responsibility: Discussion Paper 87](#) (November 2019) [12.11], [12.68], [12.72] – [12.80]; Human Rights Law Centre, [Nowhere to Turn: Addressing Australian corporate abuses overseas](#) (December 2018).