**Corporate Accountability: Social Rights, Environment, and Human Rights Violations**

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**Recent Trends in Corporate Support for the SDGs across the European Union**

The European Union (EU) has made a clear commitment to achieving the 2030 Agenda for Sustainable Development and the SDGs, alongside its existing obligations in the areas of human rights, gender equality, and policy coherence for development.

In order to secure corporate involvement in sustainable development, the SDGs are often framed as enablers of commercial opportunity and economic benefits for businesses.[[1]](#footnote-1) Indeed, several tools and reports have been developed around the “business case” for the SDGs, presenting the sustainable development agenda from the perspective of business growth opportunities. As a result, European companies have started to adopt the language of the SDGs to highlight how they positively contribute to a sustainable world through their activities, with more companies beginning to mention the SDGs in their public reporting.

In this vein, the EU – as well as multinational institutions such as the World Bank – is increasingly focusing on mobilising private sector finance to deliver the SDGs in developing countries. However, its approach may be interpreted as “prioritising profit of the rich and powerful ahead of the needs of the poor and vulnerable.”[[2]](#footnote-2) It is noticeable in EU external action, where the trend is to offer more subsidies to companies to encourage them to invest in the developing world, sometimes with the explicit aim of generating business opportunities for European companies – seen as a win-win situation. This is exemplified by the European External Investment Plan and the proposals to substantially increase the amounts of development assistance aimed at leveraging private investments in developing countries in the next EU budget (2021-2027).

A similar trend can be seen in relation to women’s rights. In response to a narrative created around the “business case” for gender equality, governments and corporations increasingly espouse a commitment to furthering this agenda. However, their actions achieve little more than provide opportunities to individual women to integrate into economic markets, rather than transform structural and systemic conditions. The current approach by both the EU and corporates to the SDGs risks distracting attention from the need for a broader human rights-based outlook by businesses with regard to the potential impacts of their activities on people and the environment.

In its 2016 conclusions on business and human rights,[[3]](#footnote-3) the Council of the European Union affirmed that “corporate respect for human rights and its embedding in corporate operations and value and supply chains is indispensable to sustainable development and achieving the SDGs.” This was an important reminder that the primary responsibility of the private sector in relation to the SDGs is to ensure that companies’ business models and operations are built on respect for human rights, including by establishing due diligence policies and processes to prevent the potential negative impacts of business activities on society. An effective and comprehensive “*do no harm*” approach must invariably come before any diversion of resources and focus toward businesses’ efforts to contribute positively to the SDGs in other manners, such as through charitable activities or one-off projects. As highlighted by the United Nations Working Group on Business and Human Rights, “business strategies to contribute to the SDGs are no substitute for human rights due diligence.”[[4]](#footnote-4)

Despite the blossoming of voluntary human rights initiatives in various economic sectors and an enhanced business narrative around their positive impact on the SDGs, the pace of human rights abuses committed by companies has not slowed. Their breadth is also wide ranging, from labour rights violations to pollution, land grabbing, and tax evasion. Low wages, poor working conditions, discrimination against women workers, and gender-based violence are commonplace in the supply chains of European companies, while new cases of corporate land grabbing around the world are exposed with staggering frequency, often implicating European businesses or investors.[[5]](#footnote-5) Meanwhile, human rights defenders challenging corporate abuse face violence and threats, and women defenders often face additional gender-related dangers.[[6]](#footnote-6) Front Line Defenders reports that “in 2018, 321 defenders in 27 countries were targeted and killed for their work” with the vast majority of them killed for “defending land, environmental or indigenous peoples’ rights, often in the context of extractive industries and state-aligned mega-projects.”[[7]](#footnote-7) Despite the pervasiveness of human rights abuses, victims lack access to justice and are almost never awarded remedy or redress,[[8]](#footnote-8) with women encountering additional barriers to justice.

**Curbing Corporate Abuse**

In response to these abuses, social movements, civil society organisations, trade unions, and activists worldwide are coming together to stop corporate impunity. Over 1,000 organisations from all over the world have signed the Treaty Alliance,[[9]](#footnote-9) campaigning in support of a legally binding instrument at the UN level to address human rights abuses committed by transnational corporations and other enterprises. The process for such an instrument was initiated at the UN, sparked by movements in the Global South to counter the violations of their territory by multinationals.

European citizens have also joined the call for an end to corporate impunity in Europe and abroad. In January 2019, a European civil society campaign was launched, called Rights for People, Rules for Corporations,[[10]](#footnote-10) calling for EU and EU Member State support for the UN Binding Treaty and for the adoption of measures at the European level as well. As of the end of May 2019, more than half a million signatures from across Europe had already been gathered in support of the campaign.

**Legislative Progress on Corporate Accountability at the EU Level**

Even with growing international political will to enhance corporate accountability, the EU has so far not engaged constructively[[11]](#footnote-11) in the ongoing UN process to develop a Binding Treaty,[[12]](#footnote-12) despite several calls from civil society and the European Parliament to do so.[[13]](#footnote-13) The European Commission has also failed to take concrete steps to regulate the overseas operations of European companies in all sectors to avoid human rights and environmental harm and provide victims with effective remedies.

The EU also does not currently have an overarching policy framework or governance structure addressing businesses and human rights, notwithstanding the pressure from several Member States to develop one.[[14]](#footnote-14) The EU’s main approach to promoting responsible business conduct has been through support for voluntary initiatives and measures, such as the UN Guiding Principles on Business and Human Rights (UNGP),[[15]](#footnote-15) which were adopted by the UN in 2011 and subsequently endorsed by the EU and Member States. However, these initiatives lack binding obligations for companies and effective redress mechanisms for victims.

The European Commission’s 2011-2014 Strategy on Corporate Social Responsibility[[16]](#footnote-16) was centred around soft-law approaches and incentives, along with support for industry self-regulation. Along the same lines, the EU Action Plan on Human Rights and Democracy 2015-2019 focused on further implementation of the UNGPs. It is worth noting that the only legal requirement introduced for companies in the area of human rights deals with reporting, through the EU Non-Financial Reporting Directive.[[17]](#footnote-17) The European Commission’s recent Reflection Paper “Towards a Sustainable Europe by 2030”[[18]](#footnote-18) similarly identifies responsible business conduct as an underlying prerequisite for the SDGs, but falls short of any reference to the need to regulate companies’ operations and hold them accountable for human rights abuses and environmental damage.[[19]](#footnote-19)

Nevertheless, in response to challenges in the supply chains of European companies, the EU adopted legislation in recent years requiring due diligence on imports from some economic sectors. For example, the 2017 Conflict Minerals Regulation[[20]](#footnote-20) sets forth supply chain due diligence obligations for EU importers of tin, tantalum, and tungsten, their ores, and gold originating from conflict-affected and high-risk areas. Likewise, the 2010 Timber Regulation[[21]](#footnote-21) stipulates the obligations of operators who place timber and timber products on the EU market to conduct due diligence on the source and legality of the imported timber.

The EU is also currently considering further sectoral regulation: this year the European Commission is expected to publish an Action Plan on Deforestation, which may explore due diligence requirements for agricultural imports such as cocoa, palm oil, soy, or coffee. In addition, following up on its 2018 Action Plan on Financing Sustainable Growth,[[22]](#footnote-22) in which the EU expressed a commitment to direct financial flows toward sustainable development in line with the SDGs, the EU is in the process of adopting legislative measures for the financial sector, for example by clarifying the duties of institutional investors to disclose their policies on environmental, social, and governance risks. The European Parliament has called for the proposed regulation to be accompanied by the introduction of an overarching, mandatory due diligence framework for all financial market participants. [[23]](#footnote-23)

The current patchwork of sectoral legislative initiatives and the lack of EU-wide regulation covering the responsibility of European corporations operating in allsectors to not harm workers, local communities, and the environment allows for significant gaps in corporate accountability. New research by the European Parliament shows that victims of abuses committed by European companies face several barriers to accessing remedies and justice, particularly in connection with violations in global supply chains. Only a minority (20%) of existing legal cases against European companies for human rights abuses outside of the EU lead to a decision finding the defendant company liable or an out-of-court settlement.[[24]](#footnote-24)

European governments seem to be starting to recognise the limitations of voluntary approaches and the need to complement sectoral regulation on responsible business conduct with an overarching, mandatory framework. There is a growing number of national legislative initiatives across Europe requiring large companies, independent of economic sector, to conduct due diligence in relation to human rights.[[25]](#footnote-25) Most notably, in 2017 France adopted a law on the “duty of vigilance,” requiring parent companies to identify and prevent the potential negative impacts of their activities, as well as those of their subsidiaries and suppliers, on human rights and the environment.[[26]](#footnote-26) This momentum driving national initiatives makes it more urgent than ever that the EU introduce Europe-wide legislation ensuring a coherent and comprehensive framework.

**Adverse Consequences for Developing Countries of EU Resistance to Legislate**

The EU’s resistance to legislating the accountability of its companies for human rights and environmental violations outside of Europe has a clear negative impact on the capacity of developing countries to achieve the SDGs by 2030.

Activities carried out by European companies and their subsidiaries, suppliers, and other business partners can have a myriad of adverse impacts on workers, local communities, and the environment in the Global South. This potential for negative consequences is particularly evident in relation to SDG 8 on decent work as the expansion of corporate value chains through trade and investment deals has created jobs in developing countries that are notoriously of poor quality and dangerous, particularly for women.[[27]](#footnote-27) European companies’ purchasing practices also often reinforce poor working conditions and low wages at the bottom of the value chain. With young women disproportionately trapped in these poorly paid, exploitative, and insecure jobs,[[28]](#footnote-28) such as in export-oriented garment or electronics manufacturing, the current system also has clear negative implications for SDG 5 on gender equality.

The negative consequences of the lack of corporate accountability can be felt in developing countries in many other ways beyond the barriers to achieving decent work and gender equality. There are numerous reports evidencing the involvement of European companies and their subsidiaries in environmental degradation, water pollution, land grabbing, tax evasion and other human rights abuses.[[29]](#footnote-29) The effects of these practices can be directly linked to a number of SDGs, such as SDG 2 (Zero Hunger) given the threat to food security of land grabbing; SDG 13 (Climate Action) due to the dangers posed by emissions; and SDG 15 (Life on Land) stemming from the environmental degradation caused by these companies in developing countries, to name just a few.[[30]](#footnote-30) EU-based investors are also often implicated in such abuses[[31]](#footnote-31) as the lack of binding rules at the EU level, both in relation to the behaviour of corporations as well as of investors, allows corporate-related abuses of human rights in developing countries to continue and is a key inhibitor for their progress towards achieving the SDGs.

**Box: A Call for Justice**

In 2015, 1,826 Chingola residents in Zambia took U.K.-based Vedanta Resources Ltd. to the London courts for the devastation caused by its subsidiary, Konkola Copper Mines (KCM), in the Nchanga Mines. The complainants claimed that they suffered not only a disruption in their livelihoods, but also property damage and continuous pollution. They argued that women and children were the most seriously affected as they were forced to look for an alternative water source given that the rivers that KCM is alleged to have contaminated were the main source of water for day-to-day household chores.

In 2006, following pollution of the Kafue River with effluent from KCM, residents filed a lawsuit that resulted in a landmark award of $2 million in 2011 in the Zambian High Court. However, KCM appealed the case at the Zambian Supreme Court, which found Vedanta guilty of gross pollution, but removed all compensation payments. As a result, the victims took their case to the U.K. High Court, which in 2016 rejected Vedanta’s argument that the farmers should not be permitted to bring their case in London. The company appealed, and in April 2019, the U.K. Supreme Court issued a landmark ruling granting the villagers the right to purse justice against Vedanta in the English courts.

The community is still seeking compensation for damages, remediation, and cessation of the alleged continual pollution that they say is gravely impacting their lives. Compensation was provided to owners of gardens in one of the communities, but women to date complain that they were not fairly involved in the negotiations.

Had EU legislation existed that required large companies to identify, prevent, and mitigate the human and environmental impacts of their activities, the adverse consequences suffered by the community in Chingola may have been avoided. Reforms to the EU’s legal framework on access to remedies by victims might also have facilitated the community’s access to justice, as their struggle continues, 13 years on.

Source: ActionAid Zambia

**Recommendations**

At EU level, the introduction of binding measures on corporate accountability is critical. Legislation should be adopted requiring companies in all sectors to conduct gender-sensitive human rights due diligence with regard to their operations, supply chains, and business relationships, and initiatives should be launched to improve access to remedies in extraterritorial cases.[[32]](#footnote-32) These measures should be underpinned by a comprehensive EU strategy on responsible business conduct, with clear governance structures, in the form of an EU action plan on business and human rights.[[33]](#footnote-33)

The development of ambitious legislation and strategies at the national level should also be supported. EU-based investors and investments should be regulated through clear, binding obligations on labour rights, human rights, and women's rights specifically as part of EU trade and investment agreements. Legislation should be introduced requiring mandatory human rights due diligence from European investors, including strict minimum safeguards in regulations pertaining to sustainable investments.[[34]](#footnote-34)

At the international level, negotiations must be undertaken in support of a UN Binding Treaty on Transnational Corporations and other Business Enterprises with respect to human rights.[[35]](#footnote-35) There should be focused inclusion of the gender dimension through three key elements: mandatory gender impact assessments, gender-sensitive justice and remedial mechanisms, and an enabling environment for women human rights defenders.[[36]](#footnote-36)

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